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§65-68
 C.34:1B-370
 to 34:1B-373
 §69
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 Note

P.L. 2021, CHAPTER 160, *approved July 2, 2021*
 Assembly, No. 5939

1 **AN ACT** concerning State economic development policy, amending
 2 various sections of the statutory law, supplementing Title 34 of
 3 the Revised Statutes, 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. Section 3 of P.L.2020, c.156 (C.34:1B-271) is amended to
 9 read as follows:

10 3. As used in sections 2 through 8 of P.L.2020, c.156
 11 (C.34:1B-270 through C.34:1B-276):

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

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

18 "Cost of rehabilitation" means the consideration given, valued in
 19 money, whether given in money or otherwise, for the materials and
 20 services which constitute the rehabilitation.

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

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

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

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 municipality in the 2019 State fiscal year, and that, on the effective
2 date of P.L.2020, c.156 (C.34:1B-269 et al.), is subject to financial
3 restrictions imposed pursuant to the “Municipal Stabilization and
4 Recovery Act,” P.L.2016, c.4 (C.52:27BBBB-1 et seq.), or is
5 restricted in its ability to levy property taxes on property in that
6 municipality as a result of the State of New Jersey owning or
7 controlling property representing at least 25 percent of the total land
8 area of the municipality or as a result of the federal government of
9 the United States owning or controlling at least 50 acres of the total
10 land area of the municipality, which is dedicated as a national
11 natural landmark.

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

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

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

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

24 "Project financing gap" means the part of the total cost of
25 rehabilitation, including reasonable and appropriate return on
26 investment, that remains to be financed after all other sources of
27 capital have been accounted for, including, but not limited to,
28 developer contributed capital, which shall not be less than 20
29 percent of the total cost of rehabilitation, and investor or financial
30 entity capital or loans for which the developer, after making all
31 good faith efforts to raise additional capital, certifies that additional
32 capital cannot be raised from other sources; provided, however, that
33 for a redevelopment project located in a government-restricted
34 municipality, the developer contributed capital shall not be less than
35 10 percent of the cost of rehabilitation. Developer contributed
36 capital may consist of cash, deferred development fees, costs for
37 project feasibility incurred within the 12 months prior to
38 application, property value less any mortgages when the developer
39 owns the project site, and any other investment by the developer in
40 the project deemed acceptable by the authority, as provided by
41 regulations promulgated by the authority. Property value shall be
42 valued at the lesser of either: a. the purchase price, provided the
43 property was purchased pursuant to an arm's length transaction
44 within 12 months of application; or b. the value as determined by a
45 current appraisal.

46 "Property" means a structure, including its site improvements
47 and landscape features, assessed as real property, and used for: a
48 commercial purpose; a residential rental purpose, provided the

1 structure contains at least four dwelling units; or any combination
2 thereof.

3 "Qualified incentive tract" means: a. a population census tract
4 having a poverty rate of 20 percent or more; or b. a census tract in
5 which the median family income for the census tract does not
6 exceed 80 percent of the greater of the Statewide median family
7 income or the median family income of the metropolitan statistical
8 area in which the census tract is situated.

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

11 **[(a) (i)]** a. (1) individually listed, or located in a district listed
12 on the National Register of Historic Places in accordance with the
13 provisions of chapter 3021 of Title 54, United States Code (54
14 U.S.C. s.302101 et seq.), or on the New Jersey Register of Historic
15 Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.), or
16 individually designated, or located in a district designated, by the
17 Pinelands Commission as a historic resource of significance to the
18 Pinelands in accordance with the Pinelands comprehensive
19 management plan adopted pursuant to the "Pinelands Protection
20 Act," P.L.1979, c.111 (C.13:18A-1 et seq.), and

21 **[(ii)]** (2) if located within a district, certified by either the
22 officer or the Pinelands Commission, as appropriate, as contributing
23 to the historic significance of the district; or

24 **[(b) (i)]** b. (1) individually identified or registered, or located in
25 a district composed of properties identified or registered, for
26 protection as significant historic resources in accordance with
27 criteria established by a municipality in which the property or
28 district is located if the criteria for identification or registration has
29 been approved by the officer as suitable for substantially achieving
30 the purpose of preserving and rehabilitating buildings of historic
31 significance within the jurisdiction of the municipality, and

32 **[(ii)]** (2) 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
35 exterior or interior of a qualified property or transformative project
36 to make an efficient contemporary use possible while preserving the
37 portions 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)]** a. an income producing property, not including a
5 residential property, whose rehabilitation the authority determines
6 will generate substantial increases in State revenues through the
7 creation of increased business activity within the surrounding area;

8 **[(b)]** b. individually listed on the New Jersey Register of
9 Historic Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et
10 seq.) and which, before the enactment of P.L.2020, c.156 (C.34:1B-
11 269 et al.), received a Determination of Eligibility from the Keeper
12 of the National Register of Historic Places in accordance with the
13 provisions of Part 60 of Title 36 of the Code of Federal
14 Regulations; **[(c)]** and

15 c. (1) located within a one-half mile radius of the center point
16 of a transit village, as designated by the New Jersey Department of
17 Transportation **[(c)]**; and

18 **[(d)]** , and located within a city of the first class, as classified
19 under N.J.S.40A:6-4; or (2) located within a government-restricted
20 municipality.

21 (cf: P.L.2020, c.156, s.3)

22

23 2. Section 4 of P.L.2020, c.156 (C.34:1B-272) is amended to
24 read as follows:

25 4. a. (1) A business entity, upon successful application to the
26 New Jersey Economic Development Authority, and commitment to
27 the authority to pay each worker employed to perform construction
28 work and building services work at the qualified property or
29 transformative project a wage not less than the prevailing wage rate
30 for the worker's craft or trade, as determined by the Commissioner
31 of Labor and Workforce Development pursuant to P.L.1963, c.150
32 (C.34:11-56.25 et seq.), shall be allowed a credit against the tax
33 otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-
34 5), **[(the tax imposed on insurers generally pursuant to P.L.1945,**
35 **c.132 (C.54:18A-1 et seq.), or the tax imposed on marine insurance**
36 **companies pursuant to R.S.54:16-1 et. seq.)]** sections 2 and 3 of
37 P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of
38 P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5, for [40 percent]
39 a portion of the cost of rehabilitation paid by the business entity for
40 the rehabilitation of a qualified property or transformative project,
41 if the cost of rehabilitation during a business entity's selected
42 rehabilitation period is not less than the greater of **[(1)]** (a) the
43 adjusted basis of the structure of the qualified property or
44 transformative project used for federal income tax purposes as of
45 the beginning of the business entity's selected rehabilitation period,
46 or **[(2)]** (b) \$5,000. The amount of the credit claimed in any
47 accounting or privilege period shall not reduce the amount of the

1 tax liability to less than the statutory minimum provided in
2 subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

3 (2) The amount of credit allowed to a business entity pursuant to
4 this section shall be as follows:

5 (a) for the rehabilitation of a qualified property located in a
6 qualified incentive tract or government-restricted municipality, 45
7 percent of the cost of rehabilitation paid by the business entity for
8 the rehabilitation of the qualified property or \$8 million, whichever
9 is less;

10 (b) for the rehabilitation of a transformative project, 45 percent
11 of the cost of rehabilitation paid by the business entity for the
12 rehabilitation of the transformative project or \$50 million,
13 whichever is less; and

14 (c) for the rehabilitation of any other qualified property not
15 subject to provisions of subparagraph (a) or (b) of this paragraph,
16 40 percent of the cost of rehabilitation paid by the business entity
17 for the rehabilitation of the qualified property or \$4 million,
18 whichever is less.

19 (3) The prevailing wage [requirements] requirement for
20 construction work shall apply at a qualified property or
21 transformative project during the selected rehabilitation period, and
22 the prevailing wage requirement for building services work shall
23 apply at a qualified property or transformative project for 10 years
24 following completion of the rehabilitation work at the qualified
25 property or transformative project. In the event a qualified property
26 or transformative project, or the aggregate of all qualified properties
27 and transformative projects approved for awards under the program,
28 constitute a lease of more than 35 percent of a facility, the
29 prevailing wage requirements shall apply to the entire facility.

30 **[(3)]** (4) Prior to approval of an application by the authority, the
31 authority shall confirm with the Department of Labor and
32 Workforce Development, the Department of Environmental
33 Protection, and the Department of the Treasury [shall each report to
34 the authority] whether the business entity is in substantial good
35 standing with the respective department [in lieu of submitting
36 certificates of good standing for the business entity, the business
37 entity may demonstrate that it] or has entered into an agreement
38 with the respective department that includes a practical corrective
39 action plan for the business entity. The business entity shall certify
40 that any contractors or subcontractors that perform work at the
41 qualified property or transformative project: a. are registered as
42 required by “The Public Works Contractor Registration Act,”
43 P.L.1999, c.238 (C.34:11-56.48 et seq.); b. have not been debarred
44 by Department of Labor and Workforce Development from
45 engaging in or bidding on Public Works Contracts in New Jersey,
46 and c. possess a tax clearance certificate issued by the Division of
47 Taxation in the Department of the Treasury. The authority may also

1 contract with an independent third party to perform a background
2 check on the business entity. Following approval of an application
3 by the authority, but prior to the start of any construction or
4 rehabilitation at the qualified property or transformative project, the
5 authority shall enter into a rehabilitation agreement with the
6 business entity. The authority shall negotiate the terms and
7 conditions of the rehabilitation agreement on behalf of the State.

8 **[(4)] (5)** A rehabilitation project shall be eligible for a tax credit
9 only if the business entity demonstrates to the authority at the time
10 of application that:

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

13 (b) a project financing gap exists.

14 b. A business entity may claim a credit under this section
15 during the accounting or privilege period: (1) in which it makes the
16 final payment for the cost of the rehabilitation if the business entity
17 has chosen a selected rehabilitation period of 24 months; or (2) in
18 which a distinct project phase of the rehabilitation is completed if
19 the business entity has chosen a selected rehabilitation period of 60
20 months. The credit may be claimed against any State tax, listed in
21 paragraph (1) of subsection a. of this section, liability otherwise due
22 after any other credits permitted pursuant to law have been applied.
23 The amount of credit claimed in an accounting or privilege period
24 that cannot be applied for that accounting or privilege period due to
25 limitations in this section may be transferred pursuant to section 5
26 of P.L.2020, c.156 (C.34:1B-273) or carried over, if necessary, to
27 the nine accounting or privilege periods following the accounting or
28 privilege period for which the credit was allowed.

29 c. A business entity shall submit to the authority satisfactory
30 evidence of the actual cost of rehabilitation, as certified by a
31 certified public accountant, evidence of completion of the
32 rehabilitation or phase, and a certification that all information
33 provided by the business entity to the authority is true, including
34 information contained in the application, the rehabilitation
35 agreement, any amendment to the rehabilitation agreement, and any
36 other information submitted by the business entity to the authority
37 pursuant to sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270
38 through C.34:1B-276). The business entity, or an authorized agent
39 of the business entity, shall certify under the penalty of perjury that
40 the information provided pursuant to this subsection is true.

41 (cf: P.L.2020, c.156, s.4)

42
43 3. Section 5 of P.L.2020, c.156 (C.34:1B-273) is amended to
44 read as follows:

45 5. a. The authority shall, in cooperation with the director,
46 establish and administer a corporation business tax credit transfer
47 certificate program and an insurance premiums tax credit transfer
48 certificate program to enable business entities with unused,

1 otherwise allowable amounts of tax credits issued pursuant to
2 sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through
3 C.34:1B-276) to exchange these credits, in whole or in part, for
4 private financial assistance prior to the expiration of the tax credit.

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

9 b. A business entity holding an unused, otherwise allowable tax
10 credit issued pursuant to sections 2 through 8 of P.L.2020, c.156
11 (C.34:1B-270 through C.34:1B-276) may apply to the director and
12 the authority for a tax credit transfer certificate pursuant to
13 subsection a. of this section. Upon receipt thereof, the business
14 entity may sell or assign, in full or in part, the tax credit transfer
15 certificate to another taxpayer in exchange for private financial
16 assistance to be provided by the purchaser or assignee of the tax
17 credit transfer certificate to the seller thereof. The developer shall
18 not sell a tax credit transfer certificate allowed under this section
19 for consideration received by the developer of less than 85 percent
20 of 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 that has received federal low income housing tax
24 credits under 26 U.S.C. **[s.42(b)(2)(B)(i)]** s.42(b)(1)(B)(i) may
25 assign a tax credit transfer certificate for consideration of no less
26 than 75 percent subject to the submission of a plan to the authority
27 and the New Jersey Housing and Mortgage Finance Agency to use
28 the proceeds derived from the assignment of tax credits to complete
29 the residential project. The purchaser or assignee of the tax credit
30 transfer certificate may apply the face value of the tax credit
31 transfer certificate acquired against the purchaser's or assignee's
32 applicable tax liability by claiming the tax credit on the purchaser's
33 or assignee's corporation business tax or insurance premiums tax
34 return with the corresponding tax credit transfer certificate
35 accompanying the tax return. A purchaser or assignee of a tax
36 credit transfer certificate pursuant to this section shall not make any
37 subsequent transfers, assignments, or sales of the tax credit transfer
38 certificate.

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

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

48 (cf: P.L.2020, c.156, s.5)

1 4. Section 6 of P.L.2020, c.156 (C.34:1B-274) is amended to
2 read as follows:

3 6. a. The authority shall, in consultation with the officer and
4 the director, promulgate rules and regulations in accordance with
5 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
6 seq.), as the officer deems necessary to administer the provisions of
7 sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through
8 C.34:1B-276), including but not limited to rules establishing
9 administrative fees to implement the provisions of sections 2
10 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276),
11 and setting of an annual application submission date, requiring
12 annual reporting by each business entity that [receive] receives a
13 tax credit pursuant to sections 2 through 8 of P.L.2020, c.156
14 (C.34:1B-270 through C.34:1B-276) [, and requiring those reports
15 to include certifications by] . As part of the authority's review of
16 the annual reports required from each business entity that receives a
17 tax credit, the authority shall confirm with the Department of Labor
18 and Workforce Development, the Department of Environmental
19 Protection, and the Department of the Treasury that; the business
20 entity [, and any contractors or subcontractors performing work at
21 the qualified property or transformative project, are] is in
22 substantial good standing with the respective department, or has
23 entered into an agreement with the respective department that
24 includes a practical corrective action plan for the business entity,
25 and the business entity shall certify that any contractors or
26 subcontractors performing work at the qualified property or
27 transformative project: (1) are registered as required by "The Public
28 Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-
29 56.48 et seq.); (2) have not been debarred by Department of Labor
30 and Workforce Development from engaging in or bidding on Public
31 Works Contracts in the State; and (3) possess a tax clearance
32 certificate issued by the Division of Taxation in the Department of
33 the Treasury. The rules and regulations adopted pursuant to this
34 section shall also include a provision to require that business
35 entities forfeit all tax credits awarded in any year in which [any
36 such report is not received] the Department of Labor and
37 Workforce Development, the Department of Environmental
38 Protection, or the Department of the Treasury advises the authority
39 that the business entity is not in substantial good standing nor has
40 the business entity entered into an agreement with the respective
41 department that includes a practical corrective action plan, and to
42 allow the authority to extend, in individual cases, the deadline for
43 any annual reporting or certification requirement established
44 pursuant to this section.

45 b. For every tax credit allowed pursuant to section 4 of
46 P.L.2020, c.156 (C.34:1B-272), the authority, in consultation with
47 the officer, shall certify to the director: the total cost of

1 rehabilitation; that the property meets the definition of qualified
2 property or transformative project, as applicable; and that the
3 rehabilitation has been completed in substantial compliance with
4 the requirements of the Secretary of the Interior's Standards for
5 Rehabilitation pursuant to section 67.7 of Title 36, Code of Federal
6 Regulations. The business entity shall attach the certification to the
7 tax return on which the business entity claims the credit.

8 c. (1) The total amount of credits approved by the authority
9 pursuant to sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270
10 through C.34:1B-276) shall not exceed the limitations set forth in
11 section 98 of P.L.2020, c.156 (C.34:1B-362). If the authority
12 approves less than the total amount of tax credits authorized
13 pursuant to this subsection in a fiscal year, the remaining amount,
14 plus any amounts remaining from previous fiscal years, shall be
15 added to the limit of subsequent fiscal years until that amount of tax
16 credits are claimed or allowed. Any unapproved, uncertified, or
17 recaptured portion of tax credits during any fiscal year may be
18 carried over and reallocated in succeeding years.

19 (2) Notwithstanding the provisions of paragraph (1) of this
20 subsection and section 98 of P.L.2020, c.156 (C.34:1B-362) to the
21 contrary, the authority may approve tax credits, pursuant to sections
22 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-
23 276), for the rehabilitation of a transformative project in an amount
24 that causes the total amount of credits approved during the fiscal
25 year to exceed the limitations set forth in section 98 of P.L.2020,
26 c.156 (C.34:1B-362), provided that the amount of the excess shall
27 be subtracted from the total amount of credits that may be approved
28 by the authority in the subsequent fiscal year, and the amount of the
29 excess shall not exceed 50 percent of the total tax credits otherwise
30 authorized for the fiscal year.

31 The authority, in consultation with the officer, shall devise
32 criteria for allocating tax credit amounts if the approved amounts
33 combined exceed the total amount in each fiscal year, including
34 rules that allocate over multiple fiscal years a single credit amount
35 granted in excess of \$2,000,000. The criteria shall include a
36 project's historic importance, positive impact on the surrounding
37 neighborhood, economic sustainability, geographic diversity, and
38 consistency with Statewide growth and development policies and
39 plans.

40 (cf: P.L.2020, c.156, s.6)

41

42 5. Section 10 of P.L.2020, c.156 (C.34:1B-278) is amended to
43 read as follows:

44 10. As used in sections 9 through 19 of P.L.2020, c.156
45 (C.34:1B-277 through C.34:1B-287):

46 "Authority" means the New Jersey Economic Development
47 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 contaminated building material.

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

18 "Contaminated building material" means components of a
19 structure where abatement or removal of asbestos, or remediation of
20 materials containing hazardous substances defined pursuant to
21 section 3 of P.L.1976, c.141 (C.58:10-23.11b), is required by
22 applicable federal, state, or local rules or regulations.

23 "Contamination" or "contaminant" means any discharged
24 hazardous substance as defined pursuant to section 3 of P.L.1976,
25 c.141 (C.58:10-23.11b), hazardous waste as defined pursuant to
26 section 1 of P.L.1976, c.99 (C.13:1E-38), pollutant as defined
27 pursuant to section 3 of P.L.1977, c.74 (C.58:10A-3), or
28 contaminated building material.

29 "Department" means the Department of Environmental
30 Protection.

31 "Developer" means any person that enters or proposes to enter
32 into a redevelopment agreement with the authority pursuant to the
33 provisions of section 13 of P.L.2020, c.156 (C.34:1B-281).

34 "Director" means the Director of the Division of Taxation in the
35 Department of the Treasury.

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.2020, c.156 (C.34:1B-269 et al.), is subject to financial
41 restrictions imposed pursuant to the "Municipal Stabilization and
42 Recovery Act," P.L.2016, c.4 (C.52:27BBBB-1 et seq.), or is
43 restricted in its ability to levy property taxes on property in that
44 municipality as a result of the State of New Jersey owning or
45 controlling property representing at least 25 percent of the total land
46 area of the municipality or as a result of the federal government of
47 the United States owning or controlling at least 50 acres of the total

1 land area of the municipality, which is dedicated as a national
2 natural landmark.

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

7 "Program" means the Brownfields Redevelopment Incentive
8 Program established by section 11 of P.L.2020, c.156 (C.34:1B-
9 279).

10 "Project financing gap" means the part of the total remediation
11 cost, including reasonable and appropriate return on investment,
12 that remains to be financed after all other sources of capital have
13 been accounted for, including, but not limited to, developer
14 contributed capital, which shall not be less than 20 percent of the
15 total remediation cost, and investor or financial entity capital or
16 loans for which the developer, after making all good faith efforts to
17 raise additional capital, certifies that additional capital cannot be
18 raised from other sources; provided, however, that for a
19 redevelopment project located in a government-restricted
20 municipality, the developer contributed capital shall not be less than
21 10 percent of the cost of rehabilitation. Developer contributed
22 capital may consist of cash, deferred development fees, costs for
23 project feasibility incurred within the 12 months prior to
24 application, property value less any mortgages when the developer
25 owns the project site, and any other investment by the developer in
26 the project deemed acceptable by the authority, as provided by
27 regulations promulgated by the authority. Property value shall be
28 valued at the lesser of either: a. the purchase price, provided the
29 property was purchased pursuant to an arm's length transaction
30 within 12 months of application; or b. the value as determined by a
31 current appraisal.

32 "Qualified incentive tract" means: a. a population census tract
33 having a poverty rate of 20 percent or more; or b. a census tract in
34 which the median family income for the census tract does not
35 exceed 80 percent of the greater of the Statewide median family
36 income or the median family income of the metropolitan statistical
37 area in which the census tract is situated.

38 "Redevelopment agreement" means an agreement between the
39 authority and a developer under which the developer agrees to
40 perform any work or undertaking necessary for the remediation of a
41 **【contaminated】** brownfield site located at the site of the
42 redevelopment project, and for the clearance, development or
43 redevelopment, construction, reconstruction, or rehabilitation of any
44 structure or improvement of commercial, industrial, or public
45 structures or improvements within an area of land whereon a
46 brownfield site is located.

47 "Redevelopment project" means a specific construction project
48 or improvement undertaken, pursuant to the terms of a

1 redevelopment agreement, by a developer within an area of land
2 whereon a brownfield site is located. A redevelopment project may
3 involve construction or improvement upon lands, buildings,
4 improvements, or real and personal property, or any interest therein,
5 including lands under water, riparian rights, space rights, and air
6 rights, acquired, owned, developed or redeveloped, constructed,
7 reconstructed, rehabilitated, or improved.

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

21 "Remediation costs" means all reasonable costs associated with
22 the remediation of a contaminated site, except any costs incurred in
23 financing the remediation.

24 (cf: P.L.2020, c.156, s.10)

25

26 6. Section 12 of P.L.2020, c.156 (C.34:1B-280) is amended to
27 read as follows:

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

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

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

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

44 (3) without the tax credit, the redevelopment project is not
45 economically feasible;

46 (4) a project financing gap exists;

47 (5) the developer has obtained and submitted to the authority a
48 letter evidencing support for the redevelopment project from the

1 governing body of the municipality in which the redevelopment
2 project is located; and

3 (6) each worker employed to perform remediation, **[or]**
4 construction, or building services work at the redevelopment project
5 shall be paid not less than the prevailing wage rate for the worker's
6 craft or trade, as determined by the Commissioner of Labor and
7 Workforce Development pursuant to P.L.1963, c.150 (C.34:11-
8 56.25 et seq.). The prevailing wage requirements shall apply for
9 remediation or construction work through the completion of the
10 redevelopment project, and the prevailing wage requirements shall
11 apply for building services work at the site of the redevelopment
12 project for 10 years following completion of the redevelopment
13 project. In the event a redevelopment project, or the aggregate of
14 all redevelopment projects approved for an award under the
15 program, constitute a lease of more than 35 percent of a facility, the
16 prevailing wage requirements shall apply to the entire facility.

17 c. A redevelopment project that received a reimbursement
18 pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26
19 through 58:10B-31) shall not be eligible to apply for a tax credit
20 under the program. If the authority receives an application and
21 supporting documentation for approval of a reimbursement pursuant
22 to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through
23 58:10B-31) prior to the effective date of sections 9 through 19 of
24 P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287), then the
25 authority may consider the application and award a tax credit to a
26 developer, provided that the authority shall take final action on all
27 applications for approval of a reimbursement pursuant to sections
28 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through 58:10B-31)
29 no later than July 1, 2019. No applications shall be submitted
30 pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26
31 through 58:10B-31) after the effective date of sections 9 through 19
32 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287).

33 d. (1) Prior to approval of an application, the authority shall
34 confirm with the Department of Labor and Workforce
35 Development, the Department of Environmental Protection, and the
36 Department of the Treasury **[shall each report to the chief executive**
37 **officer of the authority]** whether the developer is in substantial
38 good standing with the respective department, or has entered into an
39 agreement with the respective department that includes a practical
40 corrective action plan for the developer. The authority may also
41 contract with an independent third party to perform a background
42 check on the developer. The developer shall certify that any
43 contractors or subcontractors that perform work at the
44 redevelopment project: (1) are registered as required by "The Public
45 Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-
46 56.48 et seq.); (2) have not been debarred by Department of Labor
47 and Workforce Development from engaging in or bidding on Public
48 Works Contracts in New Jersey, and (3) possess a tax clearance

1 certificate issued by the Division of Taxation in the Department of
2 the Treasury. Provided that the developer is in substantial good
3 standing with the Department of Labor and Workforce
4 Development, the Department of Environmental Protection, and the
5 Department of the Treasury, or has entered into such an agreement,
6 and following approval of an application by the board, the authority
7 shall enter into a redevelopment agreement with the developer, as
8 provided for in section 13 of P.L.2020, c.156 (C.34:1B-281).

9 (2) The authority, in consultation with the department, may
10 impose additional requirements upon an applicant through rule or
11 regulation adopted pursuant to the provisions of the "Administrative
12 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), if the
13 authority or the department determines the additional requirements
14 to be necessary and appropriate to effectuate the purposes of
15 sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through
16 C.34:1B-287).

17 e. The authority, in consultation with the department, shall
18 conduct a review of the applications through a competitive
19 application process whereby the authority and the department shall
20 evaluate all applications submitted by a date certain, as if all
21 received applications were submitted on that date. In addition to
22 the eligibility criteria set forth in subsection b. of this section, the
23 authority, in consultation with the department, may consider
24 additional factors that may include, but shall not be limited to: the
25 economic feasibility of the redevelopment project; the benefit of the
26 redevelopment project to the community in which the remediation
27 project is located; the degree to which the redevelopment project
28 enhances and promotes job creation and economic development and
29 reduces environmental or public health stressors in an overburdened
30 community, as those terms are defined by section 2 of **【P.L.2020,**
31 **c.92 (C.13:1D-157)】** P.L.2020, c.92 (C.13:1D-158), and attendant
32 department regulations; and, if the developer has a board of
33 directors, the extent to which that board of directors is diverse and
34 representative of the community in which the redevelopment project
35 is located. The authority, in consultation with the department, shall
36 submit applications that comply with the eligibility criteria set forth
37 in this section, fulfill the additional factors considered by the
38 authority pursuant to this subsection, satisfy the submission
39 requirements, and provide adequate information for the subject
40 application, to the board for final approval.

41 f. The authority shall award tax credits to redevelopment
42 projects until either the available tax credits are exhausted or all
43 redevelopment projects that are eligible for a tax credit pursuant to
44 the provisions of sections 9 through 19 of P.L.2020, c.156
45 (C.34:1B-277 through C.34:1B-287) receive a tax credit, whichever
46 occurs first. If insufficient funding exists to allow a tax credit to a
47 developer in accordance with the provisions of subsection a. of
48 section 16 of P.L.2020, c.156 (C.34:1B-284), the authority may

1 offer the developer a value of the tax credit below the amount
2 provided for in subsection a. of section 16 of P.L.2020, c.156
3 (C.34:1B-284).

4 g. A developer shall pay to the authority or to the department,
5 as appropriate, the full amount of the direct costs of an analysis
6 concerning the developer's application for a tax credit, which a
7 third party retained by the authority or department performs, if the
8 authority or department deems such retention to be necessary.

9 h. If the authority determines that a developer made a material
10 misrepresentation on the developer's application, the developer
11 shall forfeit all tax credits awarded under the program.

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

17 j. A developer **【that】** who has commenced remediation or
18 clean up at the site and who could not reasonably have known the
19 full extent of the site contamination **【when the developer of a**
20 **redevelopment project prior to application】** prior to commencing
21 the remediation may still apply for a tax credit under the program, if
22 the developer certifies to the authority, under the penalty of perjury,
23 that the developer **【could not】** cannot reasonably **【have**
24 **commenced】** finish the remediation and commence the
25 redevelopment project absent the tax credit.

26 (cf: P.L.2020, c.156, s.12)

27

28 7. Section 13 of P.L.2020, c.156 (C.34:1B-281) is amended to
29 read as follows:

30 13. a. Following approval of an application by the board, but
31 prior to the start of any remediation or clean up at the site of the
32 redevelopment project, except activities disclosed at the time of
33 approval, the authority shall enter into a redevelopment agreement
34 with the developer. The chief executive officer of the authority
35 shall negotiate the terms and conditions of the redevelopment
36 agreement on behalf of the State.

37 b. The redevelopment agreement shall specify the amount of
38 the tax credit to be awarded to the developer, the date on which the
39 developer shall complete the remediation, and the projected project
40 remediation cost. The redevelopment agreement shall require the
41 developer to submit progress reports to the authority and to the
42 department every six months pursuant to section 15 of P.L.2020,
43 c.156 (C.34:1B-283).

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

1 manual prepared by the Commissioner of Community Affairs
2 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 (2) the redevelopment project complies with the authority's
7 affirmative action requirements, adopted pursuant to section 4 of
8 P.L.1979, c.303 (C.34:1B-5.4); and

9 (3) the developer pays each worker employed to perform
10 remediation work **[or]** , construction work, or building services
11 work at the redevelopment project not less than the prevailing wage
12 rate in accordance with the requirements of paragraph (6) of
13 subsection b. of section 12 of P.L.2020, c.156 (C.34:1B-280) for the
14 worker's craft or trade, as determined by the Commissioner of
15 Labor and Workforce Development pursuant to P.L.1963, c.150
16 (C.34:11-56.25 et seq.).

17 d. The authority shall not enter into a redevelopment agreement
18 unless the developer demonstrates, to the satisfaction of the
19 Department of Environmental Protection, that the developer did not
20 discharge a hazardous substance at the brownfield site proposed to
21 be in the redevelopment agreement, is not in any way responsible
22 for the hazardous substance, and is not a corporate successor to the
23 discharger or to any person in any way responsible for the
24 hazardous substance or to anyone liable for cleanup and removal
25 costs pursuant to section 8 of P.L.1976, c.141 (C.58:10-23.11g).

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

36 (2) A labor harmony agreement shall be required only if the
37 State has a proprietary interest in the redevelopment project and
38 shall remain in effect for as long as the State acts as a market
39 participant in the redevelopment project. The authority may enter
40 into a redevelopment agreement with a developer without the labor
41 harmony agreement required under paragraph (1) of this subsection
42 only if the authority determines that the redevelopment project
43 would not be feasible if a labor harmony agreement is required.
44 The authority shall support the determination by a written finding,
45 which provides the specific basis for the determination.

46 (3) As used in this subsection, "labor harmony agreement"
47 means an agreement between a business that serves as the owner or
48 operator of a retail establishment or distribution center and one or

1 more labor organizations, which requires, for the duration of the
2 agreement: that any participating labor organization and its
3 members agree to refrain from picketing, work stoppages, boycotts,
4 or other economic interference against the business; and that the
5 business agrees to maintain a neutral posture with respect to efforts
6 of any 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 that have requested to be on the list and
20 that 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. The redevelopment agreement shall provide that issuance of
24 a tax credit under the program shall be conditioned upon the
25 subrogation to the department of all rights of the developer to
26 recover remediation costs from any other person who discharges a
27 hazardous substance or is in any way responsible, pursuant to
28 section 8 of P.L.1976, c.141 (C.58:10-23.11g), for a hazardous
29 substance that was discharged at the brownfield site.

30 g. A developer may seek a revision to the redevelopment
31 agreement if the developer cannot complete the remediation on or
32 before the date set forth in the redevelopment agreement. A
33 developer's ability to change the date on which the developer shall
34 complete the remediation shall be subject to the availability of tax
35 credits in the year of the revised date of completion.

36 h. A developer shall submit to the authority satisfactory
37 evidence of the actual remediation costs, as certified by a certified
38 public accountant, and a Licensed Site Remediation Professional for
39 costs under the jurisdiction of the "Site Remediation Reform Act,"
40 sections 1 through 29 of P.L.2009, c.60 (C.58:10C-1 et seq.), and as
41 applicable, other appropriate licensed or certified professional for
42 costs that are not under the jurisdiction of the "Site Remediation
43 Reform Act," evidence of completion of the remediation as
44 demonstrated by a Response Action Outcome where the
45 remediation is subject to the "Site Remediation Reform Act," a
46 certification from the appropriate licensed or certified professional
47 for other remedial activities, and a certification that all information
48 provided by the developer to the authority is true, including

1 information contained in the application, the redevelopment
2 agreement, any amendment to the redevelopment agreement, and
3 any other information submitted by the developer to the authority
4 pursuant to sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277
5 through C34:1B-287). The developer, or an authorized agent of the
6 developer, shall certify under the penalty of perjury that the
7 information provided pursuant to this subsection is true.

8 i. The redevelopment agreement shall include a **【requirement**
9 **that the chief executive officer of the authority receive annual**
10 **reports from】** provision allowing the authority to recapture the tax
11 credits for any year in which the Department of Environmental
12 Protection, the Department of Labor and Workforce Development,
13 **【and】** or the Department of the Treasury that **【demonstrate】**
14 advises the authority that the developer **【,** and each contractors and
15 subcontractor performing work on the redevelopment project,**】** is
16 not in substantial good standing with the respective department,
17 **【or】** nor has the developer entered into an agreement with the
18 respective department that includes a practical corrective action
19 plan for the developer. The redevelopment agreement shall also
20 include a provision allowing authority to recapture the tax credits
21 for any year in which **【any such report is not received】** the
22 developer fails to confirm that each contractor or subcontractor
23 performing work at the redevelopment project: (1) is registered as
24 required by “The Public Works Contractor Registration Act,”
25 P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has not been debarred
26 by Department of Labor and Workforce Development from
27 engaging in or bidding on Public Works Contracts in New Jersey,
28 and (3) possesses a tax clearance certificate issued by the Division
29 of Taxation in the Department of the Treasury. The redevelopment
30 agreement shall also require a developer to engage in on-site
31 consultations with the Division of Workplace Safety and Health in
32 the Department of Health.

33 (cf: P.L.2020, c.156, s.13)

34
35 8. Section 16 of P.L.2020, c.156 (C.34:1B-284) is amended to
36 read as follows:

37 16. a. Upon completion of the **【redevelopment project】**
38 remediation, the developer shall seek certification from the
39 department that:

40 (1) the **【redevelopment project】** remediation is complete;

41 (2) the developer complied with the requirements of section 15
42 of P.L.2020, c.156 (C.34:1B-283), including the requirements of
43 any memorandum of agreement or other oversight document that
44 the developer may have executed with the Commissioner of
45 Environmental Protection pursuant to that section; and

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

1 Upon receipt of certification, and confirmation by the authority
2 that the developer's obligations under the redevelopment agreement
3 have been met, a developer shall be awarded a credit against the tax
4 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
5 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),
6 section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 as
7 follows: (a) for project located in a qualified incentive tract or
8 government-restricted municipality, in an amount not to exceed 60
9 percent of the actual remediation costs, or 60 percent of the
10 projected remediation costs as set forth in the redevelopment
11 agreement, or \$8,000,000, whichever is least; and (b) for all other
12 projects, in an amount not to exceed [40] 50 percent of the actual
13 remediation costs, or [40] 50 percent of the projected remediation
14 costs as set forth in the redevelopment agreement, or \$4,000,000,
15 whichever is least. The developer, or an authorized agent of the
16 developer, shall certify that the information provided to the
17 department and the authority pursuant to this subsection is true
18 under the penalty of perjury.

19 b. When filing an application for certification pursuant to
20 subsection a. of this section, the developer shall submit to the
21 department: (1) the total remediation costs incurred by the
22 developer for the remediation of the subject property located at the
23 site of the redevelopment project, as provided in the redevelopment
24 agreement, and certified by a certified public accountant, and a
25 Licensed Site Remediation Professional for costs under the
26 jurisdiction of the "Site Remediation Reform Act," sections 1
27 through 29 of P.L.2009, c.60 (C.58:10C-1 et seq.), and as
28 applicable, other appropriate licensed or certified professional for
29 costs that are not under the jurisdiction of the "Site Remediation
30 Reform Act"; (2) evidence of completion of the remediation, as
31 demonstrated by a Response Action Outcome where the
32 remediation is subject to the "Site Remediation Reform Act"; (3) a
33 certification from the appropriate licensed or certified professional
34 for other remedial activities; (4) information concerning the
35 occupancy rate of the buildings or other work areas located on the
36 property subject to the redevelopment agreement [.] ; and (5) such
37 other information as the department deems necessary in order to
38 make the certifications and findings pursuant to this section.

39 c. A developer shall apply the credit awarded against the
40 developer's liability for the tax imposed pursuant to section 5 of
41 P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132
42 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231
43 (C.17:32-15), or N.J.S.17B:23-5 for the privilege period during
44 which the department awards the developer a tax credit pursuant to
45 subsection a. of this section. A developer shall not carry forward
46 any unused credit.

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

8 (cf: P.L.2020, c.156, s.16)

9

10 9. Section 17 of P.L.2020, c.156 (C.34:1B-285) is amended to
11 read as follows:

12 17. a. A developer may apply to the director and the chief
13 executive officer of the authority for a tax credit transfer certificate,
14 during the privilege period in which the director awards the
15 developer a tax credit pursuant to section 16 of P.L.2020, c.156
16 (C.34:1B-284), in lieu of the developer being allowed to apply any
17 amount of the tax credit against the developer's State tax liability.
18 The tax credit transfer certificate, upon receipt thereof by the
19 developer from the director and the chief executive officer of the
20 authority, may be sold or assigned, in the privilege period during
21 which the developer receives the tax credit transfer certificate from
22 the director, to another person, who may apply the credit against a
23 tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
24 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),
25 section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The
26 tax credit transfer certificate provided to the developer shall include
27 a statement waiving the developer's right to claim the credit that the
28 developer has elected to sell or assign.

29 b. The developer shall not sell or assign a tax credit transfer
30 certificate allowed under this section for consideration received by
31 the developer of less than 85 percent of the transferred credit
32 amount before considering any further discounting to present value
33 which shall be permitted, except a developer of a residential project
34 consisting of newly-constructed residential units that has received
35 federal low income housing tax credits under 26 U.S.C.
36 **[s.42(b)(2)(B)(i)] s.42(b)(1)(B)(i)** may assign a tax credit transfer
37 certificate for consideration of no less than 75 percent subject to the
38 submission of a plan to the authority and the New Jersey Housing
39 and Mortgage Finance Agency to use the proceeds derived from the
40 assignment of tax credits to complete the residential project. The
41 tax credit transfer certificate issued to a developer by the director
42 shall be subject to any limitations and conditions imposed on the
43 application of State tax credits pursuant to section 16 of P.L.2020,
44 c.156 (C.34:1B-284) and any other terms and conditions that the
45 director may prescribe.

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

1 d. 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 (cf: P.L.2020, c.156, s.17)

11
12 10. Section 19 of P.L.2020, c.156 (C.34:1B-287) is amended to
13 read as follows:

14 19. Notwithstanding the provisions of the "Administrative
15 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the
16 contrary, the chief executive officer of the authority, in consultation
17 with the Commissioner of Environmental Protection, may adopt,
18 immediately upon filing with the Office of Administrative Law,
19 regulations that the chief executive officer and commissioner deem
20 necessary to implement the provisions of sections 9 through 19 of
21 P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287), which
22 regulations shall be effective for a period not to exceed **【180】** 360
23 days from the date of the filing. The chief executive officer, in
24 consultation with the Commissioner of Environmental Protection,
25 shall thereafter amend, adopt, or readopt the regulations in
26 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
27 et seq.). The rules shall require annual reporting by developers that
28 receive tax credits pursuant to the program, in addition to the
29 regular progress updates. **【Developers】** As part of the authority's
30 review of the annual reports required from a developer, the
31 authority shall **【obtain certifications by】** confirm with the
32 Department of Labor and Workforce Development, the Department
33 of Environmental Protection, and the Department of the Treasury
34 **【stating】** that the developer is in substantial good standing with the
35 respective department, or has entered into an agreement with the
36 respective department that includes a practical corrective action
37 plan, and the developer shall certify that any contractors or
38 subcontractors performing work at the redevelopment project: (1)
39 are registered as required by "The Public Works Contractor
40 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have
41 not been debarred by Department of Labor and Workforce
42 Development from engaging in or bidding on Public Works
43 Contracts in New Jersey, and (3) possess a tax clearance certificate
44 issued by the Division of Taxation in the Department of the
45 Treasury. The rules and regulations adopted pursuant to this
46 section shall also include a provision to require that **【developers】** ,
47 in any year in which the developer is not in substantial good

1 standing with the Department of Labor and Workforce
2 Development, the Department of Environmental Protection, or the
3 Department of the Treasury, the developer may forfeit all tax credits
4 awarded in **any** that year **in** which any such report is not
5 received**],** and to allow the authority to extend, in individual cases,
6 the deadline for any annual reporting **or certification** requirement
7 established pursuant to this section.

8 (cf: P.L.2020, c.156, s.19)

9

10 11. Section 24 of P.L.2020, c.156 (C.34:1B-292) is amended to
11 read as follows:

12 24. a. The authority shall sell the tax credits authorized pursuant
13 to section 22 of P.L.2020, c.156 (C.34:1B-290) to purchasers
14 through a competitive auction process.

15 b. The authority shall determine the form and manner in which
16 potential purchasers may bid for tax credits available under the
17 program. To be awarded a tax credit under the program, a potential
18 purchaser shall:

19 (1) specify the requested amount of tax credits, which shall not
20 be less than **[\$1,000,000]** \$500,000;

21 (2) specify the amount the potential purchaser will pay in
22 exchange for the requested amount of tax credits, which shall not be
23 less than **[85]** 75 percent of the requested dollar amount of tax
24 credits;

25 (3) commit to serve on the New Jersey Innovation Evergreen
26 Advisory Board, established pursuant to section 32 of P.L.2020,
27 c.156 (C.34:1B-300), and to otherwise provide mentorship,
28 networking, and collaboration opportunities to qualified businesses
29 that receive funding under the program; and

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

32 c. Prior to an auction, the authority shall establish and disclose
33 to bidders the weighted criteria the authority will utilize, which the
34 authority shall base on the price offered to purchase the tax credits
35 and the quality of the mentorship and networking opportunities and
36 other support of the State's innovation ecosystem offered by a
37 purchaser in its bid. The authority may pro rate the amount of tax
38 credits allocated to each purchaser. A potential purchaser that
39 submits a bid for tax credits under this section shall receive a
40 written notice from the authority indicating whether the authority
41 has approved it as a purchaser of tax credits and, if so, the amount
42 of tax credits approved.

43 d. Except as provided in section 22 of P.L.2020, c.156
44 (C.34:1B-290), the authority shall hold one competitive auction per
45 calendar year.

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

4 (cf: P.L.2020, c.156, s.24)

5
6 12. Section 29 of P.L.2020, c.156 (C.34:1B-297) is amended to
7 read as follows:

8 29. a. The authority shall certify or refuse to certify a venture
9 firm as a qualified venture firm based on the criteria for
10 certification set forth in section 28 of P.L.2020, c.156 (C.34:1B-
11 296), and subsections b. and c. of this section.

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

25 c. Prior to certifying a venture firm as a qualified venture firm,
26 the authority shall confirm with the Department of Labor and
27 Workforce Development, the Department of Environmental
28 Protection, and the Department of the Treasury **【shall each report to**
29 **the chief executive officer of the authority】** whether the venture
30 firm is in substantial good standing with the respective department,
31 or has entered into an agreement with the respective department that
32 includes a practical corrective action plan for the venture firm. The
33 authority may also contract with an independent third party to
34 perform a background check on the venture firm.

35 d. The authority shall provide written notification to each
36 venture firm that is certified as a qualified venture firm by the
37 authority and shall provide written notification to each venture firm
38 that the authority refuses to certify as a qualified venture firm,
39 communicating in detail the grounds for the authority's refusal. The
40 authority shall review each qualified venture firm annually for the
41 disqualifying criteria set forth in subsection b. of this section or
42 other reasonable industry-accepted standards as determined by the
43 authority. The authority may decertify a qualified venture firm at
44 any time pursuant to the disqualifying criteria set forth in
45 subsection b. of this section. Decertification shall not affect any
46 previously made qualified investment or the fund's commitment to
47 make a follow-on investment in a qualified business.

48 (cf: P.L.2020, c.156, s.29)

1 13. Section 37 of P.L.2020, c.156 (C.34:1B-305) is amended to
2 read as follows:

3 37. As used in sections 35 through 42 of P.L.2020, c.156
4 (C.34:1B-303 through C.34:1B-310):

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

8 "Department" means the Department of Agriculture.

9 "Eligible equipment costs" means expenditures for the
10 procurement of such equipment as is needed to allow a
11 supermarket, grocery store, mid-sized food retailer, **[or]** small food
12 retailer, or other eligible entity to store, refrigerate, transport, or
13 otherwise maintain nutritious foods, including fresh fruits and
14 vegetables, for retail purposes, but within a standard range based
15 upon industry standards, as determined by the authority.

16 "Eligible technology costs" means expenditures for the
17 procurement or upgrade of technology systems to support online
18 ordering and e-commerce, including but not limited to computer
19 hardware, software, internet connectivity, and database systems.

20 "Food desert community" means a physically contiguous area in
21 the State in which residents have limited access to nutritious foods,
22 such as fresh fruits and vegetables, **[through supermarkets and**
23 **grocery stores,]** and which has been designated as a food desert
24 community pursuant to subsection b. of section 38 of P.L.2020,
25 c.156 (C.34:1B-306).

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

30 "Mid-sized food retailer" means a medium-sized retail outlet
31 with at least 2,500 but less than 16,000 square feet, of which at least
32 75 percent is occupied by food and related products.

33 "Program" means the Food Desert Relief Program established in
34 section 38 of P.L.2020, c.156 (C.34:1B-306).

35 "Project cost" means the costs incurred in connection with the
36 establishment of a supermarket or grocery store within a food desert
37 community by the developer until the opening of the supermarket or
38 grocery store to the public, including the costs relating to lands,
39 buildings, improvements, real or personal property, or any interest
40 therein, including leases discounted to present value, including
41 lands under water, riparian rights, space rights and air rights
42 acquired, owned, developed or redeveloped, constructed,
43 reconstructed, rehabilitated or improved, any environmental
44 remediation costs, plus costs not directly related to construction,
45 including capitalized interest paid to third parties, of an amount not
46 to exceed 20 percent of the total costs, **[capitalized interest paid to**

1 third parties,] and the cost of infrastructure improvements,
2 including ancillary infrastructure projects.

3 "Project financing gap" means the part of the total project cost,
4 including return on investment, that remains to be financed after all
5 other sources of capital have been accounted for, including, but not
6 limited to, developer-contributed capital, which shall not be less
7 than 20 percent of the total project cost, which may include the
8 value of any existing land and improvements in the project area
9 owned or controlled by the developer, and the cost of infrastructure
10 improvements in the public right-of-way, and investor or financial
11 entity capital or loans for which the developer, after making all
12 good faith efforts to raise additional capital, certifies that additional
13 capital cannot be raised from other sources on a non-recourse basis.

14 "Small food retailer" means a small retail outlet, with less than
15 2,500 square feet, that sells a limited selection of foods and other
16 products, such as a bodega, convenience store, corner store,
17 neighborhood store, small grocery, mobile food vendor, farmers'
18 market, food co-op, or small-scale store.

19 "Supermarket or grocery store" means a retail outlet with at least
20 16,000 square feet, of which at least 90 percent is occupied by food
21 and related products.

22 (cf: P.L.2020, c.156, s.37)

23

24 14. Section 38 of P.L.2020, c.156 (C.34:1B-306) is amended to
25 read as follows:

26 38. a. (1) There is established the Food Desert Relief Program
27 to be administered by the New Jersey Economic Development
28 Authority. The program shall include tax credit components, as
29 provided in sections 39 and 40 of P.L.2020, c.156 (C.34:1B-307
30 and C.34:1B-308), in order to incentivize businesses to establish
31 and retain new supermarkets and grocery stores in food desert
32 communities.

33 (2) The total value of tax credits approved by the authority
34 pursuant to sections 39 and 40 of P.L.2020, c.156 (C.34:1B-307 and
35 C.34:1B-308) shall not exceed the limitations set forth in section 98
36 of P.L.2020, c.156 (C.34:1B-362).

37 b. The authority, in consultation with the Department of
38 Agriculture and the Department of Community Affairs, shall
39 initially designate not more than 50 separate geographic areas that
40 **[are most in need of a supermarket or grocery store]** have limited
41 access to nutritious foods as food desert communities in this State.
42 The authority, in consultation with the Department of Agriculture
43 and the Department of Community Affairs, shall develop criteria for
44 the designation of food desert communities, but each separate food
45 desert community shall consist of a distinct geographic area with a
46 single defined border. The criteria shall, at a minimum, incorporate
47 analysis of municipal or census tract poverty statistics, food desert
48 information from the Economic Research Service of the United

1 States Department of Agriculture, **[and]** healthier food retail tract
2 information from the federal Centers for Disease Control and
3 Prevention, and residents' access to nutritious foods, such as fresh
4 fruits and vegetables, through supermarkets and grocery stores. The
5 authority, in consultation with the departments, may also consider
6 in making food desert community designations pursuant to this
7 subsection, data related to municipal or census tract population size
8 and population density **[in making food desert community**
9 **designations pursuant to this subsection]** , the number of residents
10 who receive Supplemental Nutrition Assistance Program (SNAP)
11 benefits within a municipality, the extent to which a municipality's
12 residents have access to a personal vehicle, and a municipality's
13 Municipal Revitalization Index distress score, obesity rate, and
14 unemployment rate. The authority, in consultation with the
15 departments, shall continuously evaluate areas previously
16 designated as food desert communities and assess whether they still
17 meet the criteria for designation as a food desert community and
18 may designate additional food desert communities once every three
19 years following the effective date of sections 35 through 42 of
20 P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310).

21 c. To receive a tax credit under section 39 or 40 of P.L.2020,
22 c.156 (C.34:1B-307 or C.34:1B-308), a taxpayer shall submit an
23 application to the authority in the form and manner prescribed by
24 the authority and in accordance with criteria established by the
25 authority, which at minimum will include a commitment to accept
26 benefits from federal nutrition assistance programs, such as the
27 Supplemental Nutrition Assistance Program (SNAP) and the
28 Special Supplemental Nutrition Program for Women, Infants, and
29 Children (WIC). Following the approval of an application, the
30 authority may, pursuant to an award agreement, award tax credits to
31 an eligible taxpayer that:

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

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

37 d. (1) The authority may sell all or a portion of the tax credits
38 made available in a fiscal year pursuant to subsection a. of this
39 section and dedicate the proceeds from such sale to provide grants
40 and loans to qualifying supermarkets, grocery stores, mid-sized
41 food retailers, **[and]** small food retailers, and any other eligible
42 entity. The amount of any grant or loan provided pursuant to this
43 subsection shall be in accordance with the need of the supermarket,
44 grocery store, mid-sized food retailer, **[or]** small food retailer, or
45 any other eligible entity, as determined by the authority. The
46 authority shall sell tax credits pursuant to this section in the manner
47 determined by the authority; provided, however, the authority shall

- 1 not sell tax credits for less than 85 percent of the tax credit amount.
2 Grants and loans made available pursuant to this subsection shall be
3 awarded to entities that:
- 4 (a) are eligible for tax credits under subsection c. of this section
5 in lieu of tax credits; **[or]**
- 6 (b) own and operate a mid-sized food retailer or small food
7 retailer that commits to selling nutritious foods, including fresh
8 fruits and vegetables, in a designated food desert community; or
- 9 (c) at the discretion of the authority, support initiatives to
10 strengthen food security of residents in food desert communities.
- 11 (2) A supermarket, grocery store, mid-sized food retailer, **[or]**
12 small food retailer, or other eligible entity shall submit an
13 application to the authority to receive a grant or loan pursuant to
14 this subsection. The application shall be submitted in the form and
15 manner prescribed by the authority and in accordance with criteria
16 established by the authority. An entity eligible for a grant or loan
17 under subparagraph (a) of paragraph (1) of this subsection shall not
18 be required to submit a separate application to the authority for the
19 grant or loan, provided that the entity has submitted an application
20 to the authority pursuant to subsection c. of this section.
- 21 (3) Prior to awarding a grant or loan to an applicant
22 supermarket, grocery store, mid-sized food retailer, **[or]** small food
23 retailer, or other eligible entity pursuant to this subsection, the
24 authority shall confirm with the Department of Labor and
25 Workforce Development, the Department of Environmental
26 Protection, and the Department of the Treasury **[shall each report to**
27 **the chief executive officer of the authority]** whether the applicant is
28 in 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 applicant. The
31 applicant shall certify that any contractors or subcontractors that
32 perform work at the qualifying supermarket or grocery store: (1) are
33 registered as required by “The Public Works Contractor
34 Registration Act,” P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have
35 not been debarred by Department of Labor and Workforce
36 Development from engaging in or bidding on Public Works
37 Contracts in the State; and (3) possess a tax clearance certificate
38 issued by the Division of Taxation in the Department of the
39 Treasury. The authority may also contract with an independent
40 third party to perform a background check on the entity.
- 41 (4) An applicant supermarket, grocery store, mid-sized food
42 retailer, **[or]** small food retailer, or other eligible entity 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
47 applicant to the authority is true, including information contained in

1 the application, any agreement pertaining to the award of grants or
2 loans under the program, any amendment to such an agreement, and
3 any other information submitted by the applicant to the authority
4 pursuant to sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303
5 through C.34:1B-310), and evidence of the eligible equipment costs
6 and eligible technology costs of the applicant. The applicant, or an
7 authorized agent of the applicant, shall certify under the penalty of
8 perjury that the information provided pursuant to this subsection is
9 true.

10 e. The authority may establish a technical assistance fund to
11 assist any entity that is eligible for a tax credit, grant, or loan under
12 this section. The authority, through the technical assistance fund,
13 may make grants to entities to assist qualifying supermarkets,
14 grocery stores, mid-sized food retailers, **[or]** small food retailers, or
15 other eligible entities in implementation of best practices for
16 increasing the accessibility of nutritious foods in food desert
17 communities. Technical assistance shall be provided either directly
18 by the authority or through a not-for-profit or for-profit entity and
19 made available in English as well as the two most commonly
20 spoken languages in New Jersey other than English. At the
21 discretion of the authority, funds to support technical assistance
22 may be provided in addition to, or in lieu of, any tax credit, grant,
23 or loan awarded under sections 35 through 42 of P.L.2020, c.156
24 (C.34:1B-303 through C.34:1B-310).

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

29 (a) to mitigate a project financing gap;

30 (b) to mitigate the initial operating costs of the supermarket or
31 grocery store; or

32 (c) to mitigate the eligible equipment costs or eligible
33 technology costs of the supermarket, grocery store, mid-sized food
34 retailer, **[or]** small food retailer, or other eligible entity in order to
35 make nutritious foods more accessible and affordable to residents
36 within food deserts; or

37 (d) to support initiatives to ensure food security of residents in
38 food desert communities.

39 (2) The value of tax credits **[or]** grants, or loans awarded to
40 individual entities under the program shall not exceed:

41 (a) in the case of an entity eligible under paragraph (1) of
42 subsection c. of this section, 40 percent of the total project cost for
43 the first supermarket or grocery store in a designated food desert
44 community, and 20 percent of the total project cost for the second
45 supermarket or grocery store in the food desert community; and

46 (b) in the case of an entity eligible under paragraph (2) of
47 subsection c. of this section, the initial operating costs of the first
48 supermarket or grocery store in a designated food desert

1 community, and one-half of the initial operating costs of the second
2 supermarket or grocery store in the food desert community; and

3 (c) in the case of an entity eligible for a grant or loan under
4 subparagraph (b) of paragraph (1) of subsection d. of this section,
5 the eligible equipment costs and eligible technology costs of the
6 supermarket, grocery store, mid-sized food retailer, **[or]** small food
7 retailer, or other eligible entity.

8 g. An entity that develops and opens a new supermarket or
9 grocery store in a designated food desert community shall be
10 eligible for a tax credit only if the entity demonstrates to the
11 authority at the time of application that each worker employed to
12 perform construction at the project shall be paid not less than the
13 prevailing wage rate for the worker's craft or trade, as determined
14 by the Commissioner of Labor and Workforce Development
15 pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005,
16 c.379 (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
23 than 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
27 harmony agreement is required. The authority shall support the
28 determination by a written finding, which provides the specific
29 basis for the determination.

30 (3) As used in this subsection, "labor harmony agreement"
31 means an agreement between a business that serves as the owner or
32 operator of a supermarket or grocery store and one or more labor
33 organizations, which requires, for the duration of the agreement:
34 that any participating labor organization and its members agree to
35 refrain 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
38 participating labor organization to represent employees at a
39 supermarket or grocery store, agrees to permit the labor
40 organization to have access to the employees, and agrees to
41 guarantee to the labor organization the right to obtain recognition as
42 the exclusive collective bargaining representatives of the employees
43 at a supermarket or grocery store by demonstrating to the New
44 Jersey State Board of Mediation, Division of Private Employment
45 Dispute Settlement, or a mutually agreed-upon, neutral, third-party,
46 that a majority of workers in the unit have shown their preference
47 for the labor organization to be their representative by signing
48 authorization cards indicating that preference. The labor

1 organization or organizations shall be from a list of labor
2 organizations that have requested to be on the list and that the
3 Commissioner of Labor and Workforce Development has
4 determined represent substantial numbers of supermarket or grocery
5 store employees in the State.

6 i. A recipient shall certify that all factual representations made
7 by the recipient in the application or award agreement are true
8 under the penalty of perjury. A material misrepresentation of fact
9 in either the application or award agreement may result in recession
10 and recapture of any grants or tax credits awarded, or acceleration
11 of any loans made, under sections 35 through 42 of P.L.2020, c.156
12 (C.34:1B-303 through C.34:1B-310).
13 (cf: P.L.2020, c.156, s.38)
14

15 15. Section 39 of P.L.2020, c.156 (C.34:1B-307) is amended to
16 read as follows:

17 39. a. For privilege periods beginning on or after January 1 next
18 following the effective date of sections 35 through 42 of P.L.2020,
19 c.156 (C.34:1B-303 through C.34:1B-310), a taxpayer eligible
20 under subsection c. of section 38 of P.L.2020, c.156 (C.34:1B-306)
21 shall be awarded a credit against the tax due pursuant to section 5 of
22 P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132
23 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231
24 (C.17:32-15), or N.J.S.17B:23-5. A taxpayer that qualifies for the
25 award of a tax credit under this section may claim 25 percent of the
26 total amount awarded in the privilege period in which the taxpayer
27 establishes and opens the supermarket or grocery store for business,
28 and an additional 25 percent of the total amount awarded in each of
29 the three privilege periods next following the initial opening,
30 provided that the supermarket or grocery store remains in business
31 and open to the public. For a taxpayer to be allowed a tax credit
32 pursuant to this section, the taxpayer shall meet the requirements of
33 this section, and the rules and regulations adopted pursuant to
34 section 41 of P.L.2020, c.156 (C.34:1B-309).

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
38 a privilege period shall be as prescribed by the Director of the
39 Division of Taxation in the Department of the Treasury. The
40 amount of the credit applied pursuant to this section against the tax
41 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
42 shall not reduce a taxpayer's tax liability for a privilege period to an
43 amount less than the statutory minimum provided in subsection (e)
44 of section 5 of P.L.1945, c.162 (C.54:10A-5). Any credit shall be
45 valid in the privilege period in which the certification is approved
46 and any unused portion thereof may be carried forward into the next
47 10 privilege 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
3 eligible for a tax credit pursuant to the provisions of sections 35
4 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310)
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.2020, c.156
8 (C.34:1B-306), the authority may offer the taxpayer a tax credit in
9 an amount less than that provided in subsection a. of this section.
- 10 d. Prior to awarding a tax credit to a supermarket or grocery
11 store, the authority shall confirm with the Department of Labor and
12 Workforce Development, the Department of Environmental
13 Protection, and the Department of the Treasury **【shall each report to**
14 **the chief executive officer of the authority whether】** that the a
15 qualifying supermarket or grocery store is in substantial good
16 standing with the respective department, or has entered into an
17 agreement with the respective department that includes a practical
18 corrective action plan for the supermarket or grocery store, and the
19 qualifying supermarket or grocery store shall certify that any
20 contractors or subcontractors performing work at the qualifying
21 supermarket or grocery store: (1) are registered as required by “The
22 Public Works Contractor Registration Act,” P.L.1999, c.238
23 (C.34:11-56.48 et seq.); (2) have not been debarred by Department
24 of Labor and Workforce Development from engaging in or bidding
25 on Public Works Contracts in the State; and (3) possess a tax
26 clearance certificate issued by the Division of Taxation in the
27 Department of the Treasury. The authority may also contract with
28 an independent third party to perform a background check on the
29 developer.
- 30 e. A supermarket or grocery store shall, as required at the
31 discretion of the authority, submit to the authority satisfactory
32 information pertaining to the project cost, project financing gap,
33 and the initial operating costs, as certified by a certified public
34 accountant, certifications that all information provided by the
35 supermarket or grocery store to the authority is true, including
36 information contained in the application, any agreement pertaining
37 to the award of tax credits under the program, any amendment to
38 such an agreement, and any other information submitted by the
39 supermarket or grocery store to the authority pursuant to sections 35
40 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310),
41 and evidence of the initial opening and continued operation of the
42 supermarket or grocery store. The supermarket or grocery store, or
43 an authorized agent of the supermarket or grocery store, shall
44 certify under the penalty of perjury that the information provided
45 pursuant to this subsection is true.
46 (cf: P.L.2020, c.156, s.39)

1 16. Section 40 of P.L.2020, c.156 (C.34:1B-308) is amended to
2 read as follows:

3 40. a. For taxable years beginning on or after January 1 next
4 following the effective date of sections 35 through 42 of P.L.2020,
5 c.156 (C.34:1B-303 through C.34:1B-310), a taxpayer eligible
6 under subsection c. of section 38 of P.L.2020, c.156 (C.34:1B-306)
7 shall be awarded a credit against the tax due pursuant to
8 N.J.S.54A:1-1 et seq. A taxpayer that qualifies for the award of a
9 tax credit under this section may claim 25 percent of the total
10 amount awarded in the taxable year in which the taxpayer
11 establishes and opens the supermarket or grocery store for business,
12 and may claim 25 percent of the total amount awarded in each of
13 the three taxable years next following the initial opening, provided
14 that the supermarket or grocery store remains in business and open
15 to the public. For a taxpayer to be awarded a tax credit pursuant to
16 this section, the taxpayer shall meet the requirements of this
17 section, and the rules and regulations adopted pursuant to section 41
18 of P.L.2020, c.156 (C.34:1B-309).

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

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

40 A taxpayer that is a New Jersey S corporation shall not be
41 allowed the credit directly under N.J.S.54A:1-1 et seq., but the
42 amount of credit of a taxpayer in respect of a pro rata share of S
43 corporation income shall be determined by allocating to the
44 taxpayer that proportion of the credit acquired by the New Jersey S
45 corporation that is equal to the taxpayer's share, whether or not
46 distributed, of the total pro rata share of S corporation income of the
47 New Jersey S corporation for its taxable year ending within or with
48 the taxpayer's taxable year.

1 d. The authority shall award tax credits to taxpayers until either
2 the available tax credits are exhausted or all projects that are
3 eligible for a tax credit pursuant to the provisions of sections 35
4 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310)
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.2020, c.156
8 (C.34:1B-306), the authority may offer the taxpayer a tax credit in
9 an amount less than that provided in subsection a. of this section
10 **[40]**.

11 e. Prior to awarding a tax credit to a supermarket or grocery
12 store, the authority shall confirm with the Department of Labor and
13 Workforce Development, the Department of Environmental
14 Protection, and the Department of the Treasury **[shall each report to**
15 **the chief executive officer of the authority whether a]** that the
16 qualifying supermarket or grocery store **[, and each contractor and**
17 **subcontractor performing construction work at the qualifying**
18 **supermarket or grocery store,]** is in substantial good standing with
19 the respective department, or has entered into an agreement with the
20 respective department that includes a practical corrective action
21 plan, and the qualifying supermarket or grocery store shall confirm
22 that any contractors and subcontractors performing construction
23 work at the qualifying supermarket or grocery store: (1) are
24 registered as required by “The Public Works Contractor
25 Registration Act,” P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have
26 not been debarred by Department of Labor and Workforce
27 Development from engaging in or bidding on Public Works
28 Contracts in the State; and (3) possesses a tax clearance certificate
29 issued by the Division of Taxation in the Department of the
30 Treasury. The authority may also contract with an independent
31 third party to perform a background check on the **[developer]**
32 qualifying supermarket or grocery store.

33 f. A supermarket or grocery store shall, as required at the
34 discretion of the authority, submit to the authority satisfactory
35 information pertaining to the project cost, project financing gap,
36 and the initial operating costs, as certified by a certified public
37 accountant, certifications that all information provided by the
38 supermarket or grocery store to the authority is true, including
39 information contained in the application, any agreement pertaining
40 to the award of tax credits under the program, any amendment to
41 such an agreement, and any other information submitted by the
42 supermarket or grocery store to the authority pursuant to sections 35
43 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310),
44 and evidence of the initial opening and continued operation of the
45 supermarket or grocery store. The supermarket or grocery store, or
46 an authorized agent of the supermarket or grocery store, shall

1 certify under the penalty of perjury that the information provided
2 pursuant to this subsection is true.

3 (cf: P.L.2020, c.156, s.40)

4

5 17. Section 41 of P.L.2020, c.156 (C.34:1B-309) is amended to
6 read as follows:

7 41. **【The】** Notwithstanding the provisions of the
8 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
9 seq.), to the contrary, the chief executive officer of the authority, in
10 consultation with the department and the Director of the Division of
11 Taxation in the Department of the Treasury, **【shall】** may adopt,
12 **【pursuant to the "Administrative Procedure Act," P.L.1968, c.410**
13 **(C.52:14B-1 et seq.)】** immediately upon filing with the Office of
14 Administrative Law, rules and regulations necessary to carry out the
15 provisions of sections 35 through 42 of P.L.2020, c.156 (C.34:1B-
16 303 through C.34:1B-310)), which rules and regulations shall be
17 effective for a period not to exceed 360 days from the date of the
18 filing. The chief executive officer shall thereafter amend, adopt, or
19 readopt the rules and regulations in accordance with the
20 requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

21 (cf: P.L.2020, c.156, s.41)

22

23 18. Section 45 of P.L.2020, c.156 (C.34:1B-313) is amended to
24 read as follows:

25 45. As used in sections 43 through 53 of P.L.2020, c.156
26 (C.34:1B-311 through C.34:1B-321):

27 "Affiliate" means an entity that directly or indirectly controls, is
28 under common control with, or is controlled by an anchor
29 institution partner anchor institution, or a partner business. Control
30 exists in all cases in which the entity is a member of a controlled
31 group of corporations as defined pursuant to section 1563 of the
32 federal Internal Revenue Code (26 U.S.C. s.1563) or the entity is an
33 organization in a group of organizations under common control that
34 is subject to the regulations applicable to organizations pursuant to
35 subsection (b) or (c) of section 414 of the federal Internal Revenue
36 Code (26 U.S.C. s.414). A taxpayer may establish by clear and
37 convincing evidence, as determined by the Director of the Division
38 of Taxation in the Department of the Treasury, that control exists in
39 situations involving lesser percentages of ownership than required
40 by the above referenced federal statutes.

41 "Anchor institution" means a governmental entity or nonprofit
42 entity incorporated pursuant to Title 15 of the Revised Statutes or
43 Title 15A of the New Jersey Statutes having a primary mission and
44 specific policy goals that align with those of the authority under the
45 program and that is a comprehensive health care system, a public
46 research university, a private research university, a major cultural
47 scientific, research, or philanthropic institution, or a public college
48 which is separate from public research universities, or an

1 experienced nonprofit or governmental economic or community
2 development entity certified as an anchor institution by the board
3 pursuant to subsection a. of section 46 of P.L.2020, c.156 (C.34:1B-
4 314).

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

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

10 "Commitment period" means the period of time, which shall be
11 not less than 10 years and no greater than twice the eligibility
12 period that is granted to an anchor institution or, if applicable, a
13 partner anchor institution, to distribute to the authority the agreed
14 upon returns on investment for the award of tax credits pursuant to
15 the program; provided, however, at the election of the authority or
16 upon the request of an anchor institution or, if applicable, a partner
17 anchor institution in order to benefit the community-anchored
18 project, and as determined in the sole discretion of the authority, the
19 authority may grant up to two consecutive five-year extensions of
20 the commitment period.

21 "Community-anchored project" means a capital project that is
22 located in an area that is designated as a New Jersey State
23 opportunity zone, an area of the State designated pursuant to the
24 "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as
25 Planning Area 1 (Metropolitan), or a municipality with a Municipal
26 Revitalization Index distress score of at least 50 and for which an
27 anchor institution and, if applicable, any partner anchor institution
28 is to be awarded tax credits by the authority pursuant to a tax credit
29 agreement which establishes the award of tax credits as an
30 investment by the authority in the project, provided that the project
31 will result in a capital investment of at least \$10,000,000 in a New
32 Jersey State opportunity zone or in any other area of the State, but a
33 project that is not located in a New Jersey State opportunity zone is
34 to be primarily designed to result in the economic expansion of a
35 targeted industry in this State.

36 "Comprehensive health care system" means an entity in this State
37 with the primary purpose of offering comprehensive health care
38 services.

39 "Comprehensive health care services" means the basic health
40 care services provided under a health benefits plan, including
41 medical and surgical services provided by licensed health care
42 providers who may include, but are not limited to, family
43 physicians, internists, cardiologists, psychiatrists, rheumatologists,
44 dermatologists, orthopedists, obstetricians, gynecologists,
45 neurologists, endocrinologists, radiologists, nephrologists,
46 emergency services physicians, ophthalmologists, pediatricians,
47 pathologists, general surgeons, osteopathic physicians, physical
48 therapists and chiropractors. Basic benefits may also include

1 inpatient or outpatient services rendered at a licensed hospital,
2 covered services performed at an ambulatory surgical facility, and
3 ambulance services. "Comprehensive health care services" shall
4 include only services provided by licensed health care providers.

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

7 "Eligibility period" means the period in which an anchor
8 institution or, if applicable, a partner anchor institution may claim,
9 sell, transfer, or otherwise use a tax credit under the New Jersey
10 Community-Anchored Development Program, beginning with the
11 tax period in which the authority accepts certification of the
12 business that it has met the capital investment requirements of the
13 program and extending thereafter for a term of not more than 10
14 years.

15 "Eligible position" means a full-time position in a business in
16 this State which the business has filled with a full-time employee.
17 An eligible position shall not include an independent contractor or a
18 consultant.

19 "Experienced nonprofit or governmental economic or community
20 development entity" means a nonprofit entity incorporated pursuant
21 to Title 15 of the Revised Statutes or Title 15A of the New Jersey
22 Statutes with a substantial number of years of experience that has a
23 core mission and a community track record of advancing economic
24 or community development in at least one area of the State, that the
25 senior management has undertaken multiple successful partnerships
26 with government entities, educational institutions, and the private
27 sector in carrying out development projects, that has successfully
28 developed multiple types of mixed-use projects, **[that owns or**
29 **controls significant real estate assets,]** and that has appropriate
30 prior experience in successfully developing mixed-use projects of
31 comparable or greater size, value and complexity to that being
32 proposed, structuring, securing, and utilizing complex financing in
33 the development of projects of comparable or greater size, value,
34 and complexity to that being proposed, as determined by the board.
35 An experienced nonprofit or governmental economic or community
36 development entity shall not be eligible to participate in the
37 program in connection with a project that is primarily residential or
38 retail.

39 "Major cultural institution" means a public or nonsectarian
40 nonprofit institution within this State that engages in the cultural,
41 intellectual, scientific, environmental, educational, or artistic
42 enrichment of the people of this State, and which is designated by
43 the board as a major cultural institution.

44 "New full-time job" means an eligible position created by an
45 anchor institution, partner anchor institution or a partner business at
46 the community-anchored project that did not previously exist in this
47 State. For the purposes of determining a number of new full-time

1 jobs, the eligible positions of an affiliate shall be considered
2 eligible positions of the business.

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

6 "Partner anchor institution" means an anchor institution that
7 partners with one or more anchor institutions to make an equity
8 investment in or to provide a loan or other financial support for a
9 community-anchored project.

10 "Partner business" means a corporation, partnership, firm,
11 enterprise, franchise, association, trust, sole proprietorship, or other
12 legal entity, but shall not include a public entity that enters into an
13 agreement with an anchor institution or, if applicable, a partner
14 anchor institution to rent and occupy commercial space within a
15 community-anchored project. Under the program a partner
16 business, subject to agreement with the anchor institution or, if
17 applicable, a partner anchor institution, may lease one or more
18 portions of the partner business's space in the community-anchored
19 project to one or more other persons or entities.

20 "Private research university" means Princeton University and any
21 other institution of higher education in this State designated by the
22 board as a private research university, based on criteria and metrics
23 established by the board.

24 "Program" means the New Jersey Community-Anchored
25 Development Program established pursuant to section 46 of
26 P.L.2020, c.156 (C.34:1B-314).

27 "Public research university" means Rutgers, The State University
28 of New Jersey, Rowan University, the New Jersey Institute of
29 Technology, and Montclair State University.

30 "Qualified business accelerator or incubator facility" means a
31 commercial space that contains office, laboratory, or industrial
32 space and which is located near, and presents opportunities for
33 collaboration with, a public research university, a private research
34 university, teaching hospital, college, or university, and within
35 which at least 50 percent of the gross leasable area is restricted for
36 use by one or more targeted industry start-up companies during the
37 commitment period.

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

1 "Tax credit agreement" means a tax credit agreement entered into
2 pursuant to section 50 of P.L.2020, c.156 (C.34:1B-318) between
3 the authority and an anchor institution or, if applicable, a partner
4 anchor institution.

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

8 (cf: P.L.2020, c.156, s.45)

9

10 19. Section 47 of P.L.2020, c.156 (C.34:1B-315) is amended to
11 read as follows:

12 47. a. An anchor institution and, if applicable, each partner
13 anchor institution shall be eligible to receive a tax credit under the
14 program only if the anchor institution and, if applicable, each
15 partner anchor institution submits a program application to the
16 authority that results in completion of a community-anchored
17 project through a capital investment in a New Jersey State
18 opportunity zone or, if the community-anchored project is primarily
19 designed to result in the economic expansion of a targeted industry
20 in this State, in an area of the State designated pursuant to the "State
21 Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning
22 Area 1 (Metropolitan) or in a municipality with a Municipal
23 Revitalization Index distress score of at least 50.

24 b. At the time of application, an anchor institution and, if
25 applicable, each partner anchor institution seeking tax credits
26 pursuant to the program shall demonstrate to the authority:

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

35 (2) the structure and terms of the financial, corporate, and real
36 estate instruments to be utilized to successfully complete and then
37 operate the community-anchored project, including, but not limited
38 to, the proposed economic and business relationship between the
39 anchor institution and, if applicable, each partner anchor institution
40 and any partner business;

41 (3) that the anchor institution and, if applicable, each partner
42 anchor institution, along with any partner business and each partner
43 institution participating in a community-anchored project, has not
44 commenced any construction at the site of the community-anchored
45 project prior to submitting an application, unless the authority
46 determines that the community-anchored project would not be
47 completed otherwise or, in the event the community-anchored

- 1 project is to be undertaken in phases, the requested tax credit covers
2 only phases for which construction has not yet commenced;
- 3 (4) the value of the tax credit that is necessary in each year of
4 the eligibility period, in order for the anchor institution and, if
5 applicable, each partner anchor institution to finance the
6 establishment of the community-anchored project;
- 7 (5) the total aggregate value of the tax credit for the entire
8 eligibility period that is necessary in order for the anchor institution
9 and, if applicable, each partner anchor institution to finance the
10 establishment of the community-anchored project;
- 11 (6) that the award of tax credits under the program will be
12 converted into an investment by the authority into the community-
13 anchored project, and demonstrate to the authority the anticipated
14 current and deferred returns, as applicable, on that investment;
- 15 (7) that the community-anchored project shall comply with the
16 standards established by the authority through regulation based on
17 the green building manual prepared by the Commissioner of
18 Community Affairs pursuant to section 1 of P.L.2007, c.132
19 (C.52:27D-130.6), regarding the use of renewable energy, energy-
20 efficient technology, and non-renewable resources in order to
21 reduce environmental degradation and encourage long-term cost
22 reduction;
- 23 (8) that the community-anchored project shall comply with the
24 authority's affirmative action requirements, adopted pursuant to
25 section 4 of P.L.1979, c.303 (C.34:1B-5.4);
- 26 (9) a description of the significant economic, social, planning,
27 employment, environmental, fiscal, and other benefits that would
28 accrue to the State, county, or municipality from the community-
29 anchored project;
- 30 (10) that during the eligibility period, each worker employed to
31 perform construction work and building services work at the
32 community-anchored project shall be paid not less than the
33 prevailing wage rate for the worker's craft or trade, as determined
34 by the Commissioner of Labor and Workforce Development
35 pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005,
36 c.379 (C.34:11-56.58 et seq.). In the event the community-
37 anchored project constitutes a lease of more than 55 percent of a
38 single facility, these requirements shall apply to construction work
39 and building services work at the entire facility. In the event the
40 community-anchored project constitutes a lease of more than 35
41 percent of a single facility, these requirements shall apply to
42 construction work at the entire facility;
- 43 (11) that during the eligibility period, the anchor institution and,
44 if applicable, each partner anchor institution shall partner with one
45 or more local community organizations that provide support and
46 services to Work First New Jersey program recipients, in order to
47 provide work activity opportunities and other appropriate services
48 to Work First New Jersey program recipients, which activities and

1 services may include, but shall not be limited to: work-study
2 programs, internships, sector-based contextualized literacy training,
3 skills-based training in growth industries in the State, and job
4 retention and advancement services;

5 (12) the extent to which the community-anchored development
6 will result in the expansion of a targeted industry in this State;

7 (13) that the timing of the award and investment of tax credits
8 under the program shall allow for the successful completion and
9 operation of the community-anchored project; and

10 (14) that the community-anchored project is viable and that the
11 anchor institution and, if applicable, each partner anchor institution
12 is a credible partner for completing the community-anchored project
13 and providing the agreed-upon potential returns to the authority, as
14 detailed in the tax credit agreement entered into pursuant to section
15 50 of P.L.2020, c.156 (C.34:1B-318).

16 c. Prior to the board considering an application submitted by an
17 anchor institution and, if applicable, each partner anchor institution,
18 the authority shall confirm with the Department of Labor and
19 Workforce Development, the Department of Environmental
20 Protection, and the Department of the Treasury [shall each report to
21 the chief executive officer of the authority] whether the anchor
22 institution and, if applicable, each partner anchor institution and any
23 partner business is in substantial good standing with the respective
24 department, or has entered into an agreement with the respective
25 department that includes a practical corrective action plan. The
26 anchor institution shall certify that any contractors or
27 subcontractors that will perform work at the community-anchored
28 project: (1) are registered as required by “The Public Works
29 Contractor Registration Act,” P.L.1999, c.238 (C.34:11-56.48 et
30 seq.); (2) have not been debarred by Department of Labor and
31 Workforce Development from engaging in or bidding on Public
32 Works Contracts in the State; and (3) possess a tax clearance
33 certificate issued by the Division of Taxation in the Department of
34 the Treasury. The authority may also contract with an independent
35 third party to perform a background check on an anchor institution
36 and, if applicable, each partner anchor institution and any partner
37 business.

38 d. In order to facilitate the creation of new partnerships with
39 anchor institutions and, if applicable, partner anchor institutions, the
40 authority shall publish on the authority's website a list of names and
41 contact information for each anchor institution that has submitted
42 an application pursuant to this section.

43 (cf: P.L.2020, c.156, s.47)

44

45 20. Section 49 of P.L.2020, c.156 (C.34:1B-317) is amended to
46 read as follows:

47 49. a. The authority shall award tax credits under the program
48 through a competitive application process consisting of up to two

1 award rounds each year. The authority shall provide notice to the
2 public of the opening and closing dates for submission of program
3 applications on the authority's Internet website.

4 b. (1) The authority shall review applications for tax credits
5 submitted to the authority by the deadline date of the award round
6 and shall evaluate each application as if it were received on the
7 deadline date, without providing any preference for early
8 submissions. To determine priority for an award of a tax credit, all
9 applications for community-anchored projects that satisfy the
10 criteria set forth in sections 47 and 48 of P.L.2020, c.156 (C.34:1B-
11 315 and C.34:1B-316) in a given award round shall be ranked on
12 the basis of a scoring system developed by the authority through
13 regulations adopted pursuant to the provisions of the
14 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
15 seq.). Prior to the commencement of an award round, the authority
16 shall determine the minimum score for the award round that an
17 anchor institution or, if applicable, each partner anchor institution is
18 required to attain to be eligible for a tax credit.

19 (2) The authority may establish different criteria for community-
20 anchored projects that are located in a New Jersey State opportunity
21 zone and community-anchored projects that are primarily designed
22 to result in the economic expansion of a targeted industry in this
23 State.

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

28 (1) the amount of tax credit requested by the anchor institution
29 and, if applicable, each partner anchor institution compared to the
30 overall investments required for the completion of the community-
31 anchored project, along with the amount of the potential return on
32 the authority's investment of tax credits to the State by the end of
33 the commitment period, the amount of the tax credit, if any, that is
34 unlikely to be realized as a return on investment to the State, and
35 the proposed terms and structure for the authority's investment in
36 the project, including applicable current and deferred returns;

37 (2) the financial benefit of the community-anchored project to
38 the community in which the community-anchored project will be
39 located;

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

42 (4) the ability of the community-anchored project to absorb and
43 adapt to changing environmental conditions and deliver its
44 objectives;

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

- 1 (6) the relationship of the community-anchored project to a
2 comprehensive local development strategy, including its relation to
3 other development and redevelopment projects in the municipality;
- 4 (7) the degree to which the community-anchored project
5 enhances and promotes job creation and economic development;
- 6 (8) the extent of economic and related social distress in the
7 municipality and the immediate area surrounding the community-
8 anchored project;
- 9 (9) the extent to which the community-anchored project
10 provides for the development of **workforce housing and** housing
11 for individuals with special needs;
- 12 (10) the extent to which the community-anchored project
13 constitutes the expansion of the anchor institution and, if applicable,
14 each partner anchor institution to different areas of the State;
- 15 (11) the extent to which the community-anchored project
16 provides for infrastructure, parking, retail, green space, or other
17 public amenities creating a mixed-use community-anchored project;
- 18 (12) the inclusion of a qualified business accelerator or incubator
19 facility as a part of the community-anchored project;
- 20 (13) the length of the commitment period for the community-
21 anchored project;
- 22 (14) the quality and number of new full-time jobs that will be
23 created by the anchor institution, partner anchor institution or a
24 partner business at the community-anchored project;
- 25 (15) the quality and number of existing full-time jobs that will be
26 retained by the anchor institution, partner anchor institution, or a
27 partner business in the State as a result of completing the
28 community-anchored project, with the criteria specifying, in scoring
29 the application, that the retention of an existing full-time job shall
30 be given not more than one-third the weight of a new full-time job
31 of a similar quality; and
- 32 (16) if the anchor institution has a board of directors, the extent
33 to which that board of directors is diverse and representative of the
34 community in which the community-anchored project is located.
- 35 d. Notwithstanding the provisions of subsection c. of this
36 section, the authority may adopt, pursuant to the provisions of the
37 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
38 seq.), rules and regulations adjusting competitive criteria required
39 under the program when necessary to respond to the prevailing
40 economic conditions in the State.
- 41 e. Prior to the award of a tax credit to an anchor institution or,
42 if applicable, each partner anchor institution, to be converted into
43 an authority investment in a community-anchored project, the
44 authority shall confirm with the Department of Labor and
45 Workforce Development, the Department of Environmental
46 Protection, and the Department of the Treasury **shall each report to**
47 **the chief executive officer of the authority as to whether** that the
48 anchor institution and, if applicable, each partner anchor institution,

1 along with any partner business identified in a program application,
2 **【and each contractor and subcontractor performing work at the**
3 **community-anchored project,】** is in substantial good standing with
4 the respective department, or has entered into an agreement with the
5 respective department that includes a practical corrective action
6 plan for the anchor institution and, if applicable, each partner
7 anchor institution and any partner business, and the anchor
8 institution shall confirm that any contractors and subcontractors
9 performing work at the community-anchored project: (1) are
10 registered as required by “The Public Works Contractor
11 Registration Act,” P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have
12 not been debarred by Department of Labor and Workforce
13 Development from engaging in or bidding on Public Works
14 Contracts in the State; and (3) possess a tax clearance certificate
15 issued by the Division of Taxation in the Department of the
16 Treasury. Provided that all parties are in **【substantial good**
17 **standing, or have entered into such an agreement】** compliance with
18 this subsection, the authority shall allocate tax credits to
19 community-anchored projects according to the community-
20 anchored project's score and until either the available tax credits are
21 exhausted or all community-anchored projects obtaining the
22 minimum score receive a tax credit, whichever occurs first. If
23 insufficient funding exists to fully fund all eligible community-
24 anchored projects, a community-anchored project may be offered
25 partial funding.

26 f. Applications that do not receive the minimum score
27 established by the authority for that award round shall not receive
28 further consideration for a tax credit by the authority in that award
29 round; however, an anchor institution or partner anchor institution
30 may revise or complete a new application to be submitted in a
31 subsequent award round.

32 g. If an anchor institution or partner anchor institution declines
33 a tax credit offered by the authority, the authority shall offer the tax
34 credit to the applicant with the application having the next highest
35 score, and having obtained at least the minimum score in that award
36 round.

37 (cf: P.L.2020, c.156, s.49)

38

39 21. Section 50 of P.L.2020, c.156 (C.34:1B-318) is amended to
40 read as follows:

41 50. a. Following approval and selection of an application
42 pursuant to sections 48 and 49 of P.L.2020, c.156 (C.34:1B-316 and
43 C.34:1B-317), the authority shall enter into a tax credit agreement
44 with the anchor institution and, if applicable, each partner anchor
45 institution. The chief executive officer of the authority shall
46 negotiate the terms and conditions of the tax credit agreement on
47 behalf of the State.

1 b. (1) A tax credit agreement shall specify the amount of the
2 tax credit that the authority shall award to the anchor institution
3 and, if applicable, each partner anchor institution for conversion
4 into an authority investment and specify the duration of the
5 eligibility period, which shall not exceed 10 years. The tax credit
6 agreement shall provide an estimated date of completion for the
7 community-anchored project and include a requirement for periodic
8 progress reports through completion, including the submittal of
9 executed financing commitments and documents or agreements that
10 evidence site control.

11 (2) If, as a result of a default under the tax credit agreement, the
12 authority rescinds a tax credit in the same calendar year in which
13 the authority approved the tax credit, then the authority may assign
14 the tax credit to another applicant that attained the minimum score
15 determined pursuant to section 49 of P.L.2020, c.156 (C.34:1B-
16 317).

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

18 (1) provide for a verification of project financing at the time the
19 anchor institution, each partner anchor institution, and any partner
20 business provides executed financing commitments to the authority
21 and a verification of the anchor institution's projected cash flow and
22 each partner anchor institution's cash flow at the time of
23 certification that the project is completed;

24 (2) specify the length of the commitment period for the
25 community-anchored project and the terms by which the anchor
26 institution and, if applicable, each partner anchor institution shall
27 provide to the authority current or deferred returns on investment
28 generated by the community-anchored project and commit to a
29 structure for returns on investment;

30 (3) allow the anchor institution and, if applicable, each partner
31 anchor institution to distribute returns on investment to the
32 authority for the tax credits in the amount specified in the tax credit
33 agreement at any time within the commitment period, but require
34 such distribution to occur if the community-anchored project is sold
35 before the end of the commitment period;

36 (4) specify amounts of returns to be retained by the anchor
37 institution and, if applicable, each partner anchor institution for
38 capital reserves, programming, or other purposes;

39 (5) identify the value of any monetary or financial benefit
40 offered or provided by the anchor institution and, if applicable, each
41 partner anchor institution to any partner business that works with
42 the anchor institution and, if applicable, each partner anchor
43 institution to complete and operate the community-anchored
44 project;

45 (6) identify any benefits created by the anchor institution and, if
46 applicable, each partner anchor institution for a partner business
47 through equity investment in or debt-financing of a community-

1 anchored project and specify the formula by which such benefits are
2 passed through to a partner business;

3 (7) specify that the authority or the State may purchase tax
4 credits offered for sale by an anchor institution and, if applicable,
5 each partner anchor institution for 90 percent of the stated value of
6 the tax credit before considering any further discounting to present
7 value which shall be permitted;

8 (8) at a minimum, require an anchor institution and, if
9 applicable, each partner anchor institution to provide oversight of
10 the community-anchored project through ongoing reporting by a
11 partner business to the anchor institution and, if applicable, each
12 partner anchor institution, and subsequent ongoing reporting by the
13 anchor institution and, if applicable, each partner anchor institution
14 to the authority;

15 (9) specify other measures through which the authority shall
16 ensure oversight of outstanding tax credit investments, and, in the
17 event that an anchor institution or partner anchor institution fails to
18 meet its obligations under the tax credit agreement or any program
19 requirement, establish the right of the authority to assume direct
20 oversight of any or all projects for which the anchor institution or
21 partner anchor institution has entered into investment agreements
22 and require the anchor institution or partner anchor institution to
23 pursue any remedies it may have against a partner business; and

24 (10) at a minimum, require that the anchor institution, each
25 partner anchor institution, and any partner businesses, adopt
26 specific nondiscrimination policies for the operation of a
27 community-anchored project.

28 d. The tax credit agreement shall include a requirement that the
29 chief executive officer of the authority receive annual reports from
30 the anchor institution and, if applicable, each partner institution
31 **[that are to include separate certifications by] and any partner**
32 **business. As part of the authority's review of the annual reports**
33 **required from each anchor institution and, if applicable, each**
34 **partner institution, the authority shall confirm with** the Department
35 of Environmental Protection, the Department of Labor and
36 Workforce Development, and the Department of the Treasury
37 **[demonstrating] that; the anchor institution and, if applicable, each**
38 **partner institution and any partner business [, and each contractor**
39 **and subcontractor performing work at the community-anchored**
40 **project] is in substantial good standing with [that] the respective**
41 **department, or [have] has entered into an agreement with [that]**
42 **such department that includes a practical corrective action plan [,**
43 **and the] for the anchor institution and, if applicable, each partner**
44 **anchor institution and any partner business, and the anchor**
45 **institution shall confirm that any contractors and subcontractors**
46 **performing work at the community-anchored project: (1) are**
47 **registered as required by "The Public Works Contractor**

1 Registration Act,” P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have
2 not been debarred by Department of Labor and Workforce
3 Development from engaging in or bidding on Public Works
4 Contracts in the State; and (3) possess a tax clearance certificate
5 issued by the Division of Taxation in the Department of the
6 Treasury. The tax credit agreement shall include a provision that
7 the anchor institution and, if applicable, each partner institution
8 shall forfeit the tax credit in any year in which an uncured default
9 exists under the tax credit agreement or the anchor institution and,
10 if applicable, each partner institution is neither in substantial good
11 standing with the Department of Environmental Protection, the
12 Department of Labor and Workforce Development, or the
13 Department of the Treasury nor has entered into a practical
14 corrective action plan. The tax credit agreement shall, however,
15 allow the authority to extend, in individual cases, the deadline for
16 any annual reporting [or certification] requirement.

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

26 (cf: P.L.2020, c.156, s.50)

27

28 22. Section 55 of P.L.2020, c.156 (C.34:1B-323) is amended to
29 read as follows:

30 55. As used in sections 54 through 67 of P.L.2020, c.156
31 (C.34:1B-322 through C.34:1B-335):

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

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

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

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

47 "Building services" means any cleaning or routine building
48 maintenance work, including but not limited to sweeping,

1 vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse
2 or trash, window cleaning, securing, patrolling, or other work in
3 connection with the care or securing of an existing building,
4 including services typically provided by a door-attendant or
5 concierge. "Building services" shall not include any skilled
6 maintenance work, professional services, or other public work for
7 which a contractor is required to pay the "prevailing wage" as
8 defined in section 2 of P.L.1963, c.150 (C.34:11-56.26).

9 "Cash flow" means the profit or loss that an investment property
10 earns from rent, deposits, and other fees after financial obligations,
11 such as debt, maintenance, government payments, and other
12 expenses, have been paid.

13 "Collaborative workspace" means coworking, accelerator,
14 incubator, or other shared working environments that promote
15 collaboration, interaction, socialization, and coordination among
16 tenants through the clustering of multiple businesses or individuals.
17 For this purpose, the collaborative workspace shall be the greater
18 of: 2,500 of dedicated square feet or 10 percent of the total property
19 on which the redevelopment project is situated. The collaborative
20 workspace shall include a community manager, be focused on
21 collaboration among the community members, and include
22 regularly scheduled education events for the community members.
23 The collaborative workspace shall also include a physical open
24 space that supports the engagement of its community members.

25 "Commercial project" means a **【building】** redevelopment
26 project, which is predominantly commercial and contains 100,000
27 or more square feet of office and retail space, industrial space, or
28 film studios, professional stages, television studios, recording
29 studios, screening rooms, or other infrastructure for film
30 production, for purchase or lease and may include a parking
31 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 60 of P.L.2020, c.156 (C.34:1B-328), including, but not limited, to
35 a lender that completes a redevelopment project, operates a
36 redevelopment project, or completes and operates a redevelopment
37 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
44 Act (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
9 years for a residential project specified in an incentive award
10 agreement during which a developer may claim a tax credit under
11 the program.

12 "Enhanced area" means (1) a municipality that contains an urban
13 transit hub, as defined in section 2 of P.L.2007, c.346 (C.34:1B-
14 208); (2) the five municipalities with the highest poverty rates
15 according to the 2017 Municipal Revitalization Index; and (3) the
16 three municipalities with the highest percentage of SNAP recipients
17 according to the 2017 Municipal Revitalization Index.

18 "Food delivery source" means access to nutritious foods, such as
19 fresh fruits and vegetables, through grocery operators, including,
20 but not limited to a full-service supermarket or grocery store, and
21 other healthy food retailers of at least ~~18,000~~ 16,000 square feet,
22 including, but not limited to, a prepared food establishment selling
23 primarily nutritious ready-to-serve meals.

24 "Food desert community" means a physically contiguous area in
25 the State in which residents have limited access to nutritious foods,
26 such as fresh fruits and vegetables, ~~through supermarkets and~~
27 ~~grocery stores~~ and that has been designated as a food desert
28 community pursuant to subsection b. of section 38 of P.L.2020,
29 c.156 (C.34:1B-306).

30 "Government-restricted municipality" means a municipality in
31 this State with a municipal revitalization index distress score of at
32 least ~~7~~ 75, that met the criteria for designation as an urban aid
33 municipality in the 2019 State fiscal year, and that, on the effective
34 date of P.L.2020, c.156 (C.34:1B-269 et al.), is subject to financial
35 restrictions imposed pursuant to the "Municipal Stabilization and
36 Recovery Act," P.L.2016, c.4 (C.52:27BBBB-1 et seq.), or is
37 restricted in its ability to levy property taxes on property in that
38 municipality as a result of the State of New Jersey owning or
39 controlling property representing at least 25 percent of the total land
40 area of the municipality or as a result of the federal government of
41 the United States owning or controlling at least 50 acres of the total
42 land area of the municipality, which is dedicated as a national
43 natural landmark.

44 "Health care or health services center" means an establishment
45 where patients are admitted for examination and treatment by one or
46 more physicians, dentists, psychologists, or other medical
47 practitioners.

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

12 "Incentive award" means an award of tax credits to reimburse a
13 developer for all or a portion of the project financing gap of a
14 redevelopment project pursuant to the provisions of sections 54
15 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335).

16 "Incentive award agreement" means the contract executed
17 between a developer and the authority pursuant to section 60 of
18 P.L.2020, c.156 (C.34:1B-328), which sets forth the terms and
19 conditions under which the developer may receive the incentive
20 awards authorized pursuant to the provisions of sections 54 through
21 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335).

22 "Incubator facility" means a commercial property, which
23 contains 5,000 or more square feet of office, laboratory, or
24 industrial space, which is located near, and presents opportunities
25 for collaboration with, a research institution, teaching hospital,
26 college, or university, and within which at least 75 percent of the
27 gross leasable area is restricted for use by one or more technology
28 startup companies.

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

36 "Low-income housing" means housing affordable according to
37 federal Department of Housing and Urban Development or other
38 recognized standards for home ownership and rental costs and
39 occupied or reserved for occupancy by households with a gross
40 household income equal to 50 percent or less of the median gross
41 household income for households of the same size within the
42 housing region in which the housing is located.

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

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

14 "Municipal Revitalization Index" means the index by the
15 Department of Community Affairs ranking New Jersey's
16 municipalities according to eight separate indicators that measure
17 diverse aspects of social, economic, physical, and fiscal conditions
18 in each locality.

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

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

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

29 "Program" means the New Jersey Aspire Program established by
30 section 56 of P.L.2020, c.156 (C.34:1B-324).

31 "Project cost" means the costs incurred in connection with a
32 redevelopment project by a developer until the issuance of a
33 permanent certificate of occupancy, or until such other time
34 specified by the authority, for a specific investment or
35 improvement, including the costs relating to lands, except the cost
36 of acquiring such lands, buildings, improvements, real or personal
37 property, or any interest therein, including leases discounted to
38 present value, including lands under water, riparian rights, space
39 rights, and air rights acquired, owned, developed or redeveloped,
40 constructed, reconstructed, rehabilitated, or improved, any
41 environmental remediation costs, plus costs not directly related to
42 construction, including capitalized interest paid to third parties, of
43 an amount not to exceed 20 percent of the total costs **【**, capitalized
44 interest paid to third parties,**】** and the cost of infrastructure
45 improvements, including ancillary infrastructure projects. The
46 **【**cost of acquisition of land or**】** fees associated with the application
47 or administration of a grant under sections 54 through 67 of

1 P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335) shall not
2 constitute a project cost.

3 "Project financing gap" means the part of the total project cost,
4 including reasonable and appropriate return on investment, that
5 remains to be financed after all other sources of capital have been
6 accounted for, including, but not limited to developer contributed
7 capital, which shall not be less than 20 percent of the total project
8 cost, and investor or financial entity capital or loans for which the
9 developer, after making all good faith efforts to raise additional
10 capital, certifies that additional capital cannot be raised from other
11 sources on a non-recourse basis; provided, however, that for a
12 redevelopment project located in a government-restricted
13 municipality, the developer contributed capital shall not be less than
14 10 percent of the total project cost. Developer contributed capital
15 may consist of cash, deferred development fees, costs for project
16 feasibility incurred within the 12 months prior to application,
17 property value less any mortgages when the developer owns the
18 project site, and any other investment by the developer in the
19 project deemed acceptable by the authority, as provided by
20 regulations promulgated by the authority. Property value shall be
21 valued at the lesser of: (i) the purchase price, provided the property
22 was purchased pursuant to an arm's length transaction within 12
23 months of application; or (ii) the value as determined by a current
24 appraisal.

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

29 "Qualified incentive tract" means (i) a population census tract
30 having a poverty rate of 20 percent or more; or (ii) a census tract in
31 which the median family income for the census tract does not
32 exceed 80 percent of the greater of the Statewide median family
33 income or the median family income of the metropolitan statistical
34 area in which the census tract is situated.

35 "Quality childcare facility" is a child care center licensed by the
36 Department of Children and Families or a registered family child
37 care home with the Department of Human Services, operating
38 continuously, which has not been subject to an enforcement action,
39 and which has and maintains a [total] licensed capacity [of at least
40 60] for children age [6] 13 years or younger who attend for less
41 than 24 hours a day.

42 "Redevelopment project" means a specific construction project
43 or improvement or phase of a project or improvement undertaken
44 by a developer, owner or tenant, or both, and any ancillary
45 infrastructure project. A redevelopment project may involve
46 construction or improvement upon lands, buildings, improvements,
47 or real and personal property, or any interest therein, including
48 lands under water, riparian rights, space rights, and air rights,

1 acquired, owned, developed or redeveloped, constructed,
2 reconstructed, rehabilitated, or improved.

3 "Residential project" means a redevelopment project that is
4 predominantly residential, intended for multi-family residency, and
5 may include a parking component.

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

8 "SDA municipality" means a municipality in which an SDA
9 district is situated.

10 "Technology startup company" means a for-profit business that
11 has been in operation fewer than seven years at the time that it
12 initially occupies or expands in a qualified business facility and is
13 developing or possesses a proprietary technology or business
14 method of a high technology or life science-related product,
15 process, or service, which proprietary technology or business
16 method the business intends to move to commercialization. The
17 business shall be deemed to have begun operation on the date that
18 the business first hired at least one employee in a full-time position.

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

24 "Tourism destination project" means a non-gaming business
25 facility that will be among the most visited privately owned or
26 operated tourism or recreation sites in the State, and which has been
27 determined by the authority to be in an area appropriate for
28 development and in need of economic development incentive
29 assistance, including a non-gaming business within an established
30 Tourism District with a significant impact on the economic viability
31 of that district.

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

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

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

1 【"Workforce housing" means housing that is affordable
2 according to federal Department of Housing and Urban
3 Development or other recognized standards for home ownership
4 and rental costs, and occupied or reserved for occupancy by
5 households with a gross household income of more than 80 percent,
6 but less than 120 percent, of the median gross household income for
7 households of the same size within the housing region in which the
8 housing is located.】

9 (cf: P.L.2020, c.156, s.55)

10
11 23. Section 57 of P.L.2020, c.156 (C.34:1B-325) is amended to
12 read as follows:

13 57. a. Prior to March 1, 2027, a developer shall be eligible to
14 receive an incentive award for a redevelopment project only if the
15 developer demonstrates to the authority at the time of application
16 that:

17 (1) without the incentive award, the redevelopment project is
18 not economically feasible;

19 (2) a project financing gap exists, or the authority determines
20 that the redevelopment project will generate a below market rate of
21 return;

22 (3) the redevelopment project, except a film studio, professional
23 stage, television studio, recording studio, screening room, or other
24 infrastructure used for film production, is located in the incentive
25 area;

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

33 (5) the redevelopment project shall comply with minimum
34 environmental and sustainability standards;

35 (6) the redevelopment project shall comply with the authority's
36 affirmative action requirements, adopted pursuant to section 4 of
37 P.L.1979, c.303 (C.34:1B-5.4);

38 (7) during the eligibility period, each worker employed to
39 perform construction work or building services work at the
40 redevelopment 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 a redevelopment project is
45 undertaken by a tenant and the tenant has a leasehold of more than
46 55 percent of space in the building owned or controlled by the
47 developer, the requirement that each worker employed to perform

- 1 building service work at the building be paid not less than the
2 prevailing wage shall apply to the entire building;
- 3 (8) (a) the redevelopment project shall be completed, and the
4 developer shall be issued a certificate of occupancy for the
5 redevelopment project facilities by the applicable enforcing agency
6 within four years of executing the incentive award agreement , or in
7 the case of a redevelopment project with a project cost in excess of
8 \$50,000,000, the incentive phase agreement corresponding to the
9 redevelopment project; or
- 10 (b) in the discretion of the authority, a redevelopment project
11 with a project cost in excess of \$50,000,000, and that is authorized
12 to be completed in phases, may be allowed no more than six years
13 from the date on which the incentive award agreement is executed
14 to be issued a certificate of occupancy by the applicable
15 enforcement agency;
- 16 (9) the developer has complied with all requirements for filing
17 tax and information returns and for paying or remitting required
18 State taxes and fees by submitting, as a part of the application, a tax
19 clearance certificate, as described in section 1 of P.L.2007, c.101
20 (C.54:50-39); and
- 21 (10)the developer is not more than 24 months in arrears at the
22 time of application.
- 23 b. In addition to the requirements set forth in subsection a. of
24 this section, for a commercial project to qualify for an incentive
25 award the developer shall demonstrate that **█**:
- 26 (1) the incremental increase of State revenues realized from the
27 commercial project upon its completion shall be in excess of the
28 amount necessary to reimburse the developer for its project
29 financing gap; and
- 30 (2)**█** the developer shall **█**have an equity participation**█** contribute
31 capital of at least 20 percent of the total project cost, except that if a
32 redevelopment project is located in a government-restricted
33 municipality, the developer shall contribute capital of at least 10
34 percent of the total project cost.
- 35 c. In addition to the requirements set forth in subsection a. of
36 this section, for a residential project to qualify for an incentive
37 award, the residential project shall:
- 38 (1) have a total project cost of at least \$17,500,000, if the
39 project is located in a municipality with a population greater than
40 200,000 according to the latest federal decennial census;
- 41 (2) have a total project cost of at least \$10,000,000 if the project
42 is located in a municipality with a population less than 200,000
43 according to the latest federal decennial census; or
- 44 (3) have a total project cost of at least \$5,000,000 if the project
45 is in a qualified incentive tract or government-restricted
46 municipality.
- 47 d. In addition to the requirements set forth in subsections a. and
48 c. of this section, for a residential project consisting of newly-

1 constructed residential units to qualify for an incentive award, the
2 developer shall reserve at least 20 percent **],** but not more than 50
3 percent,**]** of the residential units constructed for occupancy by low-
4 and moderate-income households with affordability controls as
5 required under the "Fair Housing Act," P.L.1985, c. 222 (C.52:27D-
6 301 et al.) **]**and at least 5 percent of the residential units constructed
7 as workforce housing, unless: the municipality in which the
8 property is located has received substantive certification from the
9 council and such a reservation is not required under the approved
10 affordable housing plan; the municipality has been given a
11 judgment of repose or a judgment of compliance by the court, and
12 such a reservation is not required under the approved affordable
13 housing plan. If the municipality in which the property is located
14 has received substantive certification from the council and such a
15 reservation is not required under the approved affordable housing
16 plan or the municipality has been given a judgment of repose or a
17 judgment of compliance by the court, and such a reservation is not
18 required under the approved affordable housing plan, then the
19 developer shall reserve at least 10 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.) and at least 15 percent of the residential units constructed
24 as workforce housing**].**

25 e. Prior to the board considering an application submitted by a
26 developer, the authority shall confirm with the Department of Labor
27 and Workforce Development, the Department of Environmental
28 Protection, and the Department of the Treasury **]**shall each report to
29 the chief executive officer of the authority**]** whether the developer
30 is in substantial good standing with the respective department, or
31 has entered into an agreement with the respective department that
32 includes a practical corrective action plan for the developer. The
33 developer shall certify that any contractors or subcontractors that
34 will perform work at the redevelopment project: (1) are registered
35 as required by "The Public Works Contractor Registration Act,"
36 P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have not been debarred
37 by Department of Labor and Workforce Development from
38 engaging in or bidding on Public Works Contracts in the State; and
39 (3) possess a tax clearance certificate issued by the Division of
40 Taxation in the Department of the Treasury. The authority may also
41 contract with an independent third party to perform a background
42 check on the developer.

43 (cf: P.L.2020, c.156, s.57)

44
45 24. Section 58 of P.L.2020, c.156 (C.34:1B-326) is amended to
46 read as follows:

1 58. a. Prior to March 1, 2027, **[a developer that meets the**
2 **eligibility criteria in]** for redevelopment projects eligible pursuant
3 to section 57 of P.L.2020, c.156 (C.34:1B-325) [and is] **for which a**
4 **developer is** seeking an incentive award for **[a]** the redevelopment
5 project, the developer shall submit an application to the authority
6 and, in the case of a residential project, shall submit an application
7 to the authority and the agency, in a form and manner prescribed in
8 regulations adopted by the authority, in consultation with the
9 agency, pursuant to the provisions of the "Administrative Procedure
10 Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The authority shall
11 accept applications for incentive awards during the grant periods
12 established pursuant to section 59 of P.L.2020, c.156 (C.34:1B-
13 327).

14 b. The authority shall not consider an application for a
15 commercial project unless the developer submits a letter evidencing
16 support for the commercial project from the governing body of the
17 municipality in which the commercial project is located with the
18 application.

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

1 from the implementation of the proposed redevelopment project for
2 which 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
17 may be up to 35 percentage points lower than the net benefit
18 requirement set by the authority for all other eligible redevelopment
19 projects.

20 e. If at any time during the eligibility period the authority
21 determines that the developer made a material misrepresentation on
22 the developer's application, the developer shall forfeit the incentive
23 award.

24 f. If circumstances require a developer to amend its application
25 to the authority, then the developer, or an authorized agent of the
26 developer, shall certify to the authority that the information
27 provided in its amended application is true under the penalty of
28 perjury.

29 (cf: P.L.2020, c.156, s.58)

30

31 25. Section 59 of P.L.2020, c.156 (C.34:1B-327) is amended to
32 read as follows:

33 59. a. Prior to March 1, 2027, for redevelopment projects
34 eligible pursuant to section 57 of P.L.2020, c.156 (C.34:1B-325),
35 the authority shall award incentive awards based on the order in
36 which complete, qualifying applications were received by the
37 authority. If a developer intends to apply to both the authority and
38 the agency for subsidies, the developer shall notify the agency
39 simultaneously with any application made to the authority. The
40 authority shall transmit its grant determination for such residential
41 projects to the agency along with any information developed by the
42 authority and confirmation of the authority's intent to provide an
43 incentive award or award to the project. Approval of an application
44 by the agency shall be the final determination required for an
45 incentive award for a residential project under this section.

46 b. Prior to allocating an incentive award to a redevelopment
47 project, the authority shall confirm with the Department of Labor
48 and Workforce Development, the Department of Environmental

1 Protection, and the Department of the Treasury [shall each report to
2 the chief executive officer of the authority whether the developer
3 and each contractor and subcontractor performing work at the
4 redevelopment project] that the developer is in substantial good
5 standing with the respective department, or a developer not in
6 substantial good standing with each department has entered into an
7 agreement with the respective department that includes a practical
8 corrective action plan for the developer, and that the developer shall
9 confirm that each contractor or subcontractor performing work at
10 the redevelopment project: (1) is registered as required by “The
11 Public Works Contractor Registration Act,” P.L.1999, c.238
12 (C.34:11-56.48 et seq.); (2) has not been debarred by Department of
13 Labor and Workforce Development from engaging in or bidding on
14 Public Works Contracts in the State; and (3) possesses a tax
15 clearance certificate issued by the Division of Taxation in the
16 Department of the Treasury. The authority may also contract with
17 an independent third party to perform a background check on the
18 developer. Provided that the developer, and all contractors and
19 subcontractors, are in [substantial good standing, or have entered
20 into such agreements] compliance with this subsection, the
21 authority shall allocate incentive awards to redevelopment projects
22 according to the redevelopment project's score and until either the
23 available incentive awards are exhausted or all redevelopment
24 projects obtaining the minimum score receive an incentive award,
25 whichever occurs first. If insufficient funding exists to fully fund
26 all eligible projects, a project may be offered partial funding.
27 (cf: P.L.2020, c.156, s.59)
28

29 26. Section 60 of P.L.2020, c.156 (C.34:1B-328) is amended to
30 read as follows:

31 60. a. (1) Following approval and selection of an application
32 pursuant to sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and
33 C.34:1B-327), the authority shall enter into an incentive award
34 agreement with the developer. The chief executive officer of the
35 authority shall negotiate the terms and conditions of the incentive
36 award agreement on behalf of the State.

37 (2) For a phased project, the incentive phase agreement shall set
38 forth, for each phase of the project and for the total project, the
39 capital investment requirements and the time periods in which each
40 phase of the project shall be commenced and completed. The
41 awarding of tax credits shall be conditioned on the developer’s
42 compliance with the requirements of the agreement. A
43 redevelopment project may be completed in phases in accordance
44 with rules adopted by the authority if the redevelopment project has
45 a total project cost in excess of \$50,000,000.

46 b. An incentive award agreement shall specify the amount of
47 the incentive award the authority shall award to the developer and
48 the duration of the eligibility period, which shall not exceed 15

1 years for a commercial or mixed-use project and shall not exceed 10
2 years for a residential project. The incentive award agreement shall
3 provide an estimated date of completion and include a requirement
4 for periodic progress reports, including the submittal of executed
5 financing commitments and documents that evidence site control.
6 If the authority does not receive periodic progress reports, or if the
7 progress reports demonstrate unsatisfactory progress, then the
8 authority may rescind the incentive award. If the authority rescinds
9 an incentive award in the same calendar year in which the authority
10 approved the incentive award, then the authority may assign the
11 incentive award to another applicant. The incentive award
12 agreement may also provide for a verification of the financing gap
13 at the time the developer provides executed financing commitments
14 to the authority and a verification of the developer's projected cash
15 flow at the time of certification that the project is completed.

16 c. To ensure the protection of taxpayer money, if the authority
17 determines at project certification that the actual capital financing
18 approach utilized by the project has resulted in a financing gap that
19 is smaller than the financing gap determined at board approval, the
20 authority shall reduce the amount of the tax credit or accept
21 payment from the developer on a pro rata basis. If there is no
22 project financing gap due to the actual capital financing approach
23 utilized by the project, then the developer shall forfeit the incentive
24 award. [This test shall be conducted at] At the end of the [third]
25 seventh year of the eligibility period [whereupon] , the authority
26 shall evaluate the developer's [cash flow] rate of return on
27 investment and compare that [cash flow] rate of return on
28 investment to the [projected cash flow] reasonable and appropriate
29 rate of return at the time of board approval. [For a commercial
30 project, if] If the actual [cash flow] rate of return on investment
31 exceeds the [projected cash flow] reasonable and appropriate rate
32 of return on investment at the time of board approval by more than
33 15 percent, the authority shall require the developer to pay up to
34 [15] 20 percent of the amount [of the excess, which payment shall
35 be deposited in the State General Fund. To the extent applicable, in
36 the case of a residential project, the developer's return on
37 investment shall be subject to the provisions of section 7 of
38 P.L.1983, c.530 (C.55:14K-7)] in excess of the reasonable and
39 appropriate rate of return on investment. The authority shall require
40 an escrow account to be held by the authority until the end of the
41 eligibility period. Following the final year of the eligibility period,
42 the authority shall determine if the developer's rate of return
43 exceeded the reasonable and appropriate rate of return determined
44 at board approval. If the final rate of return does not exceed the
45 reasonable and appropriate rate of return determined at board
46 approval, the authority shall release to the developer the escrowed
47 funds. If the project final rate of return exceeds the reasonable and

1 appropriate rate of return determined at board approval, the
2 authority shall require the developer to pay up to 20 percent of the
3 amount of the excess, which shall include the funds held in escrow,
4 and such funds shall be deposited in the State General Fund.

5 d. The incentive award agreement shall include a requirement
6 that **【**the chief executive officer of the authority receive annual
7 reports from**】** the authority confirm with the Department of
8 Environmental Protection, the Department of Labor and Workforce
9 Development, and the Department of the Treasury **【demonstrating】**
10 that the developer **【**and each contractor and subcontractor
11 performing work at the redevelopment project**】** is in substantial
12 good standing with the respective department, or the developer has
13 entered into an agreement with the respective department that
14 includes a practical corrective action for the developer, and the
15 developer shall confirm that each contractor or subcontractor
16 performing work at the redevelopment project: (1) is registered as
17 required by “The Public Works Contractor Registration Act,”
18 P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has not been debarred
19 by Department of Labor and Workforce Development from
20 engaging in or bidding on Public Works Contracts in the State; and
21 (3) possesses a tax clearance certificate issued by the Division of
22 Taxation in the Department of the Treasury. The incentive award
23 agreement shall also include a provision that the developer shall
24 forfeit the incentive award in any year in which **【**any such report is
25 not received**】** the developer is neither in substantial good standing
26 with each department nor has entered into a practical corrective
27 action. The incentive award agreement shall also require a
28 developer to engage in on-site consultations with the Division of
29 Workplace Safety and Health in the Department of Health.

30 e. (1) Except as provided in paragraph (2) of this subsection,
31 the authority shall not enter into an incentive award agreement for a
32 redevelopment project that includes at least one retail establishment
33 which will have more than 10 employees, at least one distribution
34 center which will have more than 20 employees, or at least one
35 hospitality establishment which will have more than 10 employees,
36 unless the incentive award agreement includes a precondition that
37 any business that serves as the owner or operator of the retail
38 establishment or distribution center enters into a labor harmony
39 agreement with a labor organization or cooperating labor
40 organizations which represent retail or distribution center
41 employees in the State.

42 (2) A labor harmony agreement shall be required only if the
43 State has a proprietary interest in the redevelopment project and
44 shall remain in effect for as long as the State acts as a market
45 participant in the redevelopment project. The authority may enter
46 into an incentive award agreement with a developer without the
47 labor harmony agreement required under paragraph (1) of this

1 subsection if the authority determines that the redevelopment
2 project would not be able to go forward if a labor harmony
3 agreement is required. The authority shall support the
4 determination by a written finding, which provides the specific
5 basis for the determination.

6 (3) As used in this subsection:

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

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

35 f. (1) For a redevelopment project whose total project cost
36 equals or exceeds \$10 million, in addition to the incentive award
37 agreement, a developer shall enter into a community benefits
38 agreement with the authority and the county or municipality in
39 which the redevelopment project is located. The agreement may
40 include, but shall not be limited to, requirements for training,
41 employment, and youth development and free services to
42 underserved communities in and around the community in which
43 the redevelopment project is located. Prior to entering a community
44 benefits agreement, the governing body of the county or
45 municipality in which the redevelopment project is located shall
46 hold at least one public hearing at which the governing body shall
47 hear testimony from residents, community groups, and other

1 stakeholders on the needs of the community that the agreement
2 should address.

3 (2) The community benefits agreement shall provide for the
4 creation of a community advisory committee to oversee the
5 implementation of the agreement, monitor successes, ensure
6 compliance with the terms of the agreement, and produce an annual
7 public report. The community advisory committee created pursuant
8 to this paragraph shall be comprised of representatives of diverse
9 community groups and residents of the county or municipality in
10 which the redevelopment project is located.

11 (3) At the time the developer submits the annual report required
12 pursuant to section 62 of P.L.2020, c.156 (C.34:1B-330) to the
13 authority, the developer shall certify, under the penalty of perjury,
14 that it is in compliance with the terms of the community benefits
15 agreement. If the developer fails to provide the certification
16 required pursuant to this paragraph or the authority determines that
17 the developer is not in compliance with the terms of the community
18 benefits agreement based on the reports submitted by the
19 community advisory committee pursuant to paragraph (2) of this
20 subsection, then the authority may rescind an award or recapture all
21 or part of any tax credits awarded.

22 (4) A developer shall not be required to enter into a community
23 benefits agreement pursuant to this subsection if the developer
24 submits to the authority a copy of either the developer's approval
25 letter from the authority or a redevelopment agreement [that]
26 applicable to the qualified business facility, provided that the
27 approval letter or redevelopment agreement is certified by the
28 municipality in which the redevelopment project is located, and
29 includes provisions that meet or exceed the standards required for a
30 community benefits agreement in this subsection, as determined by
31 the chief executive officer pursuant to rules adopted by the
32 authority.

33 g. A developer shall submit, prior to the first disbursement of
34 tax credits under the incentive award agreement, but no later than
35 six months following project completion, satisfactory evidence of
36 actual project costs, as certified by a certified public accountant,
37 evidence of a temporary certificate of occupancy, or other event
38 evidencing project completion that begins the eligibility period
39 indicated in the incentive award agreement. The developer, or an
40 authorized agent of the developer, shall certify that the information
41 provided pursuant to this subsection is true under the penalty of
42 perjury. Claims, records, or statements submitted by a developer to
43 the authority in order to receive tax credits shall not be considered
44 claims, records, or statements made in connection with State tax
45 laws.

46 h. The incentive award agreement shall include a provision
47 allowing the authority to extend, in individual cases, the deadline

1 for any annual reporting or certification requirement.

2 (cf: P.L.2020, c.156, s.60)

3

4 27. Section 61 of P.L.2020, c.156 (C.34:1B-329) is amended to
5 read as follows:

6 61. a. Up to the limits established in subsection b. of this
7 section and in accordance with an incentive award agreement,
8 beginning upon the receipt of occupancy permits for any portion of
9 the redevelopment project, or upon any other event evidencing
10 project completion as set forth in the incentive award agreement, a
11 developer shall be allowed a total tax credit that shall not exceed:

12 (1) 60 percent of the total project cost for the new construction
13 of a residential project that receives a four-percent allocation from
14 the federal Low Income Housing Tax Credit Program administered
15 by the agency;

16 (2) 50 percent of the total project cost for a commercial project
17 that is located in a government-restricted municipality; or

18 (3) 45 percent of the total project cost [of the] for any other
19 redevelopment project [, except for a commercial project that is
20 located in a government-restricted municipality, in which case the
21 total tax credit allowed shall not exceed 50 percent of the total
22 project cost of the commercial project].

23 b. The value of all tax credits approved by the authority under
24 the program for a redevelopment project phase shall not exceed
25 **[\$50,000,000]** :

26 (1) \$60,000,000 per redevelopment project [if] or phase for a
27 residential project that is allowed a tax credit under paragraph (1) of
28 subsection a. of this section, or a redevelopment project or phase
29 that is located in a qualified incentive tract, government-restricted
30 municipality, or municipality with a Municipal Revitalization Index
31 distress score of at least 50 [, or \$32,000,000] ; and

32 (2) \$42,000,000 for any other redevelopment project or phase.

33 (cf: P.L.2020, c.156, s.61)

34

35 28. Section 63 of P.L.2020, c.156 (C.34:1B-331) is amended to
36 read as follows:

37 63. a. A developer may apply to the director and the chief
38 executive officer of the authority for a tax credit transfer certificate,
39 covering one or more years, in lieu of the developer being allowed
40 any amount of the credit against the tax liability of the developer.
41 The tax credit transfer certificate, upon receipt thereof by the
42 developer from the director and the chief executive officer of the
43 authority, may be sold or assigned, in full or in part in an amount
44 not less than \$25,000, in the privilege period during which the
45 developer receives the tax credit transfer certificate from the
46 director, to another person, who may apply the credit against a tax
47 liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),

1 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),
2 section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The
3 certificate provided to the developer shall include a statement
4 waiving the developer's right to claim the amount of the credit that
5 the developer has elected to sell or assign against the developer's
6 tax liability.

7 b. The developer shall not sell or assign, including a collateral
8 assignment, a tax credit transfer certificate allowed under this
9 section for consideration received by the developer of less than 85
10 percent of the transferred credit amount before considering any
11 further discounting to present value which shall be permitted,
12 except a developer of a residential project consisting of newly-
13 constructed residential units may assign a tax credit transfer
14 certificate for consideration of less than 85 percent subject to the
15 submission of a plan to the authority and the agency to use the
16 proceeds derived from the assignment of tax credits to complete the
17 residential project, except a developer of a residential project
18 consisting of newly-constructed residential units that has received
19 federal low income housing tax credits under 26 U.S.C.
20 **【s.42(b)(2)(B)(i)】** s.42(b)(1)(B)(i) may assign a tax credit transfer
21 certificate for consideration of no less than **【75】** 65 percent subject
22 to the submission of a plan to the authority and the New Jersey
23 Housing and Mortgage Finance Agency to use the proceeds derived
24 from the assignment of tax credits to complete the residential
25 project. The tax credit transfer certificate issued to a developer by
26 the director shall be subject to any limitations and conditions
27 imposed on the application of State tax credits pursuant to sections
28 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-
29 335) and any other terms and conditions that the director may
30 prescribe.

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

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

- 37 (1) the name of the transferrer;
38 (2) the name of the transferee;
39 (3) the value of the tax credit transfer certificate; and
40 (4) the consideration received by the transferrer.

41 (cf: P.L.2020, c.156, s.63)

42

43 29. Section 65 of P.L.2020, c.156 (C.34:1B-333) is amended to
44 read as follows:

45 65. a. As used in this section, "transformative project" means a
46 redevelopment project that has a project financing gap, that has a
47 total project cost of at least \$100,000,000, and that includes 500,000
48 or more square feet of new or substantially renovated industrial,

1 commercial, or residential space or that includes 250,000 or more
2 square feet of film studios, professional stages, television studios,
3 recording studios, screening rooms, or other infrastructure for film
4 production and which is of special economic importance as
5 measured by the level of new jobs, new capital investment,
6 opportunities to leverage leadership in a high-priority targeted
7 industry, or other state priorities as determined by the authority
8 pursuant to rules and regulations promulgated to implement this
9 section. A transformative project may be completed in phases,
10 which phases may be determined by the authority based on factors
11 such as written architectural plans and specifications completed
12 before or during the physical work, certificates of occupancy, or
13 financial and operational plans. The criteria developed by the
14 authority shall include, but shall not be limited to:

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

18 (2) (a) for a residential **【or mixed-use】** project, the construction
19 of 1,000 or more new residential units **【,】** ;

20 (b) for a residential project containing less than 1,000 new
21 residential units, the construction of 250 or more new residential
22 units if the project is located in a government-restricted
23 municipality, 350 or more residential units if the project is located
24 in an enhanced area, or 600 or more residential units for all other
25 mixed-use projects;

26 (c) for a residential project containing less than 1,000 new
27 residential units, the construction of 100,000 square feet or more of
28 retail or commercial space, with the majority being commercial; and

29 (d) for a residential project, 20 percent of **【which】** the new
30 residential units shall be constructed for occupancy by low- and
31 moderate-income households with affordability controls as required
32 under the "Fair Housing Act," P.L.1985, c. 222 (C.52:27D-301 et
33 al.) **【and at least 5 percent of the residential units constructed as**
34 workforce housing, unless: the municipality in which the property is
35 located has received substantive certification from the council and
36 such a reservation is not required under the approved affordable
37 housing plan; the municipality has been given a judgment of repose
38 or a judgment of compliance by the court, and such a reservation is
39 not required under the approved affordable housing plan. If the
40 municipality in which the property is located has received
41 substantive certification from the council and such a reservation is
42 not required under the approved affordable housing plan or the
43 municipality has been given a judgment of repose or a judgment of
44 compliance by the court, and such a reservation is not required
45 under the approved affordable housing plan, then the developer
46 shall reserve at least 10 percent, but not more than 50 percent, of
47 the residential units constructed for occupancy by low- and
48 moderate-income households with affordability controls as required

1 under the "Fair Housing Act," P.L.1985, c. 222 (C.52:27D-301 et
2 al.) and at least 15 percent of the residential units constructed as
3 workforce housing]; and

4 (3) the extent to which the proposed project would leverage the
5 competitive economic development advantages of the State's mass
6 transit assets, higher education assets, and other economic
7 development assets in attracting or retaining both employers and
8 skilled workers generally or in targeted industries.

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

12 b. (1) The authority may award [an] incentive [award to no
13 more than ten] awards to transformative projects in accordance
14 with the provisions of sections [59] 55 through 67 of P.L.2020,
15 c.156 ([C.34:1B-327] C.34:1B-323 through C.34:1B-335) [;
16 provided, however, a transformative project shall not be subject to
17 the competitive application procedure set forth in section 59 of
18 P.L.2020, c.156 (C.34:1B-327)].

19 (2) (a) For transformative projects completed in phases, the
20 developer shall enter into a transformative phase agreement with the
21 authority.

22 (b) As used in this subsection, "transformative phase
23 agreement" shall mean a sub-agreement of the incentive award
24 agreement that governs the timing, capital investment, and other
25 applicable details of the respective phase of a phased project.

26 (3) Notwithstanding the provisions of section 57 of P.L.2020,
27 c.156 (C.34:1B-325), or any other section of P.L.2020, c.156
28 (C.34:1B-269 et al.), to the contrary, for transformative projects
29 completed in phases, the transformative project shall be completed,
30 and the developer shall be issued certificates of occupancy for all
31 phases of the transformative project facilities by the applicable
32 enforcing agency, within eight years of executing either the
33 incentive award agreement or the first transformative phase
34 agreement corresponding to the transformative project.

35 (4) Notwithstanding the provisions of sections 55 and 60 of
36 P.L.2020, c.156 (C.34:1B-323 and C.34:1B-328), or any other
37 section of P.L.2020, c.156 (C.34:1B-269 et al.), to the contrary,
38 each phase of a transformative project completed in phases shall
39 have a separate eligibility period. After completing each phase, the
40 developer shall submit a certification that the phase is completed.
41 If the authority approves the certification, the tax credit allowed to
42 the developer shall be increased by the tax credit amount
43 corresponding to that phase. Notwithstanding the different
44 eligibility periods for each phase, all conditions and requirements
45 applicable during an eligibility period pursuant to sections 55
46 through 67 of P.L.2020, c.156 (C.34:1B-323 through C.34:1B-335)

1 shall apply to the entire transformative project until the end of the
2 eligibility period for the last phase.

3 (5) Notwithstanding the provisions of section 60 of P.L.2020,
4 c.156 (C.34:1B-328), or any other section of P.L.2020, c.156
5 (C.34:1B-269 et al.), to the contrary, for a transformative project
6 completed in phases, a review of the project financing gap shall be
7 performed at the certification of completion of each phase, and the
8 authority shall re-evaluate the developer's rate of return in the
9 seventh year and at the end of the eligibility period for the last
10 phase, provided that the authority may also re-evaluate the
11 developer's rate of return during the fifth year of any earlier phase.

12 (6) A transformative project receiving an incentive award
13 pursuant to this section, other than a project that includes 250,000
14 or more square feet of film studios, professional stages, television
15 studios, recording studios, screening rooms or other infrastructure
16 for film production, shall be located in an incentive area, a
17 distressed municipality, a government-restricted municipality, or an
18 【urban transit hub municipality】 an enhanced area. A
19 transformative project receiving an incentive award pursuant to this
20 section that includes 250,000 or more square feet of film studios,
21 professional stages, television studios, recording studios, screening
22 rooms or other infrastructure for film production may be located
23 anywhere in the State. No more than two transformative projects
24 receiving an incentive award pursuant to this section shall be
25 located in the same municipality. The authority shall not consider
26 an application for a transformative project unless the applicant
27 submits with its application a letter evidencing support for the
28 transformative project from the governing body of the municipality
29 in which the transformative project is located.

30 c. The authority shall review the transformative project cost,
31 evaluate and validate the project financing gap estimated by the
32 developer, and conduct a State fiscal impact analysis to ensure that
33 the overall public assistance provided to the transformative project
34 will result in a net positive benefit to the State. In determining
35 whether a transformative project will result in a net positive benefit
36 to the State, the authority shall not consider the value of any taxes
37 exempted, abated, rebated, or retained under the "Five-Year
38 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et
39 seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431
40 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act,"
41 P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the
42 effect of lowering or eliminating the developer's State or local tax
43 liability. The determination made pursuant to this subsection shall
44 be based on the potential tax liability of the developer without
45 regard for potential tax losses if the developer were to locate in
46 another state. The authority shall assess the cost of these reviews to
47 the applicant. A developer shall pay to the authority the full
48 amount of the direct costs of an analysis concerning the developer's

1 application for an incentive award that a third party retained by the
2 authority performs, if the authority deems such retention to be
3 necessary. The authority shall evaluate the net economic benefits
4 on a present value basis under which the requested tax credit
5 allocation amount is discounted to present value at the same
6 discount rate as the projected benefits from the implementation of
7 the proposed transformative project for which an award of tax
8 credits is being sought. Projects that are predominantly residential
9 shall be excluded from the calculation of the net benefit test
10 required pursuant to this subsection.

11 d. In determining net benefits for any business or person
12 considering locating in a transformative project and applying to
13 receive from the authority any other economic development
14 incentive subsequent to the award of transformative project tax
15 credits pursuant to section 65 of P.L.2020, c.156 (C.34:1B-333), the
16 authority shall not credit the business or person with any benefit
17 that was previously credited to the transformative project pursuant
18 to section 65 of P.L.2020, c.156 (C.34:1B-333).

19 e. The authority shall administer the credits awarded pursuant
20 to this section in accordance with the provisions of sections 62 and
21 63 of P.L.2020, c.156 (C.34:1B-330 and C.34:1B-331).

22 f. Prior to allocating an incentive award to a developer, the
23 authority shall confirm with the Department of Labor and
24 Workforce Development, the Department of Environmental
25 Protection, and the Department of the Treasury **【shall each report to**
26 **the chief executive officer of the authority whether the developer**
27 **and each contractor and subcontractor performing work at the**
28 **transformative project**】** that the developer is in substantial good
29 standing with the respective department, or the developer has
30 entered into an agreement with the respective department that
31 includes a practical corrective action plan, and the developer shall
32 certify that each contractor or subcontractor performing work at the
33 transformative project: (1) is registered as required by “The Public
34 Works Contractor Registration Act,” P.L.1999, c.238 (C.34:11-
35 56.48 et seq.); (2) has not been debarred by Department of Labor
36 and Workforce Development from engaging in or bidding on Public
37 Works Contracts in the State; and (3) possesses a tax clearance
38 certificate issued by the Division of Taxation in the Department of
39 the Treasury. The authority may also contract with an independent
40 third party to perform a background check on the **【applicant**】**41 developer.****

42 g. Notwithstanding the limitation on incentive awards set forth
43 in subsection b. of section 61 and section 98 of P.L.2020, c.156
44 (C.34:1B-329 and C.34:1B-362) to the contrary, the authority may
45 allow a developer of a transformative project a tax credit, as
46 reimbursement for certain project financing gap costs, in an amount
47 not to exceed **【30**】** 40 percent of the total project cost, the total**

1 value of the project financing gap, or **[\$250,000,000]** \$350,000,000
2 whichever is less; provided, however, that for a transformative
3 project that is developed in phases, the \$350,000,000 limitation on
4 incentive awards set forth in this subsection shall apply to the total
5 aggregate award for all phases of the transformative project.

6 (cf: P.L.2020, c.156, s.65)

7

8 30. Section 69 of P.L.2020, c.156 (C.34:1B-337) is amended to
9 read as follows:

10 69. As used in sections 68 through 81 of P.L.2020, c.156
11 (C.34:1B-336 et al.):

12 "Affiliate" means an entity that directly or indirectly controls, is
13 under common control with, or is controlled by the business.
14 Control exists in all cases in which the entity is a member of a
15 controlled group of corporations, as defined pursuant to section
16 1563 of the Internal Revenue Code of 1986 (26 U.S.C. s.1563), or
17 the entity is an organization in a group of organizations under
18 common control, as defined pursuant to subsection (c) of section
19 414 of the Internal Revenue Code of 1986 (26 U.S.C. s.414). A
20 taxpayer may establish by clear and convincing evidence, as
21 determined by the Director of the Division of Taxation in the
22 Department of the Treasury, that control exists in situations
23 involving lesser percentages of ownership than required by sections
24 1563 and 414 of the Internal Revenue Code of 1986 (26 U.S.C.
25 ss.1563 and 414).

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

28 "Aviation district" means all areas within the boundaries of the
29 Atlantic City International Airport, established pursuant to section
30 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation
31 Administration William J. Hughes Technical Center and the area
32 within a one-mile radius of the outermost boundary of the Atlantic
33 City International Airport and the Federal Aviation Administration
34 William J. Hughes Technical Center.

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

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

1 "Business" means an applicant proposing to own or lease
2 premises in a qualified business facility that is: a corporation that is
3 subject to the tax imposed pursuant to section 5 of P.L.1945, c.162
4 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and
5 C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or
6 N.J.S.17B:23-5, or is a partnership, S corporation, limited liability
7 company, or non-profit corporation. A business shall include an
8 affiliate of the business if that business applies for a credit based
9 upon any capital investment made by or full-time employees of an
10 affiliate. If the business or tenant is a cooperative or part of a
11 cooperative, then the cooperative may qualify for credits by
12 counting the full-time employees and capital investments of its
13 member organizations, and the cooperative may distribute credits to
14 its member organizations. If the business or tenant is a cooperative
15 that leases to its member organizations, the lease shall be treated as
16 a lease to an affiliate or affiliates. **【A business shall include an**
17 **affiliate of the business if that business applies for a credit based**
18 **upon any capital investment made by full-time employees of an**
19 **affiliate.】**

20 "Capital investment" means expenses that a business or an
21 affiliate of the business incurs, or is incurred on behalf of the
22 business or affiliate by its landlord, following its submission of an
23 application to the authority pursuant to section 72 of P.L.2020,
24 c.156 (C.34:1B-340), but prior to the project completion date, as
25 shall be defined in the project agreement, for: a. site preparation and
26 construction, repair, renovation, improvement, equipping, or
27 furnishing on real property or of a building, structure, facility, or
28 improvement to real property; b. obtaining and installing
29 furnishings and machinery, apparatus, or equipment, including but
30 not limited to material goods subject to bonus depreciation under
31 sections 168 and 179 of the federal Internal Revenue Code (26
32 U.S.C. ss.168 and 179), for the operation of a business on real
33 property or in a building, structure, facility, or improvement to real
34 property; or any combination of the foregoing.

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 a period that is 1.5 times the
39 eligibility period specified in the project agreement entered into
40 pursuant to section 73 of P.L.2020, c.156 (C.34:1B-341), rounded
41 up, for each applicable phase agreement.

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

45 "Director" means the Director of the Division of Taxation in the
46 Department of the Treasury.

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

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

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

12 "Eligibility period" means the period in which an eligible
13 business may claim a tax credit under the program for a given
14 project phase, beginning with the tax period in which the authority
15 accepts certification of the eligible business that it has met the
16 capital investment and employment requirements of the program for
17 the respective project phase, and extending thereafter for a term of
18 not more than seven years, with the term to be determined at the
19 discretion of the applicant, provided that the term of the eligibility
20 period may consist of nonconsecutive tax years if the applicant
21 elects at any time after the end of the first tax period of the
22 eligibility period to defer the continuation of the eligibility period to
23 a subsequent tax period. The authority may extend the eligibility
24 period one additional tax period to accommodate a prorated
25 payment pursuant to paragraph (2) of subsection a. of section 77 of
26 P.L.2020, c.156 (C.34:1B-345).

27 "Eligible business" means any business that satisfies the criteria
28 set forth in section 71 of P.L.2020, c.156 (C.34:1B-339) at the time
29 of application for tax credits under the program.

30 "Eligible position" or "full-time job" means a full-time position
31 in a business in this State which the business has filled with a full-
32 time employee. An eligible position shall not include an
33 independent contractor or a consultant.

34 "Employment and Investment Corridor" means the portions of
35 the qualified incentive area that are not located within a distressed
36 municipality and which:

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

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

1 c. are the proposed site of a qualified incubator facility, a
2 tourism destination project, 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, or any
5 combination of office, laboratory, or industrial space, available for
6 occupancy for a period of over one year; or a site that has been
7 negatively impacted by the approval of a "qualified business
8 facility," as defined pursuant to section 2 of P.L.2007, c.346
9 (C.34:1B-208).

10 "Enhanced area" means (1) a municipality that contains an urban
11 transit hub as defined in section 2 of P.L.2007, c.346 (C.34:1B-
12 208), (2) the five municipalities with the highest poverty rates
13 according to the 2017 Municipal Revitalization Index, and (3) the
14 three municipalities with the highest percentage of SNAP recipients
15 according to the 2017 Municipal Revitalization Index.

16 "Full-time employee" means a person:

17 a. who is employed by a business for consideration for at least
18 35 hours a week, or who renders any other standard of service
19 generally accepted by custom or practice as full-time employment,
20 and whose wages are subject to withholding as provided in the
21 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.;

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

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

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

1 With respect to a logistics, manufacturing, energy, defense,
2 aviation, or maritime business, excluding primarily warehouse or
3 distribution operations, located in a port district having a container
4 terminal, the requirement that employee health benefits are to be
5 provided shall be deemed to be satisfied if the benefits are provided
6 in accordance with industry practice by a third party obligated to
7 provide such benefits pursuant to a collective bargaining agreement.

8 A "full-time employee" shall include, but shall not be limited to,
9 an employee that has been hired by way of a labor union hiring hall
10 or its equivalent. 35 hours of employment per week **【per qualified**
11 **business facility】** in the State shall constitute one "full-time
12 employee," regardless of whether or not the hours of work were
13 performed by one or more persons.

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

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

42 "Government-restricted municipality" means a municipality in
43 this State with a municipal revitalization index distress score of at
44 least 75, that met the criteria for designation as an urban aid
45 municipality in the 2019 State fiscal year, and that, on the effective
46 date of P.L.2020, c.156 (C.34:1B-269 et al.), is subject to financial
47 restrictions imposed pursuant to the "Municipal Stabilization and
48 Recovery Act," P.L.2016, c.4 (C.52:27BBBB-1 et seq.), or is

1 restricted in its ability to levy property taxes on property in that
2 municipality as a result of the State of New Jersey owning or
3 controlling property representing at least 25 percent of the total land
4 area of the municipality or as a result of the federal government of
5 the United States owning or controlling at least 50 acres of the total
6 land area of the municipality, which is dedicated as a national
7 natural landmark.

8 **["Incentive agreement" means the contract between the business**
9 **and the authority, which sets forth the terms and conditions under**
10 **which the business shall be eligible to receive the incentives**
11 **authorized pursuant to the program.】**

12 **["Hospitality establishment" means a hotel, motel, or any**
13 **business, however organized, that sells food, beverages, or both for**
14 **consumption by patrons on the premises.】**

15 "Incentive area" means:

16 a. an aviation district;

17 b. a port district;

18 c. a distressed municipality or **【transit hub municipality】**
19 **enhanced area**;

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

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

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

44 g. an area located within a regional growth area, rural
45 development area zoned for industrial use as of the effective date of
46 P.L.2016, c.75, or town, village, or a military and federal
47 installation area designated in the comprehensive management plan

- 1 prepared and adopted by the Pinelands Commission pursuant to the
2 "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.);
- 3 h. an area located within a government-restricted municipality;
- 4 i. an area located within land approved for closure under any
5 federal Commission on Base Realignment and Closure action;
- 6 j. an area located within an area designated pursuant to the
7 "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as
8 Planning Area 4A (Rural Planning Area), Planning Area 4B
9 (Rural/Environmentally Sensitive), or Planning Area 5
10 (Environmentally Sensitive), so long as that area designated as
11 Planning Area 4A (Rural Planning Area), Planning Area 4B
12 (Rural/Environmentally Sensitive), or Planning Area 5
13 (Environmentally Sensitive) is located within: (1) a designated
14 center under the State Development and Redevelopment Plan; (2) a
15 designated growth center in an endorsed plan until the State
16 Planning Commission revises and readopts New Jersey's State
17 **【Strategic】** Development and Redevelopment Plan and adopts
18 regulations to revise this definition as it pertains to Statewide
19 planning areas; (3) any area determined to be in need of
20 redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79
21 (C.40A:12A-5 and C.40A:12A-6) or in need of rehabilitation
22 pursuant to section 14 of P.L.1992, c.79 (C.40A:12A-14); (4) any
23 area on which a structure exists or previously existed including any
24 desired expansion of the footprint of the existing or previously
25 existing structure provided the expansion otherwise complies with
26 all applicable federal, State, county, and local permits and
27 approvals; or (5) any area on which an existing tourism destination
28 project is located; or
- 29 k. an area located in a qualified opportunity zone.
- 30 **【**"Incentive phase agreement" means a sub-agreement of the
31 incentive agreement that governs the timing, capital investment,
32 employment levels, and other applicable details of the respective
33 phase.**】**
- 34 "Independent institution of higher education" means a college or
35 university incorporated and located in New Jersey, which by virtue
36 of law, character, or license is a nonprofit educational institution
37 authorized to grant academic degrees and which provides a level of
38 education that is equivalent to the education provided by the State's
39 public institutions of higher education, as attested by the receipt of
40 and continuation of regional accreditation by the Middle States
41 Association of Colleges and Schools, and which is eligible to
42 receive State aid under the provisions of the Constitution of the
43 United States and the Constitution of the State of New Jersey, but
44 does not include any educational institution dedicated primarily to
45 the education or training of ministers, priests, rabbis, or other
46 professional persons in the field of religion.
- 47 "Industrial premises" or "industrial space" means premises or
48 space in which at least 51 percent of the square footage will be or

1 has been used for the assembling, processing, manufacturing, or any
2 combination thereof, of finished or partially finished products from
3 materials or fabricated parts, including, but not limited to, factories
4 or as a warehouse if the business uses the warehouse as part of the
5 chain of distribution for products assembled, processed,
6 manufactured, or any combination thereof, by the business at the
7 qualified business facility; for the breaking or demolishing of
8 finished or partially finished products; or for the production of oil
9 or gas or the generation or transformation of electricity.

10 "Industrial use" means assembling, processing, manufacturing, or
11 any combination thereof, of finished or partially finished products
12 from materials or fabricated parts; the breaking or demolishing of
13 finished or partially finished products; or the production of oil or
14 gas or the generation or transformation of electricity. "Industrial
15 use" includes farming purposes as that term is defined under 26
16 U.S.C. s.6420(c)(3)(A), undertaken in an industrial space.

17 "Infrastructure Fund" means the Recovery Infrastructure Fund
18 established pursuant to section 79 of P.L.2020, c.156 (C.52:27D-
19 520) to fund local infrastructure improvements.

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

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

1 "Mega project" means a project of special economic importance,
2 as determined pursuant to regulations adopted by the board, as
3 measured by the level of new jobs, new capital investment, and
4 opportunities to leverage leadership in a high-priority targeted
5 industry, as determined by the authority pursuant to rules and
6 regulations promulgated to implement sections 68 through 81 of
7 P.L.2020, c.156 (C.34:1B-336 et al.).

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

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

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

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

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

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

42 "Program" means the Emerge Program established by section 70
43 of P.L.2020, c.156 (C.34:1B-338).

44 "Project" means the capital investment **【and the employment
45 commitment】** at a qualified business facility and the employment
46 commitment pursuant to the project agreement.

47 "Project agreement" means the contract executed between an
48 eligible business and the authority pursuant to section 73 of

1 P.L.2020, c.156 (C.34:1B-341), which sets forth the terms and
2 conditions under which the eligible business may receive the
3 incentives authorized pursuant to the program.

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

8 "Project phase agreement" means a sub-agreement of the project
9 agreement that governs the timing, capital investment, employment
10 levels, and other applicable details of the respective phase.

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

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

23 "Qualified incentive tract" means: a. a population census tract
24 having a poverty rate of 20 percent or more; or b. 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 "Qualified incubator facility" means a commercial building
30 located within an incentive area: that contains 5,000 or more square
31 feet of office, laboratory, or industrial space; that is located near,
32 and presents opportunities for collaboration with, a research
33 institution, teaching hospital, college, or university; and within
34 which at least 50 percent of the gross leasable area is restricted for
35 use by one or more technology startup companies during the
36 commitment period.

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

40 "Quality child care facility" is a child care center licensed by the
41 Department of Children and Families or a registered family child
42 care home with the Department of Human Services, operating
43 continuously, which has not been subject to an enforcement action,
44 and which has and maintains a **【total】** licensed capacity **【of at least**
45 **60】** for children age **【6】** 13 years or younger who attend for less
46 than 24 hours a day.

47 "Retained full-time job" means an eligible position that currently
48 exists in New Jersey and is filled by a full-time employee, but

1 which, because of a potential relocation by the business [,] or is at
2 risk of being lost to another state or country [or of being
3 eliminated]. For the purposes of determining the number of
4 retained full-time jobs, the eligible positions of an affiliate shall be
5 considered eligible positions of the business.

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

8 "SDA municipality" means a municipality in which an SDA
9 district is situated.

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

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

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, non-retail food and
22 beverage businesses including food innovation, and other
23 innovative industries that disrupt current technologies or business
24 models.

25 "Technology startup company" means a for-profit business that
26 has been in operation fewer than seven years at the time that it
27 initially occupies or expands in a qualified business facility and is
28 developing or possesses a proprietary technology or business
29 method of a high technology or life science-related product,
30 process, or service, which proprietary technology or business
31 method the business intends to move to commercialization. The
32 business shall be deemed to have begun operation on the date that
33 the business first hired at least one employee in a full-time position.

34 "Tourism destination project" means a qualified non-gaming
35 business facility that will be among the most visited privately
36 owned or operated tourism or recreation sites in the State, and
37 which is located within the incentive area and has been determined
38 by the authority to be in an area appropriate for development and in
39 need of economic development incentive assistance, including a
40 non-gaming business within an established tourism district with a
41 significant impact on the economic viability of that tourism district.

42 "Transit oriented development" means a qualified business
43 facility located within a 1/2-mile radius, or one-mile radius for
44 projects located in a Government-restricted municipality,
45 surrounding the mid-point of a New Jersey Transit Corporation,
46 Port Authority Transit Corporation, or Port Authority Trans-Hudson
47 Corporation rail, bus, or ferry station platform area, including all
48 light rail stations.

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

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

14 "Transit Village" means a municipality that has been designated
15 as a transit village by the Commissioner of Transportation and the
16 Transit Village Task Force.

17 (cf: P.L.2020, c.156, s.69)

18

19 31. Section 71 of P.L.2020, c.156 (C.34:1B-339) is amended to
20 read as follows:

21 71. a. Beginning on the effective date of P.L.2020, c.156
22 (C.34:1B-269 et al.), but prior to March 1, 2027, to be eligible for
23 tax credits under the program, a business's chief executive officer,
24 or equivalent officer, shall demonstrate to the authority at the time
25 of application that:

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

29 (2) the business will create or retain new and retained full-time
30 jobs **【at the qualified business facility】** in the State in an amount
31 equal to or greater than the applicable number set forth in
32 subsection c. of this section;

33 (3) the qualified business facility is located in a qualified
34 incentive area;

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

38 (5) the award of tax credits, the capital investment resultant
39 from the award of tax credits, and the resultant creation and
40 retention of new and retained full-time jobs will yield a net positive
41 benefit to the State equaling at least 400 percent of the requested
42 tax credit allocation amount, or for a phased project the requested
43 tax credit allocation amount for the initial phase, and on a
44 cumulative basis each phase thereafter, which determination shall
45 be calculated prior to considering the value of the requested tax
46 credit under the program and shall be based on the benefits
47 generated during the period of time from approval through the end
48 of the commitment period, or through the end of the longer period

1 of extended commitment that the business may elect for purposes of
2 receiving credit for benefits projected to occur after the expiration
3 of the commitment period, except that:

4 (a) an award of tax credits to a business for a qualified business
5 facility located in a distressed municipality or **【transit hub**
6 **municipality】** an enhanced area shall yield a net positive benefit to
7 the State, based on the benefits generated during the period of time
8 from approval through the end of the commitment period, that
9 equals at least 300 percent of the requested tax credit amount;

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

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

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

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

1 (f) If, during the term of the program, the methodology used by
2 the authority in projecting benefits of a project in making the
3 determination required pursuant to this paragraph is modified, the
4 respective percentages by which the benefits must exceed the
5 requested tax credit allocation amount set forth pursuant to this
6 paragraph (5) may be adjusted to ensure consistent application of
7 the respective thresholds in this paragraph (5) applied to each
8 application;

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

11 (7) the project shall comply with the authority's affirmative
12 action requirements, adopted pursuant to section 4 of P.L.1979,
13 c.303 (C.34:1B-5.4); and

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

20 (i) the work performed under the contract is performed at a
21 qualified business facility owned by a landlord that is not a business
22 receiving authority assistance;

23 (ii) the landlord is a party to the construction contract, building
24 services contract, or both; and

25 (iii) the qualified business facility constitutes a lease of less than
26 35 percent of the **qualified business** entire facility at the time of
27 contract and under any agreement to subsequently lease the
28 qualified business facility.

29 (b) In accordance with section 1 of P.L.1979, c.303 (C.34:1B-
30 5.1), nothing in this paragraph shall be construed as requiring the
31 payment of prevailing wage for construction commencing more
32 than two years after **a business has executed with the authority a**
33 **commitment letter regarding authority financial assistance and the**
34 **first payment or other provision of the assistance is received** the
35 authority has issued the first certificate of compliance pursuant to
36 paragraph (2) of subsection a. of section 77 of P.L.2020, c.156
37 (C.34:1B-345).

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

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

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

1 (c) for the rehabilitation, improvement, fit-out, or retrofit of
2 existing portion of the premises that does not qualify pursuant to
3 subparagraph (a) or (b) of this paragraph, a minimum investment of
4 \$40 per square foot of gross leasable area;

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

9 (e) for a small business, no new minimum capital investment
10 shall be required, provided the applicant has demonstrated evidence
11 satisfactory to the authority of its intent to remain in the State for
12 the commitment period.

13 (2) In the event the business invests less than that amount set
14 forth in paragraph (1) of this subsection in the qualified business
15 facility, the business shall donate the uninvested balance to the
16 infrastructure fund established pursuant to section 79 of P.L.2020,
17 c.156 (C.52:27D-520).

18 (3) Notwithstanding the provisions of paragraphs (1) and (2) of
19 this subsection, the authority may adopt, pursuant to the provisions
20 of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
21 1 et seq.), rules and regulations adjusting the minimum capital
22 investment amounts required under the program when necessary to
23 respond to the prevailing economic conditions in the State.

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

26 (a) for a small business, 25 percent growth of its workforce with
27 new full-time jobs within the eligibility period in accordance with
28 subsection e. of section 76 of P.L.2020, c.156 (C.34:1B-344);

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

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

32 (d) for a business eligible for new full-time jobs under
33 subparagraphs (b) or (c) of this paragraph, the business shall also be
34 eligible for retained full-time jobs in addition to the new full-time
35 jobs if the business will retain 150 retained full-time jobs when
36 locating in a government-restricted municipality, 250 retained full-
37 time jobs when locating in a qualified incentive tract or enhanced
38 area municipality, or 500 retained full-time jobs when locating
39 anywhere else in the State;

40 (e) for a business **【located】** not eligible under subparagraphs
41 (b), (c), or (d) of this paragraph and locating in a qualified incentive
42 tract, enhanced area, or government-restricted municipality that will
43 retain 500 or more retained full-time jobs, a minimum of the
44 business's retained full-time jobs at the time of application **【and**
45 new construction or rehabilitation, improvement, fit-out, or retrofit
46 of an existing portion of the premises equal in size to the space
47 occupied by the business's retained full-time jobs at the time of
48 application】;

1 **[(e)]** (f) for a business not eligible under subparagraphs (b), (c),
2 (d), or (e) of this paragraph and located in the State that will retain
3 1,000 or more retained full-time jobs, a minimum of the business's
4 retained full-time jobs at the time of application [and new
5 construction or rehabilitation, improvement, fit-out, or retrofit of an
6 existing portion of the premises equal in size to the space occupied
7 by the business's retained full-time jobs at the time of application].

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

15 d. A business **[shall provide and adhere]** that provides and
16 adheres to a plan that demonstrates that the qualified business
17 facility is capable of accommodating more than half of the
18 business's new **[or]** and retained full-time employees as approved
19 and **[shall certify]** that certifies, under the penalty of perjury, that
20 not less than 80 percent of the withholdings of new **[or]** and
21 retained full-time jobs are subject to the "New Jersey Gross Income
22 Tax Act," N.J.S.54A:1-1 et seq. shall be eligible. The requirements
23 set forth in this subsection may be modified by the authority to
24 respond to an emergency, disaster, or other factors that result in
25 employees of an eligible business having to work from a location
26 other than the qualified business facility.

27 e. The **[owner]** chief executive officer of the business, or an
28 **[authorized agent of the owner]** equivalent officer, shall certify that
29 all factual representations made by the business to the authority
30 pursuant to subsection a. of this section are true under the penalty of
31 perjury.

32 f. A business eligible pursuant to this section may submit an
33 application to the authority in accordance with the provisions of
34 section 72 of P.L.2020, c.156 (C.34:1B-340) on or after the
35 effective date of P.L.2020, c.156 (C.34:1B-269 et al.) but prior to
36 March 1, 2027.

37 (cf: P.L.2020, c.156, s.71)

38
39 32. Section 72 of P.L.2020, c.156 (C.34:1B-340) is amended to
40 read as follows:

41 72. a. A business that meets the eligibility criteria in section 71
42 of P.L.2020, c.156 (C.34:1B-339) and is seeking a grant of tax
43 credits for a project under the program shall submit an application
44 for approval of the project to the authority in a form and manner
45 prescribed in regulations adopted by the authority pursuant to the
46 provisions of the "Administrative Procedure Act," P.L.1968, c.410
47 (C.52:14B-1 et seq.).

1 b. (1) Before the board may consider an eligible business's
2 application for tax credits, the authority shall confirm with the
3 Department of Labor and Workforce Development, the Department
4 of Environmental Protection, and the Department of the Treasury
5 **【shall each report to the chief executive officer of the authority】**
6 whether the eligible business is in **【compliance】** substantial good
7 standing with the respective department, or, if necessary, has
8 entered into an agreement with the respective department that
9 includes a practical corrective action plan for the eligible business.
10 The business entity shall certify that contractors or subcontractors
11 that will perform work at the qualified business facility: (1) are
12 registered as required by “The Public Works Contractor
13 Registration Act,” P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have
14 not been debarred by Department of Labor and Workforce
15 Development from engaging in or bidding on Public Works
16 Contracts in the State; and (3) possess a tax clearance certificate
17 issued by the Division of Taxation in the Department of the
18 Treasury. The authority may also contract with an independent
19 third party to perform a background check on the eligible business.
20 Provided that the eligible business is in substantial good standing,
21 or has entered into such an agreement, and each contractor and
22 subcontractor is in compliance with this paragraph, before the board
23 may approve an eligible business's application for tax credits, the
24 eligible business shall execute a non-binding letter of intent with
25 the chief executive officer of the authority, specifying the amount
26 and terms and conditions of tax credits that the authority is prepared
27 to propose for board approval and that are intended to be a material
28 factor in the decision by the eligible business to create or retain the
29 proposed number of new and retained full-time jobs, and in which
30 the eligible business certifies such tax credits are a material factor
31 in its decision.

32 (2) To assist the authority in determining whether the award of
33 tax credits is a material factor in the eligible business's decision to
34 create or retain the minimum number of new and retained full-time
35 jobs for eligibility under the program, the chief executive officer of
36 the authority shall require the eligible business to submit, as part of
37 its application, a full economic analysis of all locations under
38 consideration by the eligible business; all lease agreements,
39 ownership documents, or substantially similar documentation for
40 the eligible business's **【current】** proposed in-State locations; and all
41 lease agreements, ownership documents, or substantially similar
42 documentation for potential out-of-State location alternatives, to the
43 extent they exist. The chief executive officer of the authority may
44 further consider the costs associated with opening and maintaining a
45 business in New Jersey, competitive proposals that the eligible
46 business has received from other states, the prevailing economic
47 conditions, and any other factors that the chief executive officer of
48 the authority deems relevant to assist the authority in determining

1 whether an award of tax credits is a material factor in the eligible
2 business's decision. Based on this information, the authority shall
3 independently verify and confirm the eligible business's assertion
4 that the award of tax credits under the program is a material factor
5 in the eligible business's decision to create or retain the minimum
6 number of new and retained full-time jobs for eligibility under the
7 program and, in the case of retained full-time jobs, the jobs are
8 actually at risk of leaving the State, before the authority may award
9 the eligible business any tax credits under the " Emerge Program
10 Act," sections 70 through 81 of P.L.2020, c.156 (C.34:1B-338 et
11 al.). The **owner** chief executive officer of the eligible business,
12 or an **authorized agent of the owner** equivalent officer, shall
13 certify that all factual representations made by the business to the
14 authority pursuant to this paragraph are true under the penalty of
15 perjury.

16 c. An eligible business shall pay to the authority the full
17 amount of the direct costs of an analysis concerning the eligible
18 business's application for a tax credit, which a third party retained
19 by the authority performs, if the authority deems such retention to
20 be necessary. The authority shall have the discretion to waive all or
21 a portion of the costs of application for a small business.

22 d. If at any time during the eligibility period the authority
23 determines that the eligible business made a material
24 misrepresentation on the eligible business's application, the eligible
25 business shall forfeit all tax credits awarded under the program,
26 which shall be in addition to any other criminal or civil penalties to
27 which the business and the officer may be subject.

28 e. If circumstances require an eligible business to amend its
29 application to the authority, then the **owner** chief executive
30 officer of the eligible business, or an **authorized agent of the**
31 **owner** equivalent officer, shall certify to the authority that the
32 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 (cf: P.L.2020, c.156, s.72)

38

39 33. Section 73 of P.L.2020, c.156 (C.34:1B-341) is amended to
40 read as follows:

41 73. a. Following approval by the board, but before the issuance
42 of tax credits, the authority shall require an eligible business to
43 enter into a project agreement. The terms of the project agreement
44 shall be consistent with the eligibility requirements of section 71 of
45 P.L.2020, c.156 (C.34:1B-339), as applicable, and shall include, but
46 shall not be limited to, the following:

- 1 (1) (a) a detailed description of the proposed project which will
2 result in job creation or retention, and the number of new and
3 retained full-time jobs that are approved for tax credits;
- 4 (b) for a phased project, **【an incentive】** a project phase
5 agreement for which each phase identifies a description of the
6 phase, the expected capital investment and number of new full-time
7 jobs, and the time following acceptance of the **【incentive】** project
8 agreement when each phase is to begin and be completed, with the
9 awarding of tax credits under the **【incentive】** project agreement to
10 be predicated on the number of full-time jobs created through the
11 fulfillment of each **【incentive】** project phase agreement;
- 12 (2) the eligibility period of the tax credits or, for a phased
13 project, the eligibility period of the tax credits for each phase;
- 14 (3) personnel information that will enable the authority to
15 administer the program;
- 16 (4) a requirement that the eligible business maintain the project
17 at a location in New Jersey for the commitment period, with at least
18 the minimum number of full-time jobs as required by this program,
19 and a provision to permit the authority to recapture all or part of any
20 tax credits awarded, at its discretion, if the eligible business does
21 not remain in compliance with this provision for the required term
22 or significantly reduces the number of full-time employees, or the
23 salaries thereof, to which the eligible business certified at the
24 commencement of the eligibility period;
- 25 (5) a method for the eligible business to certify that it has met
26 the capital investment and employment requirements of the program
27 set forth in subsections b. and c. of section 71 of P.L.2020, c.156
28 (C.34:1B-339) and to report annually to the authority the number of
29 new and retained full-time employees, and the salaries thereof, for
30 which the tax credits are to be allowed;
- 31 (6) representations that the eligible business is in substantial
32 good standing with the Department of Environmental Protection,
33 the Department of Labor and Workforce Development, and the
34 Department of the Treasury or **【meets the agreement requirements**
35 **described in paragraph (1) of subsection b. of section 71 of**
36 **P.L.2020, c.156 (C.34:1B-339)】** has entered into an agreement with
37 the departments that includes a practical corrective action plan, and
38 the project complies with all applicable laws, and specifically, that
39 the project does not violate any environmental law;
- 40 (7) a provision permitting an audit of the payroll records of the
41 business from time to time, as the authority deems necessary;
- 42 (8) a provision that the chief executive officer of the authority
43 receives annual reports from the eligible business and that allows
44 the authority to confirm that the eligible business is in substantial
45 good standing with the Department of Environmental Protection,
46 the Department of Labor and Workforce Development, and the
47 Department of the Treasury **【demonstrating that the eligible**

1 business and each contractor and subcontractor performing work at
2 the qualified business facility is in compliance with the respective
3 department] , or has entered into an agreement with the respective
4 department that includes a practical corrective action plan [, and a
5 provision providing that if the eligible business is not in compliance
6 with its legal obligations of rules administered by these departments
7 and has been given formal notice thereof,] . As part of the annual
8 reports required by this paragraph, the eligible business shall
9 confirm that each contractor or subcontractor performing work at
10 the qualified business facility: (1) is registered as required by “The
11 Public Works Contractor Registration Act,” P.L.1999, c.238
12 (C.34:11-56.48 et seq.); (2) has not been debarred by Department of
13 Labor and Workforce Development from engaging in or bidding on
14 Public Works Contracts in the State; and (3) possesses a tax
15 clearance certificate issued by the Division of Taxation in the
16 Department of the Treasury. If the eligible business does not
17 submit the report required under this paragraph, if the Department
18 of Environmental Protection, the Department of Labor and
19 Workforce Development, and the Department of the Treasury
20 advises that the eligible business is neither in substantial good
21 standing nor has entered into a practical corrective action plan, or if
22 the eligible business fails to confirm that each contractor or
23 subcontractor is in compliance with this paragraph, then the
24 **[authority]** eligible business may [suspend] forfeit the issuance of
25 tax credits, pending resolution of the [dispute] underlying
26 violations or other issues;

27 (9) a requirement for the eligible business to engage in on-site
28 consultations with the Division of Workplace Safety and Health in
29 the Department of Health;

30 (10) a provision permitting the authority to amend the
31 agreement;

32 and

33 (11) a provision establishing the conditions under which the
34 authority, the eligible business, or both, may terminate the
35 agreement.

36 b. (1) For a project whose total project cost equals or exceeds
37 \$10 million, in addition to the project agreement, an eligible
38 business shall enter into a community benefits agreement with the
39 authority and the county or municipality in which the qualified
40 business facility is located. The agreement may include, but shall
41 not be limited to, requirements for training, employment, and youth
42 development and free services to underserved communities in and
43 around the community in which the qualified business facility is
44 located. Prior to entering a community benefits agreement, the
45 governing body of the county or municipality in which the qualified
46 business facility is located shall hold at least one public hearing at
47 which the governing body shall hear testimony from residents,

1 community groups, and other stakeholders on the needs of the
2 community that the agreement should address.

3 (2) The community benefits agreement shall provide for the
4 creation of a community advisory committee to oversee the
5 implementation of the agreement, monitor successes, ensure
6 compliance with the terms of the agreement, and produce an annual
7 public report. The community advisory committee created pursuant
8 to this paragraph shall be comprised of representatives from
9 community groups and residents of the county or municipality in
10 which the qualified business facility is located.

11 (3) At the time the eligible business submits the annual report
12 required pursuant to section 77 of P.L.2020, c.156 (C.34:1B-345) to
13 the authority, the eligible business shall certify, under the penalty of
14 perjury, that it is in compliance with the terms of the community
15 benefits agreement. If the eligible business fails to provide the
16 certification required pursuant to this paragraph or the authority
17 determines that the eligible business is not in compliance with the
18 terms of the community benefits agreement based on the reports
19 submitted by the community advisory committee pursuant to
20 paragraph (2) of this subsection, then the authority may rescind the
21 award or recapture all or part of any tax credits awarded.

22 (4) An eligible business shall not be required to enter into a
23 community benefits agreement pursuant to this subsection if the
24 eligible business submits to the authority a copy of the either
25 eligible business's [project agreement that] approval letter from the
26 authority or a redevelopment agreement applicable to the qualified
27 business facility, provided that the approval letter or redevelopment
28 agreement is certified by the municipality in which the project is
29 located and includes provisions that meet or exceed the standards
30 required for a community benefits agreement in this subsection, as
31 determined by the chief executive officer pursuant to rules adopted
32 by the authority.

33 (cf: P.L.2020, c.156, s.73)

34

35 34. Section 74 of P.L.2020, c.156 (C.34:1B-342) is amended to
36 read as follows:

37 74. a. **[Commencing with the date six months following the**
38 **date]** Following board approval within a time established by the
39 authority and prior to the authority and an eligible business
40 **[execute]** executing a project agreement, the eligible business shall
41 demonstrate that it has obtained site plan approval and has
42 committed financing for, and site control of, the qualified business
43 facility. If the eligible business obtained site control of the
44 qualified business facility prior to the execution of the letter of
45 intent pursuant to section 72 of P.L.2020, c.156 (C.34:1B-340), then
46 the authority may rescind approval of the award of tax credits,
47 unless the eligible business disclosed the fact that the eligible
48 business had obtained the site prior to executing the letter of intent

1 and the authority determines that the award of tax credits was still a
2 material factor in the eligible business's decision to create or retain
3 the minimum number of new and retained full-time jobs for
4 eligibility under the program. The eligible business shall provide
5 an estimated date of completion and shall submit periodic progress
6 reports. The authority may rescind an award of tax credits if an
7 eligible business fails to provide the information required under this
8 section within the period indicated in the approval of the tax credits
9 by the board. The authority may rescind an award of tax credits
10 under the program if a project fails to advance in accordance with
11 the project agreement.

12 b. Upon completion of the capital investment and employment
13 requirements of the program, an eligible business shall submit to
14 the authority certifications evidencing that the eligible business has
15 satisfied the conditions relating to the capital investment and
16 employment requirements of the project agreement with supporting
17 evidence satisfactory to the authority. Absent extenuating
18 circumstances and the written approval of the authority, the eligible
19 business shall submit the certification within three years following
20 the date of approval of the application. The authority may grant
21 two six-month extensions of the deadline; provided that the date of
22 **【completion】** certification shall not occur later than four years
23 following the date of approval of the application by the authority;
24 provided further that the authority may grant one additional
25 extension not to exceed one year upon a finding by the authority
26 that: (1) the project is delayed due to unforeseeable acts related to
27 the project beyond the eligible business's control and without its
28 fault or negligence; (2) the eligible business is using best efforts,
29 with all due diligence, to proceed with the completion of the project
30 and the submission of the certification; and (3) the eligible business
31 has made, and continues to make, all reasonable efforts to prevent,
32 avoid, mitigate, and overcome the delay. To qualify for the one-
33 year extension, the eligible business shall provide timely notice to
34 the authority of the delay within 30 days after the eligible business
35 has actual or constructive knowledge of the delay, and shall provide
36 periodic reports, not less than every 30 days, of the status of the
37 delay and the steps the eligible business is taking to mitigate or
38 overcome the delay.

39 c. If the Governor declares an emergency, then the chief
40 executive officer of the authority shall have the discretion to grant
41 an extension for the duration of the emergency and the board of the
42 authority, upon recommendation of the chief executive officer, may
43 grant two additional six-month extensions; provided, however, that:
44 (i) the extensions are due to the economic disruption caused by the
45 emergency; (ii) the project is delayed due to unforeseeable acts
46 related to the project beyond the eligible business's control and
47 without its fault or negligence; (iii) the eligible business is using
48 best efforts, with all due diligence, to proceed with the completion

1 of the project and the submission of the certification; and (iv) the
2 eligible business has made, and continues to make, all reasonable
3 efforts to prevent, avoid, mitigate, and overcome the delay.

4 d. The **owner** chief executive officer of the eligible business,
5 or an **authorized agent of the owner** equivalent officer, shall
6 certify that the information provided pursuant to this section is true
7 under the penalty of perjury.

8 (cf: P.L.2020, c.156, s.74)

9

10 35. Section 75 of P.L.2020, c.156 (C.34:1B-343) is amended to
11 read as follows:

12 75. a. The total amount of the tax credit for an eligible business
13 for each new or retained full-time job shall be as set forth in
14 subsections b. through g. of this section. The total tax credit
15 amount shall be calculated and credited to the business annually for
16 each year of the eligibility period, notwithstanding any other
17 provisions of P.L.2020, c.156 (C.34:1B-269 et al.) 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** a qualified business facility located within
21 a government-restricted municipality, or which is a mega project,
22 \$4,000 per year;

23 (2) for a qualified business facility located within an enhanced
24 area, \$3,500 per year;

25 (3) for a qualified business facility located within a distressed
26 municipality, \$3,000 per year;

27 (4) for a project in a qualified opportunity zone or an
28 employment 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
35 distress score 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
39 use 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.2020, c.156 (C.34:1B-339), an increase of **[\$1,000]** \$500 per
42 year for each additional amount of investment that exceeds the
43 minimum amount required for eligibility by 40 percent, with a
44 maximum increase of **[\$3,000]** \$1,500 per year, unless the project
45 qualifies as a mega project or the qualified business facility is
46 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】** eligibility period, the increases shall
3 be in 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】** \$1,000 per year;
- 10 (iv) if the number of new full-time jobs is between 801 and
11 1,000, \$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
16 percent or more of the eligible business's full-time workforce, or
17 pays a State educational institution to provide to the public an
18 industry-specific training program, an increase of \$500 per year;
19 provided, however, that if the training program is provided by a
20 State educational institution that is within 10 miles of the qualified
21 business facility, 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) for an eligible business with new full-time jobs and retained
25 full-time jobs at the qualified business facility with a median salary
26 in excess of the existing median salary for the county in which the
27 project is located, or, in the case of a project in a government-
28 restricted municipality, a business **【that employs】** with employees
29 in full-time positions at the project with a median salary in excess
30 of the median salary for the government-restricted municipality, an
31 increase of **【\$250】** \$200 per year during the eligibility period for
32 each 35 percent by which the project's median salary levels exceeds
33 the county or government-restricted municipality median salary,
34 with a maximum increase of **【\$1,500】** \$1,000 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 (Deleted by amendment, P.L. , c.) (pending before the
38 Legislature as this bill);
- 39 (h) for an eligible business engaged primarily in a targeted
40 industry, an increase of \$500 per year;
- 41 (i) for an eligible business with a qualified business facility
42 located in a qualified incubator facility, an increase of \$500 per
43 year;
- 44 (j) for an eligible business that enters into a labor harmony
45 agreement in accordance with section 69 of P.L.2020, c.156
46 (C.34:1B-337), an increase of \$2,000 per year for the portion of the
47 project subject to that labor harmony agreement; provided further

1 that an eligible business receiving a bonus under this subparagraph
2 may exceed the limitation applicable to the eligible business
3 pursuant to subsection d. of this section by an amount not to exceed
4 \$1,000;

5 (k) for an eligible business that provides its employees access to
6 child care either through an on-site quality child care facility free of
7 charge to its employees or through reimbursements paid by the
8 eligible business to its employees for the cost of child care in
9 accordance with standards adopted by the authority, an increase of
10 \$1,000 per year;

11 (l) for an eligible business that enters, or has previously
12 entered, into **[a]** an active partnership with a **[prisoner]** re-entry
13 program for the purpose of identifying and promoting employment
14 opportunities at the eligible business for former inmates and current
15 inmates leaving the corrections system, and that hires at least one
16 active participant in the re-entry program as a full-time employee,
17 an increase of \$500 per year.

18 (m) for an eligible business with a qualified business facility that
19 exceeds the Leadership in Energy and Environmental Design's
20 "Silver" rating standards but does not exceed "Gold" rating
21 standards or completes substantial environmental remediation, an
22 additional increase of \$250 per year, or for an eligible business with
23 a qualified business facility that exceeds the Leadership in Energy
24 and Environmental Design's "Gold" rating standards, an additional
25 increase of \$500 per year;

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

31 (o) for an eligible business with a project that generates solar ,
32 geo-thermal, wind, or any other renewable or distributed energy on
33 site for use within the qualified business facility of an amount that
34 equals at least 50 percent of the qualified business facility electric
35 supply service needs, an increase of \$500 per year;

36 (p) for an eligible business with a marine terminal project in a
37 municipality located outside a government-restricted municipality,
38 but within the geographical boundaries of the South Jersey Port
39 District, an increase of \$1,500 per year;

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

43 (r) for an eligible business if one-third or more of the members
44 of the eligible business's governing board or other governing body
45 self-identify as members of an underrepresented community, which
46 may include Black, African American, Hispanic, Latino, Asian,
47 Pacific Islander, Native American, Native Hawaiian, Alaska Native
48 or gay, lesbian, bisexual or transgender, an increase of \$2,000 per

1 year for each new or retained full-time job. The authority shall work
2 with the Chief Diversity Officer or other State entities to ensure that
3 the bonus provided under this subparagraph is implemented
4 faithfully and in compliance with law.

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

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

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

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

24 (2) for a qualified business facility located within an enhanced
25 area, the gross amount for each new or retained full-time job shall
26 not exceed \$6,000 per year;

27 (3) for a qualified business facility within a distressed
28 municipality, the gross amount for each new or retained full-time
29 job shall not exceed \$5,000 per year;

30 (4) for a qualified business facility in a qualified opportunity
31 zone or an employment and investment corridor, the gross amount
32 for each new or retained full-time job shall not exceed \$4,000 per
33 year; and

34 (5) for a qualified business facility in other eligible areas, the
35 gross amount for each new or retained full-time job shall not exceed
36 \$3,000 per year.

37 e. The authority shall reduce the gross amount of tax credits
38 per full-time job: (1) if the median salary of new full-time jobs and
39 retained full-time jobs [at the qualified business facility] subject to
40 the project agreement is less than the existing median salary for the
41 county in which the qualified business facility is located; or (2) for
42 a project located in a government-restricted municipality, if the
43 median salary of new full-time jobs and retained full-time jobs
44 subject to the project agreement is less than the existing median
45 salary for the municipality in which the qualified business facility is
46 located. The authority shall reduce the gross amount of tax credits
47 per full-time job by an amount, in percentage points, equal to the
48 percentage the median salary of new full-time jobs and retained

1 full-time jobs **【at the qualified business facility】** subject to the
2 project agreement is below the existing median salary for the
3 county or government-restricted municipality in which the qualified
4 business facility is located. The authority shall not award a tax
5 credit to an eligible business if the median salary of new full-time
6 jobs and retained full-time jobs **【at the qualified business facility】**
7 that would otherwise be subject to the project agreement is 30
8 percent or more below the relevant existing median salary for the
9 county or government-restricted municipality in which the qualified
10 business facility is located.

11 f. After the determination by the authority of the gross amount
12 of tax credits for which an eligible business is eligible pursuant to
13 subsection d. of this section, the final total tax credit amount shall
14 be calculated as follows: (1) for each new full-time job, the eligible
15 business shall be allowed tax credits equaling **【the lesser of】** 100
16 percent of the gross amount of tax credits for each new full-time
17 job; and (2) for each retained full-time job, the eligible business
18 shall be allowed tax credits equaling 50 percent of the gross amount
19 of tax credits for each retained full-time job.

20 g. Notwithstanding the provisions of subsections a. through f.
21 of this section to the contrary, for each application approved by the
22 board, the amount of tax credits available to be applied by the
23 business annually shall not exceed an amount determined by the
24 authority to be necessary to induce the project to be sited in New
25 Jersey as determined by the board. The authority shall determine
26 the amount necessary to complete the project through staff analysis
27 of all locations under consideration by the eligible business and all
28 lease agreements, ownership documents, or substantially similar
29 documentation for the eligible business's **【current】** proposed in-
30 State locations and potential out-of-State location alternatives,
31 competitive proposals from other states, the prevailing economic
32 conditions, and any other information that the authority deems
33 relevant.

34 (cf: P.L.2020, c.156, s.75)

35

36 36. Section 76 of P.L.2020, c.156 (C.34:1B-344) is amended to
37 read as follows:

38 76. a. (1) If, in any tax period, an eligible business reduces the
39 total number of full-time employees in its Statewide workforce by
40 more than 20 percent from the number of full-time employees in its
41 Statewide workforce in the last tax period prior to the credit amount
42 approval under the program, then the eligible business shall forfeit
43 its credit amount for that tax period and each subsequent tax period,
44 until the first tax period for which documentation demonstrating the
45 restoration of the eligible business's Statewide workforce to the
46 threshold levels required by this subsection has been reviewed and
47 approved by the authority, for which tax period and each
48 subsequent tax period the full amount of the credit shall be allowed.

1 (2) If the annual report filed by an eligible business pursuant to
2 section 77 of P.L.2020, c.156 (C.34:1B-345) provides that the
3 number of new full-time employees employed by the eligible
4 business **【at the qualified business facility】** subject to the project
5 agreement, or the salaries thereof, was reduced by more than 10
6 percent of the number of new full-time employees, or salaries
7 thereof, in the annual report of the prior year, or the project
8 agreement if the annual report is the first such report filed, then the
9 authority may reevaluate the net positive economic benefit of the
10 project and reduce the size of the award accordingly. This reduction
11 shall not affect any recapture under subsection f. of this section.

12 b. If, in any tax period, the number of full-time employees
13 employed by the eligible business **【at the qualified business**
14 **facility】** subject to the project agreement, or the salaries thereof,
15 drops below 80 percent of the number of new and retained full-time
16 jobs, and the salaries thereof, specified in the project agreement or
17 the **【incentive】** project phase agreement, then the eligible business
18 shall forfeit its tax credit amount for that tax period and each
19 subsequent tax period, until the first tax period for which
20 documentation demonstrating the restoration of the number of full-
21 time employees employed by the eligible business **【at the qualified**
22 **business facility】** subject to the project agreement to 80 percent of
23 the number of jobs specified in the project agreement or **【incentive】**
24 project phase agreement or the restoration of 80 percent of the
25 salaries specified in the project agreement is reviewed and approved
26 by the authority.

27 c. Except for an eligible business that is a small business
28 engaged primarily in a targeted industry **【with less than 50**
29 **employees at application】**:

30 (1) If the qualified business facility is sold in whole or in part
31 during the eligibility period, the new owner shall not acquire the
32 capital investment of the seller, provided, however, that any tax
33 credits of tenants shall remain unaffected. The seller shall forfeit
34 all tax credits for the tax period in which the sale occurs and all
35 subsequent tax periods, provided, however, that an eligible business
36 may change the location of the qualified business facility if **【**:

37 **】**(a) **】**the new facility:

38 **【(i)】** **【a)】** meets all applicable location qualifying criteria and has
39 gross leasable area not less than the gross leasable area of the
40 qualified business facility initially approved by the authority and
41 the alternate qualified business facility meets the minimum capital
42 investment and sustainability requirements of the program; or

43 **【(ii)】** **【b)】** does not meet all applicable location qualifying
44 criteria or has less gross leasable area than the gross leasable area of
45 the qualified business facility initially approved by the authority, if
46 the alternate qualified business facility meets the minimum capital
47 investment and sustainability requirements of the program, provided

1 that the authority shall require a **【new cost benefit analysis】** cost
2 comparison of the originally approved location and the alternate
3 qualified business facility illustrating the respective economics of
4 the project which reflect occupancy at the alternate proposed
5 qualified business facility location for the remaining duration of the
6 commitment period and shall re-calculate the net economic benefit
7 of the project to reflect the economics of occupancy at the alternate
8 proposed location for the remaining duration of the net benefit test
9 period in lieu of the economics of continuing occupancy at the
10 qualified business facility proposed to be vacated, and provided
11 further that the award of tax credits shall be reduced consistent with
12 the variations in qualifying criteria for the alternate qualified
13 business facility location as well as in a manner consistent with the
14 revised net economic benefit calculation.

15 **【(b) in】** In the event that the modified project economics
16 materially deviate from the economics of the initial approval in a
17 manner that undermines the recommendation of approval made by
18 the staff of the authority at the time of the initial approval, then the
19 business requesting to re-locate a qualified business facility shall be
20 required to obtain the approval of the members of the authority.

21 (2) If a tenant subleases its tenancy in whole or in part during
22 the eligibility period, the new tenant shall not acquire the tax credits
23 of the sublessor, and the sublessor shall forfeit all tax credits for
24 any tax period of its sublease in which the sublessor, in continued
25 occupation of a portion of the qualified business facility, fails to
26 maintain the number of jobs required for the sublessor to earn tax
27 credits for the tax period or fails to independently satisfy the
28 minimum capital investment or sustainability requirements for the
29 program as set forth in section 71 of P.L.2020, c.156 (C.34:1B-
30 339). Provided, however, if the capital investment of the sublessor
31 in the occupied portion of the qualified business facility is below
32 the project minimum capital investment as set forth in section 71 of
33 P.L.2020, c.156 (C.34:1B-339), the sublessor may include capital
34 investment made by or on behalf of the new tenant in the subleased
35 portion of the qualified business facility, so long as that capital
36 investment is not the subject of an independent application under an
37 incentive program with the authority.

38 d. A small business may move its qualified business facility
39 provided that the business remains in New Jersey during the
40 commitment period.

41 e. The authority may require a small business to submit a
42 growth plan, which specifies the number of new full-time
43 employees **【at the qualified business facility】** in the State that the
44 eligible business will hire each year of the eligibility period;
45 provided that by the end of the eligibility period, the eligible
46 business shall have a minimum of 25 percent growth of its
47 workforce with new full-time jobs. If the eligible business meets
48 the number of new full-time employees specified in the growth plan

1 each year of the eligibility period, then the eligible business shall be
2 entitled to an increased credit amount for that tax period, and each
3 subsequent tax period, for each additional full-time employee added
4 above the number of full-time employees certified, until the full-
5 time employees number the maximum number projected for the
6 final year of the eligibility period. Failure to meet the projections
7 in any year shall not constitute a default but shall cause the
8 authority to reduce the award in accordance with a schedule
9 attached to the project agreement.

10 f. (1) The authority may recapture all or part of a tax credit
11 awarded if an eligible business does not remain in compliance with
12 the requirements of a project agreement for the duration of the
13 commitment period. A recapture pursuant to this subsection may
14 include interest on the recapture amount, at a rate equal to the
15 statutory rate for corporate business or insurance premiums tax
16 deficiencies, plus any statutory penalties, and all costs incurred by
17 the authority and the Division of Taxation in the Department of the
18 Treasury in connection with the pursuit of the recapture, including,
19 but not limited to, counsel fees, court costs, and other costs of
20 collection. Failure of the eligible business to meet any program
21 criteria shall constitute a default and shall result in the recapture of
22 all or part of the tax credit awarded.

23 (2) If all or part of a tax credit sold or assigned pursuant to
24 section 78 of P.L.2020, c.156 (C.34:1B-346) is subject to recapture,
25 then the authority shall pursue recapture from the eligible business
26 and not from the purchaser or assignee of the tax credit transfer
27 certificate. The purchaser or assignee of a tax credit transfer
28 certificate shall be subject to any limitations and conditions that
29 apply to the use of the tax credits by the eligible business.

30 (3) Any funds, net of costs incurred by the authority, recaptured
31 pursuant to this subsection, including penalties and interest, shall be
32 deposited into the General Fund of the State.

33 g. A business may include an affiliate for any period, provided
34 that the business provides a valid tax clearance certificate for the
35 affiliate and a verification of the nature of the affiliate relationship
36 during the relevant period, and provided further that the affiliate
37 provides acceptable responses to the authority's legal disclosures
38 inquiries, as determined by the authority. A formal modification of
39 the authority's approval of the **[incentive]** project agreement shall
40 not be necessary to add or remove an affiliate after approval or
41 execution of the **[incentive]** project agreement.

42 h. A business may change its name filed with the authority by
43 providing a copy of the filed amendment to the certificate of
44 incorporation or formation, as the case may be, of the business and
45 a valid tax clearance certificate with the business's new name. A
46 formal modification of the authority's approval shall not be
47 necessary to change a business's name after approval or execution

1 of the **[incentive]** project agreement.
2 (cf: P.L.2020, c.156, s.76)

3

4 37. Section 77 of P.L.2020, c.156 (C.34:1B-345) is amended to
5 read as follows:

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

37 (2) Upon receipt and review of each report submitted during the
38 eligibility period, the authority shall provide to the eligible business
39 and the director a certificate of compliance indicating the amount of
40 tax credits that the eligible business may apply against its tax
41 liability. The authority shall pro rate the tax credit for the first and
42 last years of the eligibility period based on the number of full
43 months the project was certified in the year the eligible business
44 first certifies.

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

1 (2) An eligible business shall forfeit the credit amount for any
2 tax period for which the eligible business's documentation remains
3 uncertified as of the date for certification indicated in the project
4 agreement, although credit amounts for the remainder of the years
5 of the eligibility period shall remain available to the eligible
6 business.

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

10 d. (1) Upon receipt by the director of the certificate of
11 compliance, the director shall allow the eligible business a tax
12 credit. The eligible business may apply the credit allowed by the
13 director against the eligible business's tax liability for the tax period
14 in which the director allowed the tax credit or may carry forward
15 the credit for use by the eligible business in any of the next seven
16 successive tax periods, which credit shall expire thereafter.

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

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

42 (3) The director shall prescribe the order of priority of the
43 application of the credit allowed under this section and any other
44 credits allowed by law against the tax imposed under section 5 of
45 P.L.1945, c.162 (C.54:10A-5). The amount of a credit applied
46 under this section against the tax imposed pursuant to section 5 of
47 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with
48 any other credits allowed by law, shall not reduce the tax liability to

1 an amount less than the statutory minimum provided in subsection
2 (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

3 (4) In lieu of applying any credit certificate or credit transfer
4 certificate against tax liability otherwise due pursuant to section 5
5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945,
6 c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231
7 (C.17:32-15), or N.J.S.17B:23-5, the credit certificate or credit
8 transfer certificate may be surrendered to the Division of Taxation
9 in the Department of the Treasury for a cash payment equal to 90
10 percent of the amount of tax credits evidenced by the certificate,
11 provided that the issuance date of the credit certificate or credit
12 transfer certificate to the taxpayer surrendering such certificate
13 occurred at least two years prior to the date of surrender and the
14 credit certificate or credit transfer certificate has not been sold or
15 assigned previously.

16 (cf: P.L.2020, c.156, s.77)

17

18 38. Section 79 of P.L.2020, c.156 (C.52:27D-520) is amended to
19 read as follows:

20 79. a. The authority shall establish a dedicated fund to be
21 known as the "Recovery Infrastructure Fund." Money in the fund
22 shall be dedicated to the purpose of funding local infrastructure,
23 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
36 of P.L.2020, c.156 (C.34:1B-339).

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.2020, c.156
39 (C.34:1B-339) shall be earmarked for use on local infrastructure
40 projects in the municipality in which the eligible business's project
41 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 regulations

1 promulgated by the authority pursuant to paragraph (1) of
2 subsection 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
6 the local infrastructure projects funded through the Recovery
7 Infrastructure Fund.

8 f. (1) **【The】** Notwithstanding the provisions of the
9 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
10 seq.), to the contrary, the chief executive officer of the authority
11 **【shall】** may adopt, immediately upon filing with the Office of
12 Administrative Law, rules and regulations that the chief executive
13 officer deems necessary to effectuate the purposes of subsections a.
14 through d. of this section, which rules and regulations shall be
15 effective for a period not to exceed 360 days from the date of the
16 filing. The chief executive officer shall thereafter amend, adopt, or
17 readopt the rules and regulations 【pursuant to the "Administrative
18 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate
19 the purposes of subsections a. through d. of this section】 in
20 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
21 et seq.).

22 (2) **【The】** Notwithstanding the provisions of the
23 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
24 seq.), to the contrary, the Commissioner of the Department of
25 Community Affairs 【shall】 may adopt, immediately upon filing
26 with the Office of Administrative Law, rules and regulations that
27 the commissioner deems necessary to effectuate the purposes of
28 subsection e. of this section, which rules and regulations shall be
29 effective for a period not to exceed 360 days from the date of the
30 filing. The commissioner shall thereafter amend, adopt, or readopt
31 the rules and regulations 【pursuant to the "Administrative
32 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate
33 the purposes of subsection e. of this section】 in accordance with the
34 requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

35 (cf: P.L.2020, c.156, s.79)

36

37 39. Section 83 of P.L.2020, c.156 (C.34:1B-350) is amended to
38 read as follows:

39 83. As used in sections 82 through 88 of P.L.2020, c.156
40 (C.34:1B-349 et al.):

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

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

46 "Eligible microbusiness" means a business enterprise located in
47 the State that produces goods or provides services and has fewer

1 than 10 full-time **【equivalent】** employees and annual gross revenue
2 of less than **【\$1,000,000】** \$1,500,000 at the time of application for
3 a loan under the program.

4 "Eligible small business" means any business that satisfies the
5 criteria set forth in subsection b. of section 85 of P.L.2020, c.156
6 (C.34:1B-352) at the time of application for a grant under the
7 program.

8 "Program" means the Main Street Recovery Finance Program
9 established pursuant to section 84 of P.L.2020, c.156 (C.34:1B-
10 351).

11 "Small business" means a business engaged in the conduct of a
12 trade or business in this State that qualifies as a "small business
13 concern" within the meaning of the federal "Small Business Act,"
14 Pub.L.85-536 (15 U.S.C. § 631 et seq.) for the purpose of the small
15 business's eligibility assistance from the United States Small
16 Business Administration.
17 (cf: P.L.2020, c.156, s.83)

18

19 40. Section 84 of P.L.2020, c.156 (C.34:1B-351) is amended to
20 read as follows:

21 84. The Main Street Recovery Finance Program is hereby
22 established as a program under the jurisdiction of the New Jersey
23 Economic Development Authority. The authority shall administer
24 the program for the purpose of providing grants, loans, and loan
25 guarantees to eligible small businesses in accordance with the
26 provisions of sections 82 through 88 of P.L.2020, c.156 (C.34:1B-
27 349 et al.). A business seeking a grant, loan, or loan guarantee
28 under the program shall submit an application to the authority. The
29 authority shall adopt eligibility criteria for the program and may
30 consider a business's benefit to the community in which it is
31 situated and the degree to which the business enhances **【and**
32 **promotes job creation and】** economic development in communities
33 that have been severely impacted by the COVID-19 pandemic when
34 making awards under the program.
35 (cf: P.L.2020, c.156, s.84)

36

37 41. Section 85 of P.L.2020, c.156 (C.34:1B-352) is amended to
38 read as follows:

39 85. a. As part of the Main Street Recovery Finance Program,
40 the authority shall provide grants to eligible small businesses from
41 the Main Street Recovery Fund, subject to appropriation or the
42 availability of federal funds, provided that **【not less than 40 percent**
43 **of such funds shall be made available to eligible microbusinesses**
44 **certified by the State as a "minority business" or a "women's**
45 **business" pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.)】** the
46 authority shall undertake a disparity study of the relative
47 availability of capital and related banking resources for small

1 businesses and microbusiness that are women- and minority-owned
2 business enterprises in this State and the authority's historic support
3 of such businesses, and, as recommended by the study, shall
4 establish policies, practices, protocols, and, if appropriate,
5 minimum percentages of the fund to be set aside for eligible small
6 businesses and microbusinesses that are minority-owned business
7 enterprises or women-owned business enterprises. Grants awarded
8 pursuant to the program may be used by an eligible small business
9 for capital improvements or to cover operating expenses. The
10 authority may dedicate up to 10 percent of **[any]** the amount
11 appropriated for the purposes of this section to provide technical
12 assistance grants to for-profit or non-profit entities that are
13 experienced in providing technical assistance services or to eligible
14 microbusinesses to help such eligible microbusinesses in applying
15 for the grants authorized under this section.

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

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

24 (b) each worker employed by the small business shall be paid
25 not less than \$15 per hour or 120 percent of the minimum wage
26 fixed under subsection a. of section 5 of P.L.1966, c.113 (C.34:11-
27 56a4), whichever is higher, except an employee who customarily
28 and regularly receives gratuities or tips shall be paid not less than
29 120 percent of the minimum wage.

30 (2) In addition to the requirements of paragraph (1) of this
31 subsection, a small business shall be eligible to receive a grant
32 pursuant to this subsection for capital improvements only if the
33 small business demonstrates to the authority at the time of
34 application that:

35 (a) any capital improvement in excess of \$50,000 and
36 undertaken with grant funds shall comply with standards established
37 by the authority in accordance with the green building manual
38 prepared by the Commissioner of Community Affairs pursuant to
39 section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding the use of
40 renewable energy, energy-efficient technology, and non-renewable
41 resources to reduce environmental degradation and encourage long-
42 term cost reduction; and

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

1 c. **【Prior to March 1, 2025, an】** An eligible small business
2 seeking a grant pursuant to this section shall submit an application
3 for approval to the authority in the form and manner prescribed in
4 regulations adopted by the authority pursuant to the provisions of
5 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
6 seq.). Before the board may consider an eligible small business's
7 application for grants, the authority shall confirm with 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 eligible small business is in substantial good standing
12 with the respective department, or has entered into an agreement
13 with the respective department that includes a practical corrective
14 action plan for the eligible small business. The authority may also
15 contract with an independent third party to perform a background
16 check on the eligible small business. The eligible small business, or
17 an authorized agent thereof, shall certify under the penalty of
18 perjury that any information provided in the application required
19 pursuant to this subsection is true.

20 d. Following approval **【by the board】** of an application, but
21 before the disbursement of grant funds, the authority shall require
22 an eligible small business to enter into a grant agreement. The
23 grant agreement shall specify the amount of the grant to be awarded
24 the eligible small business and the frequency of payments. If the
25 authority determines that an eligible small business made a material
26 misrepresentation on the eligible small business's grant application
27 or the eligible small business has **【filed】** failed to comply with any
28 requirement set forth in **【paragraphs (1) through (4) of】** subsection
29 b. of this section, then the small business shall return to the
30 authority any grant awarded pursuant to this section.

31 (cf: P.L.2020, c.156, s.85)

32

33 42. Section 86 of P.L.2020, c.156 (C.34:1B-353) is amended to
34 read as follows:

35 86. a. As part of the Main Street Recovery Finance Program,
36 the authority shall make loans and grants available from the Main
37 Street Recovery Fund, subject to annual appropriation and the
38 availability of funds, to eligible community development finance
39 institutions, minority depository institutions, and other eligible
40 lenders pursuant to subsection b. of this section and to eligible
41 microbusinesses pursuant to subsection c. of this section, provided
42 that **【not less than 40 percent of such】** funds shall be made
43 available to eligible microbusinesses certified by the State as a
44 "minority business" or a "women's business" pursuant to P.L.1986,
45 c.195 (C.52:27H-21.17 et seq.) in a manner consistent with
46 authority requirements within paragraph a. of section 85 of
47 P.L.2020, c.156 (C.34:1B-352). The authority may dedicate up to

1 10 percent of **【any】** the amount appropriated for the purposes of
2 this section to provide technical assistance grants to for-profit or
3 non-profit entities that are experienced in providing technical
4 assistance services or to eligible microbusinesses to help such
5 eligible microbusinesses in applying for loan packaging services
6 under the programs authorized to receive grants and loans pursuant
7 to this section.

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

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

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

39 d. Prior to March 1, 2025, an eligible community development
40 finance institution, minority depository institution, or other eligible
41 lender seeking a loan or a grant pursuant to subsection b. of this
42 section or an eligible microbusiness seeking a loan pursuant to
43 subsection c. of this section shall submit an application for approval
44 to the authority in the form and manner prescribed in regulations
45 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.). Before the authority may **【consider】** approve an application,
48 the authority shall confirm with the Department of Labor and

1 Workforce Development, the Department of Environmental
2 Protection, and the Department of the Treasury [shall each report to
3 the chief executive officer of the authority] whether the applicant is
4 in substantial good standing with the respective department, or has
5 entered into an agreement with the respective department that
6 includes a practical corrective action plan for the applicant. The
7 authority may also contract with an independent third party to
8 perform a background check on the applicant. The applicant, or an
9 authorized agent thereof, shall certify under the penalty of perjury
10 that any information provided in the application required pursuant
11 to this subsection is true.

12 (cf: P.L.2020, c.156, s.86)

13

14 43. Section 87 of P.L.2020, c.156 (C.52:18A-262) is amended to
15 read as follows:

16 87. a. To aid in the economic recovery of those communities
17 most impacted by the COVID-19 pandemic and to better ensure
18 their long-term economic growth, there is created the "Main Street
19 Recovery Fund" to be held by the State Treasurer and administered
20 by the authority. All moneys deposited in the fund shall be held
21 and disbursed in the amounts necessary to fulfill the purposes of
22 providing grants and loans related to an identified program that is
23 administered by the authority pursuant to sections 85 and 86 of
24 P.L.2020, c.156 (C.34:1B-352 and C.34:1B-353) [and] , for the
25 purposes enumerated in subsection b. of this section, and for
26 reasonable administrative costs of implementing sections 82
27 through 88 of P.L.2020, c.156 (C.34:1B-349 et al.). The fund may
28 be credited with pay backs; bonuses; entitlements; money received
29 from the federal government; transfers; grants; gifts; bequests;
30 moneys appropriated by the Legislature; or any other money made
31 available from any source. The State Treasurer, in consultation
32 with the authority, may invest and reinvest any moneys in the fund
33 in the State Treasurer's discretion. Any income from, interest on, or
34 increment to moneys so invested or reinvested shall be included in
35 the fund.

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

1 c. (1) The **【State Treasurer】** chief executive officer of the
2 authority shall monitor the activities of the beneficiaries of the loan
3 guarantees issued pursuant to this section on an annual basis to
4 ensure compliance with the terms and conditions imposed on the
5 recipient by the chief executive officer.

6 (2) An entity receiving a loan guarantee and the beneficiaries of
7 such loan guarantee under this section shall provide the **【State**
8 **Treasurer】** authority with an annual accounting of how the benefit it
9 received from the fund was applied.

10 (3) The authority, at the time the annual accounting required
11 under paragraph (2) of this 【section】 subsection is provided, shall
12 **【include certifications by】** confirm with the Department of Labor
13 and Workforce Development, the Department of Environmental
14 Protection, and the Department of the Treasury that the entity and
15 the beneficiaries are in substantial good standing with the respective
16 departments, or have entered into an agreement with the respective
17 department that includes a practical corrective action plan.

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

21 (cf: P.L.2020, c.156, s.87)

22
23 44. Section 90 of P.L.2020, c.156 (C.34:1B-355) is amended to
24 read as follows:

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

35 b. The working group shall consist of **【seven】** 14 members
36 appointed by the chief executive officer of the New Jersey
37 Economic Development Authority.

38 c. Appointments to the working group shall be made within 30
39 days after the effective date of **【this act】** P.L. _____, c. _____ (pending
40 before the Legislature as this bill). Vacancies in the membership of
41 the working group shall be filled in the same manner as the original
42 appointments were made.

43 d. Members of the working group shall serve without
44 compensation, but the authority shall reimburse such members for
45 actual expenses necessarily incurred in the discharge of their duties.

1 e. Members of the working group shall be subject to the
2 provisions of subsection l. of section 4 of P.L.1974, c.80 (C.34:1B-
3 4).

4 (cf: P.L.2020, c.156, s.90)

5
6 45. Section 93 of P.L.2020, c.156 (C.34:1B-357) is amended to
7 read as follows:

8 93. As used in sections 92 through 97 of P.L.2020, c.156
9 (C.34:1B-356 through C.34:1B-361):

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
15 of rent in a collaborative workspace.

16 "Collaborative workspace" means a business facility certified
17 pursuant to section 95 of P.L.2020, c.156 (C.34:1B-359), located in
18 this State, developed to provide flexible workspaces for early stage
19 innovation economy businesses, and designed to encourage
20 community and collaboration within an inter-connected
21 environment in which multiple start-up businesses have access to
22 shared community events and shared workplace accommodations
23 including, but not limited to, kitchens and makerspaces.

24 "Collaborative workspace commitment period" means a period of
25 months equal to one-half the number of months of the authority
26 commitment period.

27 "Community event" means an event hosted by a collaborative
28 workspace and accessible to start-up tenant or member businesses,
29 without charge or with nominal charge, organized to support an
30 innovation ecosystem, as defined in section 21 of P.L.2020, c.156
31 (C.34:1B-289), at the collaborative workspace, including, but not
32 limited to, events such as meet-ups, speaker series, and office hours
33 for lawyers, accountants, consultants, or investors.

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

46 "Full time employee" means a person who is: employed by the
47 start-up tenant or member business for at least 35 hours a week;
48 working as an independent contractor providing critical capabilities

1 to the start-up tenant or member business for at least 35 hours a
2 week; or an owner or partner of the start-up tenant or member
3 business who works for at start-up tenant or member business for at
4 least 35 hours a week.

5 "Grant agreement" means an agreement between the authority
6 and the owner and operator of a collaborative workspace which
7 memorializes the terms and conditions of the collaborative
8 workspace's participation in the program.

9 "Program" means the New Jersey Ignite Program established
10 pursuant to section 94 of P.L.2020, c.156 (C.34:1B-358).

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

21 "Start-up rent grant" means a grant provided by the authority to a
22 collaborative workspace for the rent that would otherwise be due to
23 the collaborative workspace from a start-up tenant or member
24 business for the period of the authority commitment period.

25 "Start-up tenant or member business" means an early stage
26 innovation economy business that is registered to do business in
27 New Jersey, rents space in, or access to, a collaborative workspace
28 under the program, and enters into an agreement with the owner and
29 operator of the collaborative workspace to rent space in, or access
30 to, the collaborative workspace for an agreed upon period, which
31 shall include the authority commitment period, collaborative
32 workspace commitment period, and start-up tenant or member
33 business commitment period.

34 "Start-up tenant or member business commitment period" means
35 a period of months equal to the sum of the authority commitment
36 period and the collaborative workspace commitment period.
37 (cf: P.L.2020, c.156, s.93)

38

39 46. Section 96 of P.L.2020, c.156 (C.34:1B-360) is amended to
40 read as follows:

41 96. a. Up to the limits established in this subsection and in
42 accordance with the grant agreement, the authority shall provide
43 start-up rent grants to the owner and operator of a collaborative
44 workspace through a series of scheduled payments as set forth in
45 the grant agreement. The owner and operator of the collaborative
46 workspace shall utilize the grant funding to provide rent-free space
47 to a start-up tenant or member business that agrees to continue
48 renting space in, or access to, the collaborative workspace for the

1 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
4 or member business shall not exceed \$25,000, including bonus
5 months. The maximum aggregate amount of start-up rent grants
6 that the authority may provide to an approved collaborative
7 workspace in a calendar year shall not exceed \$100,000.

8 b. The authority may provide a start-up rent grant for the
9 payment of rent for space in, or access to, a collaborative workspace
10 for up to six months; provided, however, if a collaborative
11 workspace or start-up tenant or member business satisfies any of the
12 bonuses set forth in paragraphs (1) through (5) of this subsection,
13 then the authority may provide an additional month of rent for each
14 bonus satisfied by the collaborative workspace or start-up tenant or
15 member business. Additional months of rent provided by the
16 authority for bonus criteria satisfied by a collaborative workspace
17 or start-up tenant or member business shall first be applied to the
18 start-up tenant or member business commitment period, followed by
19 the collaborative workspace commitment period. Any bonus
20 months provided in excess of the combined commitment periods
21 shall be forfeited. The authority may award a bonus **【**to the owner
22 and operator of a collaborative workspace**】** month if:

23 (1) the collaborative workspace is located in a qualified
24 opportunity zone designated pursuant to 26 U.S.C. s.1400Z-1;

25 (2) the collaborative workspace is affiliated with a hospital
26 system or a New Jersey university;

27 (3) the collaborative workspace has been open less than 90 days
28 from the date on which the owner and operator of the collaborative
29 workspace applied to the authority to participate in the program and
30 the collaborative workspace is not in the same location as an
31 existing facility;

32 (4) the start-up tenant or member business for which the start-up
33 rent grant is paid is certified by the State as a "minority business" or
34 a "women's business" pursuant to P.L.1986, c.195 (C.52:27H-21.17
35 et seq.); or

36 (5) the start-up tenant or member business for which the start-up
37 rent grant is paid is the first presence of a foreign company entering
38 into the United States.

39 c. (1) The owner and operator of a collaborative workspace
40 shall annually certify to the authority, under the penalty of perjury,
41 that it is in compliance with the grant agreement.

42 (2) In addition to the certification required pursuant to
43 paragraph (1) of this subsection, the authority shall conduct an
44 annual inspection and review of the collaborative workspace and
45 may request documentation evidencing that the collaborative
46 workspace utilized the start-up rent grant it received from the
47 authority in accordance with the requirements of the program and
48 the grant agreement.

1 d. (1) If a start-up tenant or member business stops occupying or
2 accessing a collaborative workspace before the end of the start-up
3 tenant or member business commitment period, then the
4 collaborative workspace shall refund to the authority that portion of
5 the start-up rent grant covering any period in which the start-up
6 tenant or member business did not have space in, or access to, the
7 collaborative workspace.

8 (2) If the authority determines that a collaborative workspace is
9 not in compliance with the requirements of the program or of the
10 grant agreement, then the authority **[shall]** may rescind the
11 business facility's certification as a collaborative workspace and bar
12 the business facility from further participation in the program.

13 (cf: P.L.2020, c.156, s.96)

14
15 47. Section 98 of P.L.2020, c.156 (C.34:1B-362) is amended to
16 read as follows:

17 98. a. The combined value of all tax credits awarded under the
18 "Historic Property Reinvestment Act," sections 1 through 8 of
19 P.L.2020, c.156 (C.34:1B-269 through C.34:1B-276), the
20 "Brownfield Redevelopment Incentive Program Act," sections 9
21 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287),
22 the "New Jersey Innovation Evergreen Act," sections 20 through 34
23 of P.L.2020, c.156 (C.34:1B-288 through C.34:1B-302), the "Food
24 Desert Relief Act," sections 35 through 42 of P.L.2020, c.156
25 (C.34:1B-303 through C.34:1B-310), the "New Jersey Community-
26 Anchored Development Act," sections 43 through 53 of P.L.2020,
27 c.156 (C.34:1B-311 through C.34:1B-321); the "New Jersey Aspire
28 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
29 322 through C.34:1B-335); **[and]** the "Emerge Program Act,"
30 sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.); and
31 section 6 of P.L.2010, c.57 (C.34:1B-209.4) shall not exceed an
32 overall cap of \$11.5 billion over a seven-year period, subject to the
33 conditions and limitations set forth in this section. Of this \$11.5
34 billion, \$2.5 billion shall be reserved for transformative projects
35 approved under the Aspire Program **[or the Emerge Program]**.

36 b. (1) The total value of tax credits awarded under any
37 constituent program of the "New Jersey Economic Recovery Act of
38 2020," P.L.2020, c.156 (C.34:1B-269 et al.) shall be subject to the
39 following annual limitations, except as otherwise provided in
40 subsection c. of this section:

41 (a) for tax credits awarded under the "Historic Property
42 Reinvestment Act," sections 1 through 8 of P.L.2020, c.156
43 (C.34:1B-269 through C.34:1B-276), the total value of tax credits
44 annually awarded during each of the first six years of the seven-year
45 period shall not exceed \$50 million;

46 (b) for tax credits awarded under the "Brownfield
47 Redevelopment Incentive Program Act," sections 9 through 19 of
48 P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287), the total

1 value of tax credits annually awarded during each of the first six
2 years of the seven-year period shall not exceed \$50 million;

3 (c) for tax credits awarded under the "New Jersey Innovation
4 Evergreen Act," sections 20 through 34 of P.L.2020, c.156
5 (C.34:1B-288 through C.34:1B-302), the total value of tax credits
6 annually awarded during each of the first six years of the seven-year
7 period shall not exceed \$60 million and the total value of tax credits
8 awarded over the entirety of the seven-year program shall not
9 exceed \$300,000,000;

10 (d) for tax credits awarded under the "Food Desert Relief Act,"
11 sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through
12 C.34:1B-310), the total value of tax credits annually awarded during
13 each of the first six years of the seven-year period shall not exceed
14 \$40 million;

15 (e) for tax credits awarded under the "New Jersey Community-
16 Anchored Development Act," sections 43 through 53 of P.L.2020,
17 c.156 (C.34:1B-311 through C.34:1B-321), the total value of tax
18 credits annually awarded during each of the first six years of the
19 seven-year period shall not exceed \$200 million, except that during
20 each of the first six years of the seven-year period, the authority
21 shall annually award tax credits valuing no greater than \$130
22 million for projects located in the 13 northern counties of the State,
23 and the authority shall annually award tax credits valuing no greater
24 than \$70 million for projects located in the eight southern counties
25 of the State. If during any of the first six years of the seven-year
26 period, the authority awards tax credits in an amount less than the
27 annual limitation for projects located in northern counties or
28 southern counties, as applicable, the uncommitted portion of the
29 annual limitation shall be available to be deployed by the authority
30 in a subsequent year, provided that the uncommitted portion of tax
31 credits shall be awarded for projects located in the applicable
32 geographic area, except that (i) after the completion of the third
33 year of the seven-year period, the authority may deploy 50 percent
34 of the uncommitted portion of tax credits from any previous year
35 without consideration to the county in which a project is located;
36 and (ii) after the completion of the sixth year of the seven-year
37 period, the authority may deploy all available tax credits, including
38 the uncommitted portion of the annual limitation for any previous
39 year, without consideration to the county in which a project is
40 located;

41 (f) for tax credits awarded under the "New Jersey Aspire
42 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
43 322 through C.34:1B-335), and the "Emerge Program Act," sections
44 68 through 81 of P.L.2020, c.156 [(C.34:1B-34:1B-336 et al.)]
45 (C.34:1B-336 et al.), not including tax credits awarded for
46 transformative projects, the total value of tax credits annually
47 awarded during each of the first six years of the seven-year period
48 shall not exceed \$1.1 billion **[**, except that during **]** . If the authority

1 awards tax credits in an amount less than the annual limitation, then
2 the uncommitted portion of the annual limitation shall be made
3 available for qualified offshore wind projects awarded under section
4 6 of P.L.2010, c.57 (C.34:1B-209.4), pursuant to subparagraph (h)
5 of this paragraph, or New Jersey studio partners awarded under
6 sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-
7 12b), pursuant to subparagraph (i) of this paragraph. During each
8 of the first six years of the seven-year period, the authority shall
9 annually award tax credits valuing no greater than \$715 million for
10 projects located in the northern counties of the State, and the
11 authority shall annually award tax credits valuing no greater than
12 \$385 million for projects located in the southern counties of the
13 State under the "New Jersey Aspire Program Act," sections 54
14 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335),
15 and the "Emerge Program Act," sections 68 through 81 of P.L.2020,
16 c.156 (C.34:1B-336 et al.). If during any of the first six years of the
17 seven-year period, the authority awards tax credits under the "New
18 Jersey Aspire Program Act," sections 54 through 67 of P.L.2020,
19 c.156 (C.34:1B-322 through C.34:1B-335), and the "Emerge
20 Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-
21 336 et al.), in an amount less than the annual limitation for projects
22 located in northern counties or southern counties, as applicable, the
23 uncommitted portion of the annual limitation shall be available to
24 be deployed by the authority in a subsequent year, provided that the
25 uncommitted portion of tax credits shall be awarded for projects
26 located in the applicable geographic area, except that (i) after the
27 completion of the third year of the seven-year period, the authority
28 may deploy 50 percent of the uncommitted portion of tax credits for
29 any previous year without consideration to the county in which a
30 project is located; and (ii) after the completion of the sixth year of
31 the seven-year period, the authority may deploy all available tax
32 credits, including the uncommitted portion of the annual limitation
33 for any previous year, without consideration to the county in which
34 a project is located; **【and】**

35 (g) for tax credits awarded for transformative projects under the
36 "New Jersey Aspire Program Act," sections 54 through 67 of
37 P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335) **【,** and the
38 "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156
39 (C.34:1B-336 et al.)**】**, the total value of tax credits awarded during
40 the seven-year period shall not exceed \$2.5 billion. The total value
41 of tax credits awarded for transformative projects in a given year
42 shall not be subject to an annual limitation, except that **【no more**
43 **than 10 transformative projects shall be awarded tax credits during**
44 **the seven-year period, and】** the total value of tax credits awarded to
45 any transformative project shall not exceed **【\$250】** \$350 million;

46 (h) from the tax credits made available, pursuant to
47 subparagraph (f) of this paragraph, to the "New Jersey Aspire

1 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
2 322 through C.34:1B-335), and the "Emerge Program Act," sections
3 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not
4 including tax credits awarded for transformative projects, an
5 amount not to exceed \$350,000,000 shall be made available for
6 qualified offshore wind projects awarded a credit pursuant to
7 section 6 of P.L.2010, c.57 (C.34:1B-209.4) during the first three
8 years of the seven-year period; and

9 (i) beginning in fiscal year 2025, from the tax credits made
10 available, pursuant to subparagraph (f) of this paragraph, to the
11 "New Jersey Aspire Program Act," sections 54 through 67 of
12 P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the
13 "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156
14 (C.34:1B-336 et al.), not including tax credits awarded for
15 transformative projects, additional amounts shall be made available
16 for New Jersey studio partners pursuant to sections 1 and 2 of
17 P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b).

18 (2) The authority may in any given year determine that it is in
19 the State's interest to approve an amount of tax credits in excess of
20 the annual limitations set forth in paragraph (1) of this subsection,
21 but in no event more than \$200,000,000 in excess of the annual
22 limitation, upon a determination by the authority board that such
23 increase is warranted based on specific criteria that may include:

24 (i) the increased demand for opportunities to create or retain
25 employment and investment in the State as indicated by the volume
26 of project applications and the amount of tax credits being sought
27 by those applications;

28 (ii) the need to protect the State's economic position in the event
29 of an economic downturn;

30 (iii) the quality of project applications and the net economic
31 benefit to the State and municipalities associated with those
32 applications;

33 (iv) opportunities for project applications to strengthen or protect
34 the competitiveness of the state under the prevailing market
35 conditions;

36 (v) enhanced access to employment and investment for
37 underserved populations in distressed municipalities and qualified
38 incentives tracts;

39 (vi) increased investment and employment in high-growth
40 technology sectors and in projects that entail collaboration with
41 education institutions in the State;

42 (vii) increased development proximate to mass transit facilities;

43 (viii) any other factor deemed relevant by the authority.

44 c. In the event that the authority in any year approves projects
45 for tax credits in an amount less than the annual limitations set forth
46 in paragraph (1) of subsection b. of this section, then the
47 uncommitted portion of the annual limitation shall be available to
48 be deployed by the authority in future years for projects under the

1 same program; provided however, that in no event shall the
2 aggregate amount of tax credits approved be in excess of the overall
3 cap of \$11.5 billion, and in no event shall the uncommitted portion
4 of the annual limitation for any previous year be deployed after the
5 conclusion of the seven-year period.

6 (cf: P.L.2020, c.156, s.98)

7
8 48. Section 101 of P.L.2020, c.156 (C.34:1B-365) is amended to
9 read as follows:

10 101. a. The New Jersey Economic Development Authority shall
11 employ a Chief Compliance Officer, who shall be appointed by the
12 Chief Executive Officer of the authority **【to manage the Division of**
13 **Portfolio Management and Compliance in the authority】**.

14 b. The Chief Compliance Officer shall:

15 (1) create, maintain, monitor, and coordinate procedures to
16 ensure that all economic development incentive programs, authority
17 employees, and economic development incentive program
18 applicants and recipients comply fully with the requirements of the
19 corresponding economic development incentive program;

20 (2) **【conduct,】** on such periodic basis as determined by the
21 authority, arrange for systematic audits of economic development
22 incentive programs for compliance with the laws, regulations,
23 codes, orders, procedures, advisory opinions and rulings concerning
24 those programs;

25 (3) maintain a central database of information concerning the
26 management of all economic development incentive programs and
27 information on economic development incentive program applicants
28 and recipients to provide for the regular and ongoing reporting,
29 verification, and monitoring of the State's economic development
30 incentive programs;

31 (4) prior to the adoption of any rule or regulation by the
32 authority or the board related to the general administration of the
33 programs administered by the authority pursuant to section 6 of
34 P.L.2020, c.156 (C.34:1B-274), section 19 of P.L.2020, c.156
35 (C.34:1B-287), section 29 of P.L.2020, c.156 (C.34:1B-297),
36 section 34 of P.L.2020, c.156 (C.34:1B-302), section 41 of
37 P.L.2020, c.156 (C.34:1B-309), section 52 of P.L.2020, c.156
38 (C.34:1B-320), section 67 of P.L.2020, c.156 (C.34:1B-335),
39 section 79 of P.L.2020, c.156 (C.52:27D-520), section 88 of
40 P.L.2020, c.156 (C.34:1B-354), and section 97 of P.L.2020, c.156
41 (C.34:1B-361), or any other regulation specifically related to the
42 recapture of economic development incentive award values, review
43 and certify that the provisions of program rules or regulations
44 provide the authority with adequate procedures to pursue the
45 recapture of the value of an economic development incentive in the
46 case of substantial noncompliance, fraud, or abuse by the economic
47 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
12 P.L.2020, c.156 (C.34:1B-363 through C.34:1B-369) and**】** within
13 six months of receiving notice of any program deficiency issued by
14 the Economic Development Inspector General, that is designed to
15 enable the authority to properly manage the economic development
16 incentive programs administered by the authority **【**, and adopt rules
17 and regulations concerning the administration and enforcement of
18 the Division of Portfolio Management and Compliance's duties in a
19 manner that is most compatible with ensuring against fraud and
20 abuse in the State's economic development incentive programs**】**.

21 d. To ensure against economic development incentive fraud,
22 waste, and abuse, the authority may recapture all or any portion of
23 the value of an economic development incentive awarded pursuant
24 to any of the authority's economic development incentive programs
25 in the case of substantial noncompliance, fraud, or abuse by the
26 economic development incentive recipient. The authority may
27 incorporate provisions in the regulations for each economic
28 development incentive program that the authority deems necessary
29 to implement this subsection.

30 (cf: P.L.2020, c.156, s.101)

31

32 49. Section 102 of P.L.2020, c.156 (C.34:1B-366) is amended to
33 read as follows:

34 102. a. There is established, in but not of the **【authority】**
35 Department of the Treasury, the Office of the Economic
36 Development Inspector General, which shall operate independent of
37 the oversight or management of the Chief Executive Officer **【of】**
38 and the authority. The Office of the Economic Development
39 Inspector General shall operate under the Economic Development
40 Inspector General, who shall be a retired member of the Judicial
41 Branch of the State, to be appointed by the Governor with the
42 advice and consent of the Senate for a term of four years. The
43 Economic Development Inspector General shall direct the work of
44 the Office of the Economic Development Inspector General and
45 have the following general functions, duties, powers, and
46 responsibilities:

1 (1) to appoint such deputies, directors, assistants, and other
2 officers and employees as may be needed for the Office of the
3 Economic Development Inspector General to meet its
4 responsibilities, and to prescribe their duties and fix their
5 compensation within the amounts appropriated therefor;

6 (2) to conduct and supervise State government activities relating
7 to State economic development incentive integrity, fraud, and
8 abuse;

9 (3) to call upon any department, office, division, or agency of
10 State government to provide such information, resources, or other
11 assistance as the Economic Development Inspector General deems
12 necessary to discharge the duties and functions and to fulfill the
13 responsibilities of the Economic Development Inspector General
14 under sections 99 through 105 of P.L.2020, c.156 (C.34:1B-363
15 through C.34:1B-369). Each department, office, division, and
16 agency of this State shall cooperate with the Economic
17 Development Inspector General and furnish the Office of the
18 Economic Development Inspector General with the assistance
19 necessary to accomplish the purposes of sections 99 through 105 of
20 P.L.2020, c.156 (C.34:1B-363 through C.34:1B-369);

21 (4) to coordinate activities to prevent, detect, and investigate
22 economic development incentive fraud and abuse among the
23 following: the authority, State and local government officials, and
24 all economic development incentive applicants and recipients;

25 (5) to recommend and implement policies relating to economic
26 development incentive integrity, fraud, and abuse, and monitor the
27 implementation of any recommendations made by the Office of the
28 Economic Development Inspector General to the authority for the
29 administration of economic development incentives;

30 (6) to perform any other functions that are necessary or
31 appropriate in furtherance of the mission of the Office of the
32 Economic Development Inspector General; and

33 (7) to direct an economic development incentive applicant or
34 recipient to cooperate with the Office of the Economic
35 Development Inspector General and provide such information or
36 assistance as shall be reasonably required by the Office of the
37 Economic Development Inspector General.

38 b. As it relates to ensuring compliance with applicable
39 economic development incentive standards and requirements,
40 identifying and reducing fraud and abuse, and improving the
41 efficiency and effectiveness of economic development incentives,
42 the functions, duties, powers, and responsibilities of the Economic
43 Development Inspector General shall include, but not be limited to,
44 the following:

45 (1) to establish, in consultation with the authority and the
46 Attorney General, guidelines under which the withholding of
47 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,
8 claims, and all awards of economic development incentives to
9 determine compliance with applicable laws, regulations, guidelines,
10 and 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
15 the Economic Development Inspector General on matters that
16 concern the operation, upgrade, and implementation of the
17 economic 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 for 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.2020, c.156 (C.34:1B-365) if the
27 Economic Development Inspector General determines that a
28 program deficiency exists in an economic development incentive
29 program administered by the authority and to provide notice to the
30 Chief Executive Officer of the Authority of pending investigations
31 if the Economic Development Inspector General determines that
32 such disclosure is consistent with the public interest in maintaining
33 the integrity of an economic development incentive program
34 administered by the authority or to abate the continuation of fraud
35 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,
39 powers, and responsibilities of the Economic Development
40 Inspector General 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
45 development investigations of the Office of the Economic
46 Development Inspector General to the Attorney General, law
47 enforcement authorities, and any prosecutor of competent
48 jurisdiction, and endeavor to develop these economic development

1 investigations in a manner that expedites and facilitates criminal
2 prosecutions and the recovery of improperly expended economic
3 development incentives, including the maintenance of detailed
4 records for cases processed by the Economic Development
5 Inspector General. The records shall include: information on the
6 total number of cases processed and, for each case, the agency and
7 division to which the case is referred for an economic development
8 investigation; the date on which the case is referred; and the nature
9 of the suspected fraud or abuse.

10 (3) to provide information and evidence relating to suspected
11 criminal acts that the Economic Development Inspector General
12 may obtain in carrying out its duties to law enforcement officials
13 when appropriate, and to provide such information to the Attorney
14 General and county prosecutors in order to facilitate criminal
15 economic development investigations and prosecutions;

16 (4) to refer complaints alleging criminal conduct to the Attorney
17 General or other appropriate prosecutorial authority. The Economic
18 Development Inspector General shall maintain a record of all
19 matters referred to the Attorney General and shall be authorized to
20 disclose information received, as appropriate and as may be
21 necessary to resolve the matter referred, to the extent consistent
22 with the public interest in disclosure, the need for protecting the
23 confidentiality of complainants and informants, and preserving the
24 confidentiality of ongoing criminal economic development
25 investigations. Notwithstanding any referral made pursuant to this
26 subsection, the Economic Development Inspector General may
27 pursue any administrative or civil remedy under the law. A referral
28 by the inspector general to the Attorney General or a prosecutorial
29 authority shall in no way preclude the inspector general from
30 performing its own separate, independent investigation; and

31 (5) in furtherance of an economic development investigation, to
32 compel at a specific time and place, by subpoena, the appearance
33 and sworn testimony of any person whom the Economic
34 Development Inspector General reasonably believes may be able to
35 give information relating to a matter subject to an economic
36 development investigation:

37 (a) for this purpose, the Economic Development Inspector
38 General is empowered to administer oaths and examine witnesses
39 under oath, and compel any person to produce at a specific time and
40 place, by subpoena, any documents, books, records, papers, objects,
41 or other evidence that the Economic Development Inspector
42 General reasonably believes may relate to a matter subject to an
43 economic development investigation; and

44 (b) if any person to whom a subpoena is issued fails to appear
45 or, having appeared, refuses to give testimony, or fails to produce
46 the books, papers, or other documents required, the Economic
47 Development Inspector General may apply to the Superior Court
48 and the court may order the person to appear and give testimony or

1 produce the books, papers, or other documents, as applicable. Any
2 person failing to obey that order may be held by the court in
3 contempt;

4 (6) subject to applicable State law, to have full and unrestricted
5 access to all records, reports, audits, reviews, documents, papers,
6 data, recommendations, tax information provided to the authority
7 pursuant to subsection r. of R.S.54:50-9, or other material available
8 to the authority and other State and local government agencies with
9 respect to which the Office of the Economic Development Inspector
10 General has responsibilities under sections 102 through 105 of
11 P.L.2020, c.156 (C.34:1B-366 through C.34:1B-369);

12 (7) to solicit, receive, and investigate complaints related to
13 economic development incentive integrity, fraud, and abuse; and

14 (8) to prepare cases, provide expert testimony, and support
15 administrative hearings and other legal proceedings.

16 d. As it relates to recovering improperly obtained economic
17 development incentives, imposing administrative sanctions,
18 damages, or penalties, and negotiating settlements to assure that all
19 governmental resources have been properly expended, the
20 functions, duties, powers, and responsibilities of the Economic
21 Development Inspector General shall include, but not be limited to,
22 the following:

23 (1) to pursue civil and administrative enforcement actions
24 against those who engage in fraud, abuse, or illegal acts perpetrated
25 under economic development incentive programs. These civil and
26 administrative enforcement actions shall include the imposition of
27 administrative sanctions, penalties, suspension of fraudulent or
28 illegal awards, and actions for civil recovery and seizure of property
29 or other assets connected with such economic incentive awards;

30 (2) to initiate civil suits consistent with the provisions of
31 sections 99 through 105 of P.L.2020, c.156 (C.34:1B-363 through
32 C.34:1B-369), maintain actions for civil recovery on behalf of the
33 State, and enter into civil settlements;

34 (3) to require that the authority withhold payments to an
35 economic development incentive applicant or recipient if the
36 applicant or recipient unreasonably fails to produce complete and
37 accurate records related to an economic development investigation
38 that is initiated by the Office of the Economic Development
39 Inspector General with reasonable cause; and

40 (4) to monitor and pursue the recoupment of economic
41 development incentive awards or portions thereof, damages,
42 penalties, and sanctions.

43 (cf: P.L.2020, c.156, s.102)

44

45 50. Section 106 of P.L.2020, c.156 (C.54:10A-5.47) is amended
46 to read as follows:

47 106. a. For privilege periods ending in 2020, 2021, and 2022, a
48 taxpayer, upon approval of an application to the authority, shall be

1 allowed a credit against the tax imposed pursuant to section 5 of
2 P.L.1945, c.162 (C.54:10A-5) in the amount of \$10,000 for each
3 qualifying **[new hire]** full-time job involved in the manufacture of
4 personal protective equipment in a qualified facility in which the
5 taxpayer made a capital investment during the privilege period.

6 b. The minimum capital investment in a qualified facility
7 required to be eligible for a credit under this section shall be as
8 follows:

9 (1) for the rehabilitation, improvement, fit-out, or retrofit of an
10 existing premises in Atlantic County, Burlington County, Cape May
11 County, Cumberland County, Gloucester County, Ocean County, or
12 Salem County, a minimum investment of \$10 per square foot of
13 gross leasable area;

14 (2) for the rehabilitation, improvement, fit-out, or retrofit of an
15 existing premises in counties in the State not listed in paragraph (1)
16 of this subsection, a minimum investment of \$20 per square foot of
17 gross leasable area;

18 (3) for the new construction of a premises in Atlantic County,
19 Burlington County, Cape May County, Cumberland County,
20 Gloucester County, Ocean County, or Salem County, a minimum
21 investment of \$100 per square foot of gross leasable area; or

22 (4) for the new construction of a premises in counties in the
23 State not listed in paragraph (3) of this subsection, a minimum
24 investment of \$120 per square foot of gross leasable area.

25 c. The minimum number of new or retained qualifying full-
26 time jobs required to be eligible for a credit under this section shall
27 be as follows:

28 (1) for a qualified facility in Atlantic County, Burlington
29 County, Cape May County, Cumberland County, Gloucester
30 County, Ocean County, or Salem County, a minimum of five new or
31 15 retained qualifying full-time jobs; or

32 (2) for a qualified facility in counties in the State not listed in
33 paragraph (1) of this subsection, a minimum of ten new or 25
34 retained qualifying full-time jobs.

35 d. In addition to the amount of credit allowed pursuant to
36 subsection a. of this section, a taxpayer shall be allowed the
37 following tax credits for privilege periods ending in 2020, 2021,
38 and 2022:

39 (1) \$1,000 per qualifying full-time job in the privilege period at
40 a qualified facility that is a building vacant for not less than seven
41 years in need of rehabilitation with a minimum of 250,000 square
42 feet;

43 (2) \$1,500 per qualifying full-time job in the privilege period at
44 a qualified facility in which the manufacturing of personal
45 protective equipment is part of a research collaboration between the
46 taxpayer and a college or university located within the State; and

47 (3) \$1,000 per qualifying full-time job in the privilege period at
48 a qualified facility in which the taxpayer has established an

- 1 apprenticeship program or pre-apprenticeship program with a
2 technical school or county college located within the State.
- 3 e. The total credit allowed to a taxpayer pursuant to this section
4 during the privilege period shall not exceed \$500,000. A taxpayer
5 shall not be eligible for a tax credit under this section for the same
6 qualifying **【new hire】** full-time job for which the taxpayer is
7 receiving a tax credit incentive award under the Emerge Program
8 established by sections 68 through 81 of P.L.2020, c.156 (C.34:1B-
9 336 et al.).
- 10 f. Notwithstanding the minimum tax schedule imposed
11 pursuant to subsection (e) of section 5 of P.L.1945, c.162
12 (C.54:10A-5), if the amount of the tax credit allowed exceeds the
13 amount of corporation business tax otherwise due pursuant to
14 section 5 of P.L.1945, c.162 (C.54:10A-5), the amount of excess
15 shall be treated as a refundable overpayment except that interest
16 shall not be paid pursuant to section 7 of P.L.1992, c.175 (C.54:49-
17 15.1) on the amount of overpayment attributable to this credit
18 amount. The director shall determine the order of priority of the
19 application of the credit allowed pursuant to this section and any
20 other credits allowed by law.
- 21 g. The combined value of all tax credits approved by the
22 authority and the director pursuant to this section and pursuant to
23 section 2 of P.L.2020, c.156 (C.34:1B-270) shall not exceed
24 \$10,000,000 in any State fiscal year to apply against the tax
25 imposed pursuant to the "New Jersey Gross Income Tax Act,"
26 N.J.S.54A:1-1 et seq., and the tax imposed pursuant to section 5 of
27 P.L.1945, c.162 (C.54:10A-5).
- 28 h. An application for the tax credit shall be submitted to the
29 authority in a form and manner prescribed by the chief executive
30 officer of the authority. As a condition of receiving tax credits
31 under this section, an applicant shall be required to commit to
32 **【employ】** employing qualifying **【new hires】** full-time jobs for
33 which tax credits are awarded under this section for a period of five
34 years.
- 35 i. Notwithstanding any provision of the "Administrative
36 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
37 contrary, the **【director】** chief executive officer of the authority is
38 authorized to adopt immediately upon filing with the Office of
39 Administrative Law such rules and regulations shall be effective for
40 a period not to exceed 360 days following the date of filing and may
41 thereafter be amended, adopted, or readopted by the chief executive
42 officer of the authority in accordance with the requirements of
43 P.L.1968, c.410 (C.52:14B-1 et seq.). The chief executive officer
44 of the authority shall consult with the Commissioner of Health
45 related to any specification requirements for what manufactured
46 products are to qualify as personal protective equipment pursuant to
47 this section.
- 48 j. As used in this section:

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 "Director" means Director of the Division of Taxation in the
5 Department of the Treasury;

6 "Personal protective equipment" means coveralls, face shields,
7 gloves, gowns, masks, respirators, safeguard equipment, and other
8 equipment designed to protect the wearer from the spread of
9 infection or illness as may be modified from time to time by the
10 board of the authority.

11 "Qualified facility" means a facility that is:

12 (1) located in a redevelopment area or rehabilitation area as
13 defined in section 3 of P.L.1992, c.79 (C.40A:12A-3);

14 (2) located in a Smart Growth Area as identified by the Office
15 of Planning Advocacy;

16 (3) a facility in which the manufacturing of personal protective
17 equipment is part of a research collaboration between the taxpayer
18 and a college or university located within the State;

19 (4) a facility in which the taxpayer has established an
20 apprenticeship program or pre-apprenticeship program with a
21 technical school or community located within the State; or

22 (5) a building vacant for not less than seven years in need of
23 rehabilitation with a minimum of 250,000 square feet.

24 "Qualifying full-time job" means a full-time position in a
25 business in this State which the business has filled with a full-time
26 employee for the manufacturing of personal protective equipment in
27 this State. The employee shall be employed for at least 35 hours a
28 week and shall be paid employee wages at a rate of not less than
29 \$15 per hour, or render any other standard of service generally
30 accepted by custom or practice as full-time employment, whose
31 wages are subject to withholding as provided in the "New Jersey
32 Gross Income Tax Act," N.J.S.54A:1-1 et seq. and is paid employee
33 wages at a rate of not less than \$15 per hour. **["Qualifying new
34 hire"]** "Qualifying full-time job" shall not include any person who
35 works as an independent contractor or on a consulting basis for the
36 business. **["Qualifying new or retained job"]** "Qualifying full-time
37 job" includes only a position for which the taxpayer provides
38 employee health benefits under a health benefits plan authorized
39 pursuant to State or federal law.

40 (cf: P.L.2020, c.156, s.106)

41

42 51. Section 6 of P.L.2010, c.57 (C.34:1B-209.4) is amended to
43 read as follows:

44 6. a. (1) A business, upon application to and approval from
45 the authority, shall be awarded a credit of 100 percent of its capital
46 investment, made after the effective date of P.L.2010, c.57 (C.48:3-
47 87.1 et al.) but prior to its submission of documentation pursuant to
48 subsection c. of this section, in a qualified wind energy facility

1 located in the State, pursuant to the restrictions and requirements of
2 this section. The award of a tax credit pursuant to this section shall
3 be structured so that the **[authority]** award shall **[make]** consist of
4 up to **[four awards]** five compliance years, each equaling **[25]** 20
5 percent of the total value of the tax credit, to a qualified business
6 over four privilege periods or taxable years in which the business
7 meets the requirements for the minimum number of new, full-time
8 employees. Otherwise eligible businesses with between 150 and
9 300 new, full-time jobs may receive an award based on a prorated
10 formula developed by the authority, provided that the prorated
11 minimum number of new, full-time jobs required in the fifth year
12 shall be the same as the fourth year. To be eligible for any tax
13 credits authorized under this section, a business shall demonstrate to
14 the authority, at the time of application, that the State's financial
15 support of the proposed capital investment in a qualified wind
16 energy facility will yield a net positive benefit to the State. The
17 value of all credits approved by the authority pursuant to this
18 section **[may be up to \$100,000,000, except as may be increased by**
19 **the authority if the chief executive officer of the authority judges**
20 **certain qualified offshore wind projects to be meritorious]** shall not
21 exceed the \$350,000,000 made available under section 98 of
22 P.L.2020, c.156 (C.34:1B-362). Credits provided pursuant to this
23 section shall not be applicable to the cap on the credits provided in
24 section 3 of P.L.2007, c.346 (C.34:1B-209).

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

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

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

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

14 For the purposes of this paragraph, "full time employee" shall
15 not include an employee who is a resident of another state and
16 whose income is not subject to the "New Jersey Gross Income Tax
17 Act," N.J.S.54A:1-1 et seq., unless that state has entered into a
18 reciprocity agreement with the State of New Jersey.

19 (3) A business shall not be awarded a tax credit pursuant to this
20 section if the business receives a business employment incentive
21 grant pursuant to the "Business Employment Incentive Program
22 Act," P.L.1996, c.26 (C.34:1B-124 et al.), relating to the same
23 capital and employees that qualify the business for this credit, or if
24 the business receives assistance pursuant to the "Business Retention
25 and Relocation Assistance Act," P.L.1996, c.25 (C.34:1B-112 et
26 seq.). A business that is awarded a tax credit under this section
27 shall not be eligible for incentives authorized pursuant to the
28 "Municipal Rehabilitation and Economic Recovery Act," P.L.2002,
29 c.43 (C.52:27BBB-1 et al.).

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

33 b. A business shall apply for the credit by July 1, 2025, and a
34 business shall submit its documentation for approval of its credit
35 amount by July 1, 2028.

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

43 d. The amount of the credit awarded pursuant to this section
44 shall, except as otherwise provided, be equal to the capital
45 investment made by the business, or the capital investment
46 represented by the business's leased area, and shall be taken over a
47 five-year period, at the rate of one-fifth of the total amount of the
48 business's credit for each tax accounting or privilege period of the

1 business, beginning with the privilege period or taxable year in
2 which the business is first approved by the authority as having met
3 the investment capital and employment qualifications, subject to
4 any disqualification as determined by annual review by the
5 authority. 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. The credit
8 amount for any privilege period or taxable year ending after the date
9 18 years after the effective date of P.L.2007, c.346 (C.34:1B-207 et
10 seq.) during which the documentation of a business's credit amount
11 remains unapproved shall be forfeited, although credit amounts for
12 the remainder of the years of the five-year credit period shall
13 remain available. The amount of the credit awarded for a privilege
14 period or taxable year to a business that is a tenant in a qualified
15 wind energy facility shall not exceed the business's total lease
16 payments for occupancy of the qualified wind energy facility for the
17 privilege period or taxable year.

18 e. The authority shall adopt rules and regulations pursuant to
19 the "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
26 promulgation of procedures and forms necessary to apply for a
27 credit; and provisions for applicants to be charged an initial
28 application fee, and ongoing service fees, to cover the
29 administrative costs related to the 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,"
37 and "capital investment" shall have the same meanings as defined in
38 section 2 of the "Urban Transit Hub Tax Credit Act," P.L.2007,
39 c.346 (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
46 other wind energy project as determined by the authority, and that
47 indicates the number of new, full-time jobs to be created by the

1 agreement participants towards the employment requirement as set
2 forth in paragraph (2) of subsection a. of this section.

3 "Minimum number of new, full-time employees" means:

4 (1) for the first **【award】** year, at least a cumulative 100 new,
5 full-time employees compared to the number of full-time employees
6 at the time of application;

7 (2) **【for the second award,】** for a privilege period or taxable
8 year following the first **【award】** year, at least a cumulative 150
9 new, full-time employees compared to the number of full-time
10 employees at the time of application;

11 (3) **【for the third award,】** for a privilege period or taxable year
12 following the second **【award】** year, at least a cumulative 200 new,
13 full-time employees compared to the number of full-time employees
14 at the time of application; and

15 (4) **【for the fourth award,】** for a privilege period or taxable year
16 following the third **【award】** year and fourth year, at least a
17 cumulative 300 new, full-time employees compared to the number
18 of full-time employees at the time of application.

19 "Qualified offshore wind project" shall have the same meaning
20 as 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.

28 (cf: P.L.2020, c.156, s.109)

29

30 52. Section 1 of P.L.1997, c.334 (C.34:1B-7.42a) is amended to
31 read as follows:

32 1. a. The New Jersey Economic Development Authority shall
33 establish within the New Jersey Emerging Technology and
34 Biotechnology Financial Assistance Program established pursuant
35 to P.L.1995, c.137 (C.34:1B-7.37 et seq.), a corporation business
36 tax benefit certificate transfer program to allow new or expanding
37 emerging technology and biotechnology companies in this State
38 with unused amounts of research and development tax credits
39 otherwise allowable which cannot be applied for the credit's tax
40 year due to the limitations of subsection b. of section 1 of P.L.1993,
41 c.175 (C.54:10A-5.24) and unused prior net operating loss
42 conversion carryover or net operating loss carryover pursuant to
43 section 4 of P.L.1945, c.162 (C.54:10A-4), to surrender those tax
44 benefits for use by other corporation business taxpayers in this
45 State, provided that the taxpayer receiving the surrendered tax
46 benefits is not affiliated with a corporation that is surrendering its
47 tax benefits under the program established under P.L.1997, c.334.

1 For the purposes of this section, the test of affiliation is whether the
2 same entity directly or indirectly owns or controls five percent or
3 more of the voting rights or five percent or more of the value of all
4 classes of stock of both the taxpayer receiving the benefits and a
5 corporation that is surrendering the benefits. The tax benefits may
6 be used on the corporation business tax returns to be filed by those
7 taxpayers in exchange for private financial assistance to be provided
8 by the corporation business taxpayer that is the recipient of the
9 corporation business tax benefit certificate to assist in the funding
10 of costs incurred by the new or expanding emerging technology and
11 biotechnology company. For purposes of this subsection, a member
12 of a combined group may sell prior net operating loss conversion
13 carryover to other members of the combined group, if otherwise
14 applicable and allowable under section 2 of P.L.1997, c.334
15 (C.54:10A-4.2) and this section; provided, however, such sale of
16 prior net operating loss conversion carryover shall be made at arm's
17 length price at the same rate as though the sale was to an unrelated
18 taxpayer.

19 b. The authority, in cooperation with the Division of Taxation
20 in the Department of the Treasury, shall review and approve
21 applications by new or expanding emerging technology and
22 biotechnology companies in this State with unused but otherwise
23 allowable carryover of research and development tax credits
24 pursuant to section 1 of P.L.1993, c.175 (C.54:10A-5.24), and
25 unused but otherwise allowable prior net operating loss conversion
26 carryover or net operating loss carryover pursuant to section 4 of
27 P.L.1945, c.162 (C.54:10A-4), to surrender those tax benefits in
28 exchange for private financial assistance to be made by the
29 corporation business taxpayer that is the recipient of the corporation
30 business tax benefit certificate in an amount equal to at least **【80%】**
31 80 percent of the amount of the surrendered tax benefit. Provided
32 that the amount of the surrendered tax benefit for a surrendered
33 research and development tax credit carryover is the amount of the
34 credit, and provided that the amount of the surrendered tax benefit
35 for a surrendered prior net operating loss conversion carryover or
36 net operating loss carryover is that amount for the tax year in which
37 the benefit is transferred and subsequently multiplied by the
38 corporation business tax rate provided pursuant to subsection (c) of
39 section 5 of P.L.1945, c.162 (C.54:10A-5). The authority shall be
40 authorized to approve the transfer of no more than \$75,000,000 of
41 tax benefits in a State fiscal year. If the total amount of transferable
42 tax benefits requested to be surrendered by approved applicants
43 exceeds \$75,000,000 for a State fiscal year, the authority, in
44 cooperation with the Division of Taxation in the Department of the
45 Treasury, shall not be authorized to approve the transfer of more
46 than \$75,000,000 for that State fiscal year and shall allocate the
47 transfer of tax benefits by approved companies using the following
48 method:

1 (1) an eligible applicant with \$250,000 or less of transferable
2 tax benefits shall be authorized to surrender the entire amount of its
3 transferable tax benefits;

4 (2) an eligible applicant with more than \$250,000 of transferable
5 tax benefits shall be authorized to surrender a minimum of
6 \$250,000 of its transferable tax benefits;

7 (3) (Deleted by amendment, P.L.2009, c.90.)

8 (4) an eligible applicant with more than \$250,000 shall also be
9 authorized to surrender additional transferable tax benefits
10 determined by multiplying the applicant's transferable tax benefits
11 less the minimum transferable tax benefits that company is
12 authorized to surrender under paragraph (2) of this subsection by a
13 fraction, the numerator of which is the total amount of transferable
14 tax benefits that the authority is authorized to approve less the total
15 amount of transferable tax benefits approved under paragraphs (1),
16 (2), and (5) of this subsection and the denominator of which is the
17 total amount of transferable tax benefits requested to be surrendered
18 by all eligible applicants less the total amount of transferable tax
19 benefits approved under paragraphs (1), (2), and (5) of this
20 subsection;

21 (5) The authority shall establish the boundaries for three
22 innovation zones to be geographically distributed in the northern,
23 central, and southern portions of this State. Of the \$75,000,000 of
24 transferable tax benefits authorized for each State fiscal year,
25 ~~[\$10,000,000]~~ \$15,000,000 shall be allocated for the surrender of
26 transferable tax benefits exclusively by new and expanding
27 emerging technology and biotechnology companies that operate
28 within the boundaries of the innovation zones or opportunity zones,
29 or for new and expanding emerging technology and biotechnology
30 companies that are certified as a woman- or minority-owned
31 business at the time of program application, except that any portion
32 of the ~~[\$10,000,000]~~ \$15,000,000 that is not so approved shall be
33 available for that State fiscal year for the surrender of transferable
34 tax benefits by new and expanding emerging technology and
35 biotechnology companies that do not operate within the boundaries
36 of an innovation zone or opportunity zone, or for a new and
37 expanding emerging technology and biotechnology company that is
38 certified as a woman- or minority-owned business at the time of
39 program application.

40 If the total amount of transferable tax benefits that would be
41 authorized using the above method exceeds \$75,000,000 for a State
42 fiscal year, then the authority, in cooperation with the Division of
43 Taxation in the Department of the Treasury, shall limit the total
44 amount of tax benefits authorized to be transferred to \$75,000,000
45 by applying the above method on an apportioned basis.

46 For purposes of this section transferable tax benefits include an
47 eligible applicant's unused but otherwise allowable prior net
48 operating loss conversion carryover or net operating loss carryover

1 determined pursuant to section 4 of P.L.1945, c.162 (C.54:10A-4)
2 for the tax year in which the benefit is transferred and subsequently
3 multiplied by the corporation business tax rate as provided in
4 subsection (c) of section 5 of P.L.1945, c.162 (C.54:10A-5) plus the
5 total amount of the applicant's unused but otherwise allowable
6 carryover of research and development tax credits. An eligible
7 applicant's transferable tax benefits shall be limited to net operating
8 losses and research and development tax credits that the applicant
9 requests to surrender in its application to the authority and shall not,
10 in total, exceed the maximum amount of tax benefits that the
11 applicant is eligible to surrender.

12 No application for a corporation business tax benefit transfer
13 certificate shall be approved in which the new or expanding
14 emerging technology or biotechnology company (1) has
15 demonstrated positive net operating income in any of the two
16 previous full years of ongoing operations as determined on its
17 financial statements issued according to generally accepted
18 accounting standards endorsed by the Financial Accounting
19 Standards Board; or (2) is directly or indirectly at least 50 percent
20 owned or controlled by another corporation that has demonstrated
21 positive net operating income in any of the two previous full years
22 of ongoing operations as determined on its financial statements
23 issued according to generally accepted accounting standards
24 endorsed by the Financial Accounting Standards Board or is part of
25 a consolidated group of affiliated corporations, as filed for federal
26 income tax purposes, that in the aggregate has demonstrated
27 positive net operating income in any of the two previous full years
28 of ongoing operations as determined on its combined financial
29 statements issued according to generally accepted accounting
30 standards endorsed by the Financial Accounting Standards Board.

31 For purposes of this subsection, a member of a combined group
32 may sell prior net operating loss conversion carryover to other
33 members of the combined group, if otherwise applicable and
34 allowable under section 2 of P.L.1997, c.334 (C.54:10A-4.2) and
35 this section; provided, however, such sale of prior net operating loss
36 conversion carryover shall be made at arm's length price at the same
37 rate as though the sale was to an unrelated taxpayer.

38 The maximum lifetime value of surrendered tax benefits that a
39 corporation shall be permitted to surrender pursuant to the program
40 is \$20,000,000. Applications must be received on or before June 30
41 of each State fiscal year.

42 The authority, in consultation with the Division of Taxation,
43 shall establish rules for the recapture of all, or a portion of, the
44 amount of a grant of a corporation business tax benefit certificate
45 from the new or expanding emerging technology and biotechnology
46 company having surrendered tax benefits pursuant to this section in
47 the event the taxpayer fails to use the private financial assistance
48 received for the surrender of tax benefits as required by this section

1 or fails to maintain a headquarters or a base of operation in this
2 State during the five years following receipt of the private financial
3 assistance; except if the failure to maintain a headquarters or a base
4 of operation in this State is due to the liquidation of the new or
5 expanding emerging technology and biotechnology company.

6 c. The authority, in cooperation with the Division of Taxation
7 in 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
10 surrendered tax benefits approved pursuant to subsection b. of this
11 section which shall be issued in the form of corporation business
12 tax benefit transfer certificates, in exchange for private financial
13 assistance to be made by the taxpayer in an amount equal to at least
14 **【80%】** 80 percent of the amount of the surrendered tax benefit of an
15 emerging technology or biotechnology company in the State. A
16 corporation business tax benefit transfer certificate shall not be
17 issued unless the applicant certifies that as of the date of the
18 exchange of the corporation business tax benefit certificate it is
19 operating as a new or expanding emerging technology or
20 biotechnology company and has no current intention to cease
21 operating as a new or expanding emerging technology or
22 biotechnology company.

23 The managerial member of a combined group shall be the
24 member that acquires a corporation business tax benefit certificate
25 on behalf of the combined group for use on the combined return.

26 The private financial assistance shall assist in funding expenses
27 incurred in connection with the operation of the new or expanding
28 emerging technology or biotechnology company in the State,
29 including but not limited to the expenses of fixed assets, such as the
30 construction and acquisition and development of real estate,
31 materials, start-up, tenant fit-out, working capital, salaries, research
32 and development expenditures and any other expenses determined
33 by the authority to be necessary to carry out the purposes of the
34 New Jersey Emerging Technology and Biotechnology Financial
35 Assistance Program.

36 The authority shall require a corporation business taxpayer that
37 acquires a corporation business tax benefit certificate to enter into a
38 written agreement with the new or expanding emerging technology
39 or biotechnology company concerning the terms and conditions of
40 the private financial assistance made in exchange for the certificate.
41 The written agreement may contain terms concerning the
42 maintenance by the new or expanding emerging technology or
43 biotechnology company of a headquarters or a base of operation in
44 this State.

45 d. (Deleted by amendment, P.L.2009, c.90.)
46 (cf: P.L.2020, c.156, s.113)

1 53. Section 1 of P.L.1999, c.140 (C.34:1B-7.42b) is amended to
2 read as follows:

3 1. As used in P.L.1997, c.334 (C.34:1B-7.42a et al.):

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

7 "Biotechnology" means the continually expanding body of
8 fundamental knowledge about the functioning of biological systems
9 from the macro level to the molecular and sub-atomic levels, as
10 well as novel products, services, technologies and sub-technologies
11 developed as a result of insights gained from research advances that
12 add to that body of fundamental knowledge. This definition may be
13 modified by regulation to conform to definitions in other programs
14 administered by the authority.

15 "Biotechnology company" means an emerging corporation that
16 has its headquarters or base of operations in this State; that owns,
17 has filed for, or has a valid license to use protected, proprietary
18 intellectual property; and that is engaged in the research,
19 development, production, or provision of biotechnology for the
20 purpose of developing or providing products or processes for
21 specific commercial or public purposes, including but not limited
22 to, medical, pharmaceutical, nutritional, and other health-related
23 purposes, agricultural purposes, and environmental purposes. This
24 definition may be modified by regulation to conform to definitions
25 in other programs administered by the authority.

26 "Full-time employee" means a person employed by a new or
27 expanding emerging technology or biotechnology company for
28 consideration for at least 35 hours a week, or who renders any other
29 standard of service generally accepted by custom or practice as full-
30 time employment and whose wages are subject to withholding as
31 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
32 et seq., or who is a partner of a new or expanding emerging
33 technology or biotechnology company who works for the
34 partnership 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 distributive share of income, gain,
37 loss, or deduction, or whose guaranteed payments, or any
38 combination thereof, is subject to the payment of estimated taxes, as
39 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
40 et seq. To qualify as a "full-time employee," an employee shall also
41 receive from the new or expanding emerging technology or
42 biotechnology company health benefits under a health benefits plan
43 authorized pursuant to State or federal law. "Full-time employee"
44 shall not include any person who works as an independent
45 contractor or on a consulting basis for the new or expanding
46 emerging technology or biotechnology company.

47 "New or expanding" means a technology or biotechnology
48 company that (1) on June 30 of the year in which the company files

1 an application for surrender of unused but otherwise allowable tax
2 benefits under P.L.1997, c.334 (C.34:1B-7.42a et al.) and on the
3 date of the exchange of the corporation business tax benefit
4 certificate, has fewer than 225 employees in the United States of
5 America; (2) on June 30 of the year in which the company files
6 such an application, has at least one full-time employee working in
7 this State if the company has been incorporated for less than three
8 years, has at least five full-time employees working in this State if
9 the company has been incorporated for more than three years but
10 less than five years, and has at least 10 full-time employees working
11 in this State if the company has been incorporated for more than
12 five years; and (3) on the date of the exchange of the corporation
13 business tax benefit certificate, the company has the requisite
14 number of full-time employees in New Jersey that were required on
15 June 30 as set forth in part (2) of this definition.

16 “Opportunity zone” means a federal population census tract in
17 this State that was eligible to be designated as a qualified
18 opportunity zone pursuant to 26 U.S.C. s.1400Z-1.

19 "Technology company" means an emerging corporation that has
20 its headquarters or base of operations in this State; that owns, has
21 filed for, or has a valid license to use protected, proprietary
22 intellectual property; and that employs some combination of the
23 following: highly educated or trained managers and workers, or
24 both, employed in this State who use sophisticated scientific
25 research service or production equipment, processes or knowledge
26 to discover, develop, test, transfer or manufacture a product or
27 service. This definition may be modified by regulation to conform
28 to definitions in other programs administered by the authority.
29 (cf: P.L.2020, c.156, s.114)

30

31 54. Section 5 of P.L.2009, c.90 (C.52:27D-489e) is amended to
32 read as follows:

33 5. a. The New Jersey Economic Development Authority, in
34 consultation with the State Treasurer, shall establish an Economic
35 Redevelopment and Growth Grant program for the purpose of
36 encouraging redevelopment projects in qualifying economic
37 redevelopment and growth grant incentive areas that do not qualify
38 as such areas solely by virtue of being a transit village, through the
39 provision of incentive grants to reimburse developers for certain
40 project financing gap costs.

41 b. (1) A developer shall submit an application for a State
42 incentive grant prior to July 1, 2019, except: (a) a developer of a
43 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) shall submit an incentive grant application prior to
48 December 31, 2021 **【and】** ; (b) a developer of a qualified

1 residential project seeking an award of credits toward the funding of
2 its incentive grant under [subparagraphs (f) and] subparagraph (g)
3 of paragraph (3) of subsection b. of section 6 of P.L.2009, c.90
4 (C.52:27D-489f) shall submit an incentive grant application prior to
5 December 31, 2021; and (c) a developer of a commercial project
6 seeking a State incentive grant under subparagraph (b) of paragraph
7 (1) of subsection b. of section 6 of P.L.2009, c.90 (C.52:27D-489f)
8 shall submit an incentive grant application prior to December 31,
9 2021. A developer that submits an application for a State incentive
10 grant shall indicate on the application whether it is also applying for
11 a local incentive grant. Tax credits awarded to developers who
12 apply after the effective date of P.L.2020, c.156 (C.34:1B-269 et
13 al.) under [subparagraphs (f) and] subparagraph (g) of paragraph
14 (3) of subsection b. of section 6 of P.L.2009, c.90 (C.52:27D-489f)
15 shall not exceed [\$200,000,000 subject to the limitations of
16 subparagraphs (f) and (g) of that paragraph] \$125,000,000.
17 Incentive grants awarded to developers who apply after the
18 effective date of P.L.2020, c.156 under subparagraph (b) of
19 paragraph (1) of subsection b. of section 6 of P.L.2009, c.90
20 (C.52:27D-489f) shall not exceed \$75,000,000.

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

25 c. An application for a State incentive grant shall be reviewed
26 and approved by the authority. The authority shall not approve an
27 application for a State incentive grant unless the application was
28 submitted prior to July 1, 2019, except: (1) the authority shall not
29 approve an application for a State incentive grant by a developer of
30 a qualified residential project or a mixed use parking project
31 seeking an award of credits toward the funding of its incentive grant
32 for a project restricted under category (viii) of subparagraph (b) of
33 paragraph (3) of subsection b. of section 6 of P.L.2009, c.90
34 (C.52:27D-489f) unless the application was submitted prior to
35 December 31, 2021 and (2) the authority shall not approve an
36 application for a State incentive grant by a developer under
37 [subparagraphs (f) and] subparagraph (g) of paragraph (3) and
38 subparagraph (b) of paragraph (1) of subsection b. of section 6 of
39 P.L.2009, c.90 (C.52:27D-489f) unless the application was
40 submitted prior to December 31, 2021.

41 d. A developer shall not be required to purchase pinelands
42 development credits under the "Pinelands Protection Act,"
43 P.L.1979, c.111 (C.13:18A-1 et seq.), the pinelands comprehensive
44 management plan, or any other rule or regulation adopted pursuant
45 to that act in connection with any approval or relief obtained related
46 to a redevelopment project located in an aviation district on or after
47 the effective date of P.L.2018, c.120, except if seeking to develop in

1 permanently protected open space pursuant to the Pinelands
2 Protection Act. The provisions of this subsection shall not apply to
3 a developer of a qualified residential project.
4 (cf: P.L.2020, c.156, s.122)

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

8 6. a. Up to the limits established in subsection b. of this
9 section and in accordance with a redevelopment incentive grant
10 agreement, beginning upon the receipt of occupancy permits for any
11 portion of the redevelopment project, or upon any other event
12 evidencing project completion as set forth in the incentive grant
13 agreement, the State Treasurer shall pay to the developer
14 incremental State revenues directly realized from businesses
15 operating at the site of the redevelopment project from the
16 following taxes: the Corporation Business Tax Act (1945),
17 P.L.1945, c.162 (C.54:10A-1 et seq.), the tax imposed on marine
18 insurance companies pursuant to R.S.54:16-1 et seq., the tax
19 imposed on insurers generally, pursuant to P.L.1945, c.132
20 (C.54:18A-1 et seq.), the public utility franchise tax, public utilities
21 gross receipts tax and public utility excise tax imposed on sewerage
22 and water corporations pursuant to P.L.1940, c.5 (C.54:30A-49 et
23 seq.), those tariffs and charges imposed by electric, natural gas,
24 telecommunications, water and sewage utilities, and cable television
25 companies under the jurisdiction of the New Jersey Board of Public
26 Utilities, or comparable entity, except for those tariffs, fees, or taxes
27 related to societal benefits charges assessed pursuant to section 12
28 of P.L.1999, c.23 (C.48:3-60), any charges paid for compliance
29 with the "Global Warming Response Act," P.L.2007, c.112
30 (C.26:2C-37 et seq.), transitional energy facility assessment unit
31 taxes paid pursuant to section 67 of P.L.1997, c.162 (C.48:2-21.34),
32 and the sales and use taxes on public utility and cable television
33 services and commodities, the tax derived from net profits from
34 business, a distributive share of partnership income, or a pro rata
35 share of S corporation income under the "New Jersey Gross Income
36 Tax Act," N.J.S.54A:1-1 et seq., the tax derived from a business at
37 the site of a redevelopment project that is required to collect the tax
38 pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-
39 1 et seq.), the tax imposed pursuant to P.L.1966, c.30 (C.54:32B-1
40 et seq.) from the purchase of furniture, fixtures and equipment, or
41 materials for the remediation, the construction of new structures at
42 the site of a redevelopment project, the hotel and motel occupancy
43 fee imposed pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1),
44 or the portion of the fee imposed pursuant to section 3 of P.L.1968,
45 c.49 (C.46:15-7) derived from the sale of real property at the site of
46 the redevelopment project and paid to the State Treasurer for use by
47 the State, that is not credited to the "Shore Protection Fund" or the
48 "Neighborhood Preservation Nonlapsing Revolving Fund" ("New

1 Jersey Affordable Housing Trust Fund") pursuant to section 4 of
2 P.L.1968, c.49 (C.46:15-8). Any developer shall be allowed to
3 assign their ability to apply for the tax credit under this subsection
4 to a non-profit organization with a mission dedicated to attracting
5 investment and completing development and redevelopment
6 projects in a Garden State Growth Zone. The non-profit
7 organization may make an application on behalf of a developer
8 which meets the requirements for the tax credit, or a group of non-
9 qualifying developers, such that these will be considered a unified
10 project for the purposes of the incentives provided under this
11 section.

12 b. (1) (a) Up to an average of 75 percent of the projected
13 annual incremental revenues or 85 percent of the projected annual
14 incremental revenues in a Garden State Growth Zone may be
15 pledged towards the State portion of an incentive grant.

16 (b) State incentive grants not to exceed an aggregate total value
17 of \$75,000,000 shall be made available by the authority for
18 applications submitted after the effective date of P.L.2020, c.156,
19 but prior to December 31, 2021, for projects that are predominantly
20 commercial and contain 100,000 or more square feet of office and
21 retail space, or industrial space for purchase or lease, and may
22 include a parking component. The developer of a project seeking
23 an award of credits for a project restricted under this subparagraph
24 shall submit an incentive grant application prior to December 31,
25 2021, and if approved after the effective date of P.L.2020, c.156,
26 shall submit a temporary certificate of occupancy for the project no
27 later than December 31, 2024. In addition to the requirements for
28 an incentive award set forth in P.L.2009, c.90 (C.52:27D-489a et
29 al.), a developer shall be eligible to receive an award of credits for a
30 project restricted under this subparagraph only if the developer
31 demonstrates to the authority at that time of application that: (i) the
32 project shall comply with minimum environmental and
33 sustainability standards; (ii) the project shall comply with the
34 authority's affirmative action requirements, adopted pursuant to
35 section 4 of P.L.1979, c.303 (C.34:1B-5.4); (iii) each worker
36 employed by the developer, or subcontractor of a developer
37 working at the project, shall be paid not less than \$15 per hour or
38 120 percent of the minimum wage fixed under subsection a. of
39 section 5 of P.L.1966, c.113 (C.34:11-56a4), whichever is higher;
40 and (iv) during the eligibility period, each worker employed to
41 perform construction work or building services work at the project
42 shall be paid not less than the prevailing wage rate for the worker's
43 craft or trade, as determined by the Commissioner of Labor and
44 Workforce Development pursuant to P.L.1963, c.150 (C.34:11-
45 56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.).

46 (2) In the case of a qualified residential project or a project
47 involving university infrastructure, if the authority determines that
48 the estimated amount of incremental revenues pledged towards the

1 State portion of an incentive grant is inadequate to fully fund the
2 amount of the State portion of the incentive grant, then in lieu of an
3 incentive grant based on the incremental revenues, the developer
4 shall be awarded tax credits equal to the full amount of the
5 incentive grant.

6 (3) In the case of a mixed use parking project, if the authority
7 determines that the estimated amount of incremental revenues
8 pledged towards the State portion of an incentive grant is
9 inadequate to fully fund the amount of the State portion of the
10 incentive grant, then, in lieu of an incentive grant based on the
11 incremental revenues, the developer shall be awarded tax credits
12 equal to the full amount of the incentive grant.

13 The value of all credits approved by the authority pursuant to
14 paragraphs (2) and (3) of this subsection shall not exceed
15 ~~[\$1,043,000,000]~~ \$968,000,000, of which:

16 (a) \$250,000,000 shall be restricted to qualified residential
17 projects within Atlantic, Burlington, Camden, Cape May,
18 Cumberland, Gloucester, Ocean, and Salem counties, of which
19 \$175,000,000 of the credits shall be restricted to the following
20 categories of projects: (i) qualified residential projects located in a
21 Garden State Growth Zone located within the aforementioned
22 counties; and (ii) mixed use parking projects located in a Garden
23 State Growth Zone or urban transit hub located within the
24 aforementioned counties; (iii) and \$75,000,000 of the credits shall
25 be restricted to qualified residential projects in municipalities with a
26 2007 Municipal Revitalization Index of 400 or higher as of the date
27 of enactment of the "New Jersey Economic Opportunity Act of
28 2013," P.L.2013, c.161 (C.52:27D-489p et al.) and located within
29 the aforementioned counties;

30 (b) ~~[\$395,000,000]~~ \$415,000,000 shall be restricted to the
31 following categories of projects: (i) qualified residential projects
32 located in urban transit hubs that are commuter rail in nature that
33 otherwise do not qualify under subparagraph (a) of this paragraph;
34 (ii) qualified residential projects located in Garden State Growth
35 Zones that do not qualify under subparagraph (a) of this paragraph;
36 (iii) mixed use parking projects located in urban transit hubs or
37 Garden State Growth Zones that do not qualify under subparagraph
38 (a) of this paragraph, provided however, an urban transit hub shall
39 be allocated no more than \$25,000,000 for mixed use parking
40 projects; (iv) qualified residential projects which are disaster
41 recovery projects that otherwise do not qualify under subparagraph
42 (a) of this paragraph; (v) qualified residential projects in SDA
43 municipalities located in Hudson County that were awarded State
44 Aid in State Fiscal Year 2013 through the Transitional Aid to
45 Localities program and otherwise do not qualify under
46 subparagraph (a) of this paragraph; (vi) \$25,000,000 of credits shall
47 be restricted to mixed use parking projects in Garden State Growth
48 Zones which have a population in excess of 125,000 and do not

1 qualify under subparagraph (a) of this paragraph; (vii) \$40,000,000
2 of credits shall be restricted to qualified residential projects that
3 include a theater venue for the performing arts and do not qualify
4 under subparagraph (a) of this paragraph, which projects are located
5 in a municipality with a population of less than 100,000 according
6 to the latest federal decennial census, and within which
7 municipality is located an urban transit hub and a campus of a
8 public research university, as defined in section 1 of P.L.2009,
9 c.308 (C.18A:3B-46); and (viii) \$125,000,000 of credits shall be
10 restricted to qualified residential projects and mixed use parking
11 projects in Garden State Growth Zones having a population in
12 excess of 125,000 and do not qualify under subparagraph (a) of this
13 paragraph;

14 (c) \$87,000,000 shall be restricted to the following categories of
15 projects: (i) qualified residential projects located in distressed
16 municipalities, deep poverty pockets, highlands development credit
17 receiving areas or redevelopment areas, otherwise not qualifying
18 pursuant to subparagraph (a) or (b) of this paragraph; and (ii) mixed
19 use parking projects that do not qualify under subparagraph (a) or
20 (b) of this paragraph, and which are used by an independent
21 institution of higher education, a school of medicine, a nonprofit
22 hospital system, or any combination thereof; provided, however,
23 that \$20,000,000 of the \$87,000,000 shall be allocated to mixed use
24 parking projects that do not qualify under subparagraph (a) or (b) of
25 this paragraph;

26 (d) (i) \$16,000,000 shall be restricted to qualified residential
27 projects that are located within a qualifying economic
28 redevelopment and growth grant incentive area otherwise not
29 qualifying under subparagraph (a), (b), or (c) of this paragraph; and

30 (ii) an additional \$50,000,000 shall be restricted to qualified
31 residential projects which, as of the effective date of P.L.2016, c.51,
32 are located in a city of the first class with a population in excess of
33 270,000, are subject to a Renewal Contract for a Section 8 Mark-
34 Up-To-Market Project from the United States Department of
35 Housing and Urban Development, and for which an application for
36 the award of tax credits under this subsection was submitted prior to
37 January 1, 2016;

38 (e) \$25,000,000 shall be restricted to projects involving
39 university infrastructure; and

40 (f) **【\$150,000,000** shall be restricted to applications submitted
41 after the effective date of P.L.2020, c.156 (C.34:1B-269 et al.) for
42 projects which are predominantly commercial and contain 100,000
43 or more square feet of office and retail space, or industrial space for
44 purchase or lease and may include a parking component; **and】**
45 (Deleted by amendment, P.L. _____, c. _____) (pending before the
46 Legislature as this bill)

47 (g) **【\$50,000,000】** \$125,000,000 shall be restricted to
48 applications submitted after the effective date of P.L.2020, c.156

1 (C.34:1B-269 et al.) for residential projects in any county of the
2 State.

3 (h) For subparagraphs (a) through (d) of this paragraph, not
4 more than \$40,000,000 of credits shall be awarded to any qualified
5 residential project in a deep poverty pocket or distressed
6 municipality and not more than \$20,000,000 of credits shall be
7 awarded to any other qualified residential project. The developer of
8 a qualified residential project seeking an award of credits towards
9 the funding of its incentive grant shall submit an incentive grant
10 application prior to July 1, 2016 and if approved after September
11 18, 2013, the effective date of P.L.2013, c.161 (C.52:27D-489p et
12 al.) shall submit a temporary certificate of occupancy for the project
13 no later than December 31, 2023. The developer of a mixed use
14 parking project seeking an award of credits towards the funding of
15 its incentive grant pursuant to subparagraph (c) of this paragraph
16 and if approved after the effective date of P.L.2015, c.217, shall
17 submit a temporary certificate of occupancy for the project no later
18 than December 31, 2023. The developer of a qualified residential
19 project or a mixed use parking project seeking an award of credits
20 toward the funding of its incentive grant for a project restricted
21 under categories (vi) and (viii) of subparagraph (b) of this
22 paragraph shall submit an incentive grant application prior to July
23 1, 2019 or, in the case of a project restricted under category (viii) of
24 subparagraph (b) of this paragraph, December 31, 2021, and if
25 approved after the effective date of P.L.2017, c.59, shall submit a
26 temporary certificate of occupancy for the project no later than
27 December 31, 2023 provided that the municipality in which the
28 project is located shall have submitted to the chief executive officer
29 of the authority a letter of support identifying up to six projects
30 prior to July 1, 2018. The letter of support is to contain a project
31 scope for each of the projects and may be supplemented or amended
32 from time to time until July 1, 2019 or, in the case of a project
33 restricted under category (viii) of subparagraph (b) of this
34 paragraph, December 31, 2021. Applications for tax credits
35 pursuant to this subsection relating to an ancillary infrastructure
36 project or infrastructure improvement in the public right-of-way, or
37 both, shall be accompanied with a letter of support relating to the
38 project or improvement by the governing body or agency in which
39 the project is located. Credits awarded to a developer pursuant to
40 this subsection shall be subject to the same financial and related
41 analysis by the authority, the same term of the grant, and the same
42 mechanism for administering the credits, and shall be utilized or
43 transferred by the developer as if the credits had been awarded to
44 the developer pursuant to section 35 of P.L.2009, c.90 (C.34:1B-
45 209.3) for qualified residential projects thereunder. No portion of
46 the revenues pledged pursuant to the "New Jersey Economic
47 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.)
48 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】** subparagraph (g)
5 of this paragraph shall submit an incentive grant application prior to
6 December 31, 2021, and if approved after the effective date of
7 P.L.2020, c.156 (C.34:1B-269 et al.), shall submit a temporary
8 certificate of occupancy for the project no later than December 31,
9 2024. In addition to the requirements for an award of credits set
10 forth in P.L.2009, c.90 (C.52:27D-489a et al.), a developer shall be
11 eligible to receive an award of credits for a project restricted under
12 **【subparagraphs (f) and】** subparagraph (g) of this paragraph only if
13 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】**
30 subparagraph (g) of this paragraph, the authority shall confirm with
31 the Department of Labor and Workforce Development, the
32 Department of Environmental Protection, and the Department of the
33 Treasury **【shall each report to the chief executive officer of the**
34 **authority】** whether the developer is in substantial good standing
35 with the respective department, or has entered into an agreement
36 with the respective department that includes a practical corrective
37 action plan for the developer. The developer, or an authorized
38 agent of the developer, shall certify to the authority that all factual
39 assertions made in the developer's application are true under the
40 penalty of perjury. If at any time the authority determines that the
41 developer made a material misrepresentation on the developer's
42 application, the developer shall forfeit the award of credits and the
43 authority shall recapture any tax credits awarded to 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

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

22 c. All administrative costs associated with the incentive grant
23 shall be assessed to the applicant and be retained by the State
24 Treasurer from the annual incentive grant payments.

25 d. The incremental revenue for the revenues listed in
26 subsection a. of this section shall be calculated as the difference
27 between the amount collected in any fiscal year from any eligible
28 revenue source included in the State redevelopment incentive grant
29 agreement, less the revenue increment base for that eligible
30 revenue.

31 e. The municipality is authorized to collect any information
32 necessary to facilitate grants under this program and remit that
33 information in order to assist in the calculation of incremental
34 revenue.

35 (cf: P.L.2020, c.156, s.123)

36

37 56. Section 8 of P.L.2009, c.90 (C.52:27D-489h) is amended to
38 read as follows:

39 8. a. (1) The authority, in consultation with the State
40 Treasurer, shall promulgate an incentive grant application form and
41 procedure for the Economic Redevelopment and Growth Grant
42 program.

43 (2) (a) The Local Finance Board, in consultation with the
44 authority, shall develop a minimum standard incentive grant
45 application form for municipal Economic Redevelopment and
46 Growth Grant programs.

47 (b) Through regulation, the authority shall establish standards
48 for redevelopment projects seeking State or local incentive grants

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

7 b. Within each incentive grant application, a developer shall
8 certify information concerning:

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

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

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

46 (3) The authority, State Treasurer, and Local Finance Board
47 may act cooperatively to administer and review applications, and
48 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 2019, which are amended after the effective date of P.L.2020, c.156
7 (C.34:1B-269 et al.), the authority may waive fees.

8 (5) A developer who has already applied for an incentive grant
9 award prior to the effective date of the "New Jersey Economic
10 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.),
11 but who has not yet been approved for the grant, or has not
12 executed an agreement with the authority, may proceed under that
13 application or seek to amend the application or reapply for an
14 incentive grant award for the same project or any part thereof for
15 the purpose of availing himself or herself of any more favorable
16 provisions of the Economic Redevelopment and Growth Grant
17 program established pursuant to the "New Jersey Economic
18 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.),
19 except that projects with costs exceeding \$200,000,000 shall not be
20 eligible for revised percentage caps under subsection d. of section
21 19 of P.L.2013, c.161 (C.52:27D-489i).
22 (cf: P.L.2020, c.156, s.124)

23

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

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

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

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

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

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

41 b. (1) A business shall submit an application for tax credits
42 prior to July 1, 2019. The authority shall not approve an application
43 for tax credits unless the application was submitted prior to July 1,
44 2019.

45 (2) (a) A business shall submit its documentation indicating
46 that it has met the capital investment and employment requirements
47 and all conditions of approvals specified in the incentive agreement
48 for certification of its tax credit amount, to the authority's

1 satisfaction, within three years following the date of approval of its
2 application by the authority. The authority shall have the discretion
3 to grant two six-month extensions of this deadline. If the authority
4 accepts the documentation, the authority shall request that the
5 Division of Taxation in the Department of the Treasury issue a tax
6 credit based on the approved documentation to be used by the
7 business during the eligibility period. Except as provided in
8 subparagraphs (b) and (c) of this paragraph, in no event shall the
9 incentive effective date occur later than four years following the
10 date of approval of an application by the authority.

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

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

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

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

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

40 The credit amount for any tax period for which the
41 documentation of a business's credit amount remains uncertified as
42 of a date three years after the closing date of that period shall be
43 forfeited, although credit amounts for the remainder of the years of
44 the eligibility period shall remain available to it.

45 The credit amount may be taken by the tax certificate holder for
46 the tax period for which it was issued or may be carried forward for
47 use by the tax certificate holder in any of the next 20 successive tax
48 periods, and shall expire thereafter. The tax certificate holder may

1 transfer the tax credit amount on or after the date of issuance or at
2 any time within three years of the date of issuance for use by the
3 transferee in the tax period for which it was issued or in any of the
4 next 20 successive tax periods. Notwithstanding the foregoing, no
5 more than the amount of tax credits equal to the total credit amount
6 divided by the duration of the eligibility period in years may be
7 taken in any tax period.

8 A business may elect to suspend its obligations for the 2020 tax
9 period and, if the public health emergency or state of emergency
10 declared due to the COVID-19 pandemic extends past March 2021,
11 the 2021 tax period, provided that the business shall make such
12 election in writing to the authority before the date the annual report
13 is due and such suspension shall extend the term of the eligibility
14 period by a corresponding amount of time. The authority shall
15 amend the incentive agreement, and the business shall execute the
16 amended incentive agreement within the time period provided by
17 the authority. The amended incentive agreement shall provide that
18 the failure to submit the annual report due to the suspension shall
19 not be a forfeiture or an uncertified tax period.

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

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

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

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

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

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

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

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

44 (4) (a) For a project located within a Garden State Growth Zone,
45 if, in any tax period, the number of full-time employees employed
46 by the business at the qualified business facility located within a
47 qualified incentive area increases above the number of full-time
48 employees specified in the incentive agreement, then the business

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

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

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

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

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

47 f. A business which has already applied for a tax credit
48 incentive award prior to the effective date of the "New Jersey

1 Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-
2 489p et al.), but who has not yet been approved for the tax credits,
3 or has not executed an agreement with the authority, may proceed
4 under that application or seek to amend the application or reapply
5 for a tax credit incentive award for the same project or any part
6 thereof for the purpose of availing itself of any more favorable
7 provisions of the program.

8 g. A business that has entered into an incentive agreement may
9 request before December 31, 2022 to terminate the incentive
10 agreement due to the COVID-19 public health emergency; provided
11 that the business shall submit a certification from the business's
12 chief executive officer or equivalent officer stating that the
13 termination is due to the public health emergency and describing
14 the impact of the public health emergency on the business. All
15 credits for the tax period in which the termination occurs and all
16 subsequent tax periods shall be forfeited, provided however that any
17 credits of the business shall remain unaffected.

18 h. A business that has entered into an incentive agreement may
19 request, before December 31, 2021, to reduce the number of new or
20 retained full-time jobs specified in the incentive agreement based
21 on a certification of the business of the eligible positions at the
22 qualified business facility commencing with the 2020 tax period
23 and, at the discretion of the business, whether the reduction shall
24 continue for each subsequent tax period remaining in the eligibility
25 period, provided that the business maintains the minimum number
26 of new or retained full-time jobs required to be eligible pursuant to
27 subsection c. of section 3 of P.L.2011, c.149 (C.34:1B-244). The
28 reduction in employment shall first apply to the number of new full-
29 time employees, and then shall apply to the number of retained full-
30 time employees.

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

37 (cf: P.L.2020, c.156, s.108)

38

39 58. Section 1 of P.L.2018, c.56 (C.54:10A-5.39b) is amended to
40 read as follows:

41 1. a. (1) A taxpayer, upon approval of an application to the
42 authority and the director, shall be allowed a credit against the tax
43 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in
44 an amount equal to **【30】 35** percent of the qualified film production
45 expenses of the taxpayer during a privilege period commencing on
46 or after July 1, 2018 but before July 1, **【2028】 2034**, provided that:

47 (a) at least 60 percent of the total film production expenses,
48 exclusive of post-production costs, of the taxpayer are incurred for

1 services performed, and goods purchased through vendors
2 authorized to do business, in New Jersey, or the qualified film
3 production expenses of the taxpayer during the privilege period for
4 services performed, and goods purchased, through vendors
5 authorized to do business in New Jersey, exceed \$1,000,000 per
6 production;

7 (b) principal photography of the film commences within **the**
8 **earlier of** 180 days from the date of the original application for the
9 tax credit **],** or 150 days from the date of approval of the application
10 for the tax credit**];**

11 (c) the film includes, when determined to be appropriate by the
12 commission, at no cost to the State, marketing materials promoting
13 this State as a film and entertainment production destination, which
14 materials shall include placement of a "Filmed in New Jersey" or
15 "Produced in New Jersey" statement, or an approved logo approved
16 by the commission, in the end credits of the film;

17 (d) the taxpayer submits a tax credit verification report prepared
18 by an independent certified public accountant licensed in this State
19 in accordance with subsection f. of this section; and

20 (e) the taxpayer complies with the withholding requirements
21 provided for payments to loan out companies and independent
22 contractors in accordance with subsection g. of this section.

23 (2) Notwithstanding the provisions of paragraph (1) of
24 subsection a. of this section to the contrary, the tax credit allowed
25 pursuant to this subsection against the tax imposed pursuant to
26 section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount
27 equal to **[35]** 30 percent of the qualified film production expenses
28 of the taxpayer during a privilege period that are incurred for
29 services performed and tangible personal property purchased
30 **[through vendors whose primary place of business is located in**
31 **Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester,**
32 **Mercer or Salem County]** for use at a sound stage or other location
33 that is located in the State within a 30-mile radius of the
34 intersection of Eighth Avenue/Central Park West, Broadway, and
35 West 59th Street/Central Park South, New York, New York.

36 b. (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
39 an amount equal to: 20 percent of the qualified digital media
40 content production expenses of the taxpayer during a privilege
41 period commencing on or after July 1, 2018 but before July 1,
42 **[2028]** 2034, provided that:

43 (a) at least \$2,000,000 of the total digital media content
44 production expenses of the taxpayer are incurred for services
45 performed, and goods purchased through vendors authorized to do
46 business, in New Jersey;

1 (b) at least 50 percent of the qualified digital media content
2 production expenses of the taxpayer are for wages and salaries paid
3 to full-time or full-time equivalent employees in New Jersey;

4 (c) the taxpayer submits a tax credit verification report prepared
5 by an independent certified public accountant licensed in this State
6 in accordance with subsection f. of this section; and

7 (d) the taxpayer complies with the withholding requirements
8 provided for payments to loan out companies and independent
9 contractors in accordance with subsection g. of this section.

10 (2) Notwithstanding the provisions of paragraph (1) of
11 subsection b. of this section to the contrary, the tax credit allowed
12 pursuant to this subsection against the tax imposed pursuant to
13 section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount
14 equal to 25 percent of the qualified digital media content production
15 expenses of the taxpayer during a privilege period that are incurred
16 for services performed and tangible personal property purchased
17 through vendors whose primary place of business is located in
18 Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester,
19 Mercer, or Salem County.

20 c. No tax credit shall be allowed pursuant to this section for
21 any costs or expenses included in the calculation of any other tax
22 credit or exemption granted pursuant to a claim made on a tax
23 return filed with the director, or included in the calculation of an
24 award of business assistance or incentive, for a period of time that
25 coincides with the privilege period for which a tax credit authorized
26 pursuant to this section is allowed. The order of priority in which
27 the tax credit allowed pursuant to this section and any other tax
28 credits allowed by law may be taken shall be as prescribed by the
29 director. The amount of the tax credit applied under this section
30 against the tax imposed pursuant to section 5 of P.L.1945, c.162
31 (C.54:10A-5), for a privilege period, when taken together with any
32 other payments, credits, deductions, and adjustments allowed by
33 law shall not reduce the tax liability of the taxpayer to an amount
34 less than the statutory minimum provided in subsection (e) of
35 section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of the tax
36 credit otherwise allowable under this section which cannot be
37 applied for the privilege period due to the limitations of this
38 subsection or under other provisions of P.L.1945, c.162 (C.54:10A-
39 1 et seq.) may be carried forward, if necessary, to the seven
40 privilege periods following the privilege period for which the tax
41 credit was allowed.

42 d. 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 "Corporation
2 Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), or
3 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 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
8 to claim that amount of the tax credit against the tax imposed
9 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) that the
10 taxpayer has elected to sell or assign. The sale or assignment of any
11 amount of a tax credit transfer certificate allowed under this section
12 shall not be exchanged for consideration received by the taxpayer of
13 less than 75 percent of the transferred tax credit amount. Any
14 amount of a tax credit transfer certificate used by a purchaser or
15 assignee against a tax liability under P.L.1945, c.162 (C.54:10A-1
16 et seq.) shall be subject to the same limitations and conditions that
17 apply to the use of a tax credit pursuant to subsection c. of this
18 section. Any amount of a tax credit transfer certificate obtained by
19 a purchaser or assignee under subsection a. or subsection b. of this
20 section may be applied against the purchaser's or assignee's tax
21 liability under N.J.S.54A:1-1 et seq. and shall be subject to the
22 same limitations and conditions that apply to the use of a credit
23 pursuant to subsections c. and d. of section 2 of P.L.2018, c.56
24 (C.54A:4-12b).

25 e. (1) The value of tax credits, including tax credits allowed
26 through the granting of tax credit transfer certificates, approved by
27 the director and the authority pursuant to subsection a. of this
28 section and pursuant to subsection a. of section 2 of P.L.2018, c.56
29 (C.54A:4-12b) to taxpayers, other than New Jersey **[film]** studio
30 partners and New Jersey film-lease partners, shall not exceed a
31 cumulative total of \$100,000,000 in fiscal year 2019 and in each
32 fiscal year thereafter prior to fiscal year **[2029]** 2035 to apply
33 against the tax imposed pursuant to section 5 of P.L.1945, c.162
34 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey
35 Gross Income Tax Act," N.J.S.54A:1-1 et seq. In addition to the
36 \$100,000,000 limitation on the value of tax credits approved by the
37 director for New Jersey film-lease partners and the \$100,000,000
38 limitation on the value of tax credits approved by the director for
39 other taxpayers imposed by this paragraph, the value of tax credits,
40 including tax credits allowed through the granting of tax credit
41 transfer certificates, approved by the director and the authority
42 pursuant to subsection a. of this section and pursuant to subsection
43 a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey
44 **[film]** studio partners shall not exceed a cumulative total of
45 \$100,000,000 in fiscal year 2021 and in each fiscal year thereafter
46 prior to fiscal year 2034 to apply against the tax imposed pursuant
47 to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed
48 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1

1 et seq. Beginning in fiscal year 2025, in addition to the
2 \$100,000,000 made available for New Jersey studio partners
3 pursuant to this paragraph, up to an additional \$350,000,000 may be
4 made available annually, in the discretion of the authority, to New
5 Jersey studio partners for the award of tax credits, including tax
6 credits allowed through the granting of tax credit transfer
7 certificates, pursuant to subsection a. of this section and subsection
8 a. of section 2 of P.L.2018, c.56 (C.54A:4-12b), from the funds
9 made available pursuant to subparagraph (i) of paragraph (1) of
10 subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362). In
11 addition to the \$100,000,000 limitation on the value of tax credits
12 approved by the director for New Jersey **film** studio partners and
13 the \$100,000,000 limitation on the value of tax credits approved by
14 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-lease partners shall not exceed a
20 cumulative total of \$100,000,000 in fiscal year 2021 and in each
21 fiscal year thereafter prior to fiscal year 2034 to apply against the
22 tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5)
23 and the tax imposed pursuant to the "New Jersey Gross Income Tax
24 Act," N.J.S.54A:1-1 et seq. Approvals made to New Jersey studio
25 partners and New Jersey film-lease partners shall be subject to
26 award agreements with the authority detailing obligations of the
27 awardee and outcomes relating to events of default, including, but
28 not limited to, recapture, forfeiture, and termination. If in any
29 privilege period, beginning following a date determined by the
30 authority, a New Jersey film-lease partner's annual average of
31 qualified film production expenses falls below \$50,000,000, the
32 authority shall reduce by 20 percent any tax credit award for a film
33 for which final documentation pursuant to N.J.A.C.19:31-21.7(c)
34 has been submitted, until a privilege period when the annual
35 average of qualified film production expenses has been restored to
36 \$50,000,000. The authority shall establish a non-binding,
37 administrative pre-certification process for potentially eligible
38 projects.

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 for New Jersey studio partners 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
15 amount of tax credits that were previously approved, but that the
16 taxpayer is not able to redeem or transfer to another taxpayer under
17 this section, and shall increase the cumulative total amount of tax
18 credits permitted to be approved for New Jersey studio partners in
19 the subsequent fiscal year by the amount of tax credits previously
20 approved, but not subject to redemption or transfer.

21 (2) The value of tax credits, including tax credits allowed
22 through the granting of tax credit transfer certificates, approved by
23 the authority and the director pursuant to subsection b. of this
24 section and pursuant to subsection b. of section 2 of P.L.2018, c.56
25 (C.54A:4-12b) shall not exceed a cumulative total of \$10,000,000 in
26 fiscal year 2019 and in each fiscal year thereafter prior to fiscal year
27 **[2029]** 2035 to apply against the tax imposed pursuant to section 5
28 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to
29 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

30 If the total amount of tax credits and tax credit transfer
31 certificates allowed to taxpayers for privilege periods or taxable
32 years commencing during a single fiscal year under subsection b. of
33 this section and subsection b. of section 2 of P.L.2018, c.56
34 (C.54A:4-12.b) exceeds the amount of tax credits available in that
35 year, then taxpayers who have first applied for and have not been
36 allowed a tax credit or tax credit transfer certificate amount for that
37 reason shall be allowed, in the order in which they have submitted
38 an application, the amount of tax credit or tax credit transfer
39 certificate on the first day of the next succeeding fiscal year in
40 which tax credits and tax credit transfer certificates under
41 subsection b. of this section and subsection b. of section 2 of
42 P.L.2018, c.56 (C.54A:4-12.b) are not in excess of the amount of
43 credits available.

44 Notwithstanding any provision of this paragraph to the contrary,
45 for any fiscal year in which the amount of tax credits approved
46 pursuant to this paragraph is less than the cumulative total amount
47 of tax credits permitted to be approved in that fiscal year, the
48 authority shall certify the amount of the remaining tax credits

1 available for approval in that fiscal year, and shall increase the
2 cumulative total amount of tax credits permitted to be approved in
3 the subsequent fiscal year by the certified amount remaining from
4 the prior fiscal year. The authority shall also certify, for each fiscal
5 year, the amount of tax credits that were previously approved, but
6 that the taxpayer is not able to redeem or transfer to another
7 taxpayer under this section, and shall increase the cumulative total
8 amount of tax credits permitted to be approved in the subsequent
9 fiscal year by the amount of tax credits previously approved, but not
10 subject to redemption or transfer.

11 f. A taxpayer shall submit to the authority and the director a
12 report prepared by an independent certified public accountant
13 licensed in this State to verify the taxpayer's tax credit claim
14 following the completion of the production. The report shall be
15 prepared by the independent certified public accountant pursuant to
16 agreed upon procedures prescribed by the authority and the director,
17 and shall include such information and documentation as shall be
18 determined to be necessary by the authority and the director to
19 substantiate the qualified film production expenses or the qualified
20 digital media content production expenses of the taxpayer. A single
21 report with attachments deemed necessary by the authority shall be
22 submitted electronically. Upon receipt of the report, the authority
23 and the director shall review the findings of the independent
24 certified public accountant's report, and shall make a determination
25 as to the qualified film production expenses or the qualified digital
26 media content production expenses of the taxpayer. The authority's
27 and the director's review shall include, but shall not be limited to: a
28 review of all non-payroll qualified film production expense items
29 and non-payroll digital media content production expense items
30 over \$20,000; a review of 100 randomly selected non-payroll
31 qualified film production expense items and non-payroll digital
32 media content production expense items that are greater than
33 \$2,500, but less than \$20,000; a review of 100 randomly selected
34 non-payroll qualified film production expense items and non-
35 payroll digital media content production expense items that are less
36 than \$2,500; a review of the qualified wages for the 15 employees,
37 independent contractors, or loan-out companies with the highest
38 qualified wages; and a review of the qualified wages for 35
39 randomly selected employees, independent contractors, or loan-out
40 companies with qualified wages other than the 15 employees,
41 independent contractors, or loan-out companies with the highest
42 qualified wages. The taxpayer's qualified film production expenses
43 and digital media content production expenses shall be adjusted
44 based on any discrepancies identified for the reviewed non-payroll
45 qualified film production expense items, non-payroll digital media
46 content production expense items and qualified wages. The
47 taxpayer's qualified film production expenses and digital media
48 content production expenses also shall be adjusted based on the

1 projection of any discrepancies identified based on the review of
2 randomly selected expense items or wages pursuant to this
3 subsection to the extent that the discrepancies exceed one percent of
4 the total reviewed non-payroll qualified film production expense
5 items, non-payroll digital media content production expense items,
6 or qualified wages. The determination shall be provided in writing
7 to the taxpayer, and a copy of the written determination shall be
8 included in the filing of a return that includes a claim for a tax
9 credit allowed pursuant to this section.

10 g. A taxpayer shall withhold from each payment to a loan out
11 company or to an independent contractor an amount equal to 6.37
12 percent of the payment otherwise due. The amounts withheld shall
13 be deemed to be withholding of liability pursuant to the "New
14 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the
15 taxpayer shall be deemed to have the rights, duties, and
16 responsibilities of an employer pursuant to chapter 7 of Title 54A of
17 the New Jersey Statutes. The director shall allocate the amounts
18 withheld for a taxable year to the accounts of the individuals who
19 are employees of a loan out company in proportion to the
20 employee's payment by the loan out company in connection with a
21 trade, profession, or occupation carried on in this State or for the
22 rendition of personal services performed in this State during the
23 taxable year. A loan out company that reports its payments to
24 employees in connection with a trade, profession, or occupation
25 carried on in this State or for the rendition of personal services
26 performed in this State during a taxable year shall be relieved of its
27 duties and responsibilities as an employer pursuant to chapter 7 of
28 Title 54A of the New Jersey Statutes for the taxable year for any
29 payments relating to the payments on which the taxpayer withheld.

30 h. As used in this section:

31 "Authority" means the New Jersey Economic Development
32 Authority.

33 "Business assistance or incentive" means "business assistance or
34 incentive" as that term is defined pursuant to section 1 of P.L.2007,
35 c.101 (C.54:50-39).

36 "Commission" means the Motion Picture and Television
37 Development Commission.

38 "Digital media content" means any data or information that is
39 produced in digital form, including data or information created in
40 analog form but reformatted in digital form, text, graphics,
41 photographs, animation, sound, and video content. "Digital media
42 content" shall not mean content offerings generated by the end user
43 (including postings on electronic bulletin boards and chat rooms);
44 content offerings comprised primarily of local news, events,
45 weather, or local market reports; public service content; electronic
46 commerce platforms (such as retail and wholesale websites);
47 websites or content offerings that contain obscene material as
48 defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or

1 content that are produced or maintained primarily for private,
2 industrial, corporate, or institutional purposes; or digital media
3 content acquired or licensed by the taxpayer for distribution or
4 incorporation into the taxpayer's digital media content.

5 "Film" means a feature film, a television series, or a television
6 show of 22 minutes or more in length, intended for a national
7 audience, or a television series or a television show of 22 minutes
8 or more in length intended for a national or regional audience,
9 including, but not limited to, a game show, award show, or other
10 gala event filmed and produced at a nonprofit arts and cultural
11 venue receiving State funding. "Film" shall not include a
12 production featuring news, current events, weather, and market
13 reports or public programming, talk show, or sports event, a
14 production that solicits funds, a production containing obscene
15 material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-3, or a
16 production primarily for private, industrial, corporate, or
17 institutional purposes, or a reality show, except if the production
18 company of the reality show owns, leases, or otherwise occupies a
19 production facility of no less than 20,000 square feet of real
20 property for a minimum term of 24 months, and invests no less than
21 \$3,000,000 in such a facility within a designated enterprise zone
22 established pursuant to the "New Jersey Urban Enterprise Zones
23 Act," P.L.1983, c.303 (C.52:27H-60 et al.), or a UEZ-impacted
24 business district established pursuant to section 3 of P.L.2001,
25 c.347 (C.52:27H-66.2). "Film" shall not include an award show or
26 other gala event that is not filmed and produced at a nonprofit arts
27 and cultural venue receiving State funding.

28 "Full-time or full-time equivalent employee" means an individual
29 employed by the taxpayer for consideration for at least 35 hours a
30 week, or who renders any other standard of service generally
31 accepted by custom or practice as full-time or full-time equivalent
32 employment, whose wages are subject to withholding as provided in
33 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or
34 who is a partner of a taxpayer, who works for the partnership for at
35 least 35 hours a week, or who renders any other standard of service
36 generally accepted by custom or practice as full-time or full-time
37 equivalent employment, and whose distributive share of income,
38 gain, loss, or deduction, or whose guaranteed payments, or any
39 combination thereof, is subject to the payment of estimated taxes, as
40 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
41 et seq. "Full-time or full-time equivalent employee" shall not
42 include an individual who works as an independent contractor or on
43 a consulting basis for the taxpayer.

44 "Highly compensated individual" means an individual who
45 directly or indirectly receives compensation in excess of \$500,000
46 for the performance of services used directly in a production. An
47 individual receives compensation indirectly when the taxpayer pays

1 a loan out company that, in turn, pays the individual for the
2 performance of services.

3 “Incurred in New Jersey” means, for any application submitted
4 after the effective date of P.L.2018, c.56 (C.54:10A-5.39b et al.),
5 pursuant to which a tax credit has not been allowed prior to the
6 effective date of P.L. , c. (pending before the Legislature as this
7 bill), service performed within New Jersey and tangible personal
8 property used or consumed in New Jersey. A service is performed
9 in New Jersey to the extent that the individual performing the
10 service is physically located in New Jersey while performing the
11 service. Notwithstanding where the property is delivered or
12 acquired, rented tangible property is used or consumed in New
13 Jersey to the extent that the property is located in New Jersey
14 during its use or consumption and is rented from a vendor
15 authorized to do business in New Jersey or the film production
16 company provides to the authority the vendor’s information in a
17 form and manner prescribed by the authority. Purchased tangible
18 property is not used and consumed in New Jersey unless it is
19 purchased from a vendor authorized to do business in New Jersey
20 and is delivered to or acquired within New Jersey; provided,
21 however, that if a production is also located in another jurisdiction,
22 the purchased tangible property is used and consumed in New
23 Jersey if the acquisition and delivery of purchased tangible property
24 is located in either New Jersey or another jurisdiction where the
25 production takes place.

26 "Independent contractor" means an individual treated as an
27 independent contractor for federal and State tax purposes who is
28 contracted with by the taxpayer for the performance of services
29 used directly in a production.

30 "Loan out company" means a personal service corporation or
31 other entity that is contracted with by the taxpayer to provide
32 specified individual personnel, such as artists, crew, actors,
33 producers, or directors for the performance of services used directly
34 in a production. "Loan out company" shall not include entities
35 contracted with by the taxpayer to provide goods or ancillary
36 contractor services such as catering, construction, trailers,
37 equipment, or transportation.

38 **【"New Jersey film partner" means a film production company**
39 **that has made a commitment to produce films or commercial**
40 **audiovisual products in New Jersey and has developed, purchased,**
41 **or executed a 10-year contract to lease a production facility of**
42 **250,000 square feet or more as a "transformative project" pursuant**
43 **to section 65 of P.L.2020, c.156 (C.34:1B-333). No more than five**
44 **film production companies may be designated as a New Jersey film**
45 **partner.】**

46 "New Jersey film-lease partner" means a taxpayer, including any
47 taxpayer that is a member of a combined group under P.L.2018,
48 c.131 (C.54:10A-4.11), that has made a commitment to lease or

1 acquire a New Jersey production facility with an aggregate square
2 footage of at least 50,000 square feet, which includes a sound stage
3 and production support space such as production offices or a
4 backlot, for a period of five or more successive years and commits
5 to spend, on a separate-entity basis or in the aggregate with other
6 members of the taxpayer's combined group, an annual average of
7 \$50,000,000 of qualified film production expenses over the period
8 of at least five but not to exceed 10 years.

9 "New Jersey studio partner" means a film production company
10 that has made a commitment to produce films or commercial
11 audiovisual products in New Jersey and has developed, purchased,
12 or executed a 10-year contract to lease a production facility of
13 250,000 square feet or more as a "transformative project" pursuant
14 to section 65 of P.L.2020, c.156 (C.34:1B-333). No more than
15 three film production companies may be designated as a New Jersey
16 studio partner.

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】** studio partner that incurs more than
29 \$15,000,000, but less than \$50,000,000, 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】** studio partner that incurs
36 \$50,000,000 or more, but less than \$100,000,000, in qualified film
37 production expenses in the State, an amount, not to exceed
38 \$25,000,000, of the wages or salaries or other compensation for
39 writers, directors, including music directors, producers, and
40 performers, other than background actors with no scripted lines,
41 shall constitute qualified film production expenses;

42 (3) for a New Jersey **【film】** studio partner that incurs
43 \$100,000,000 or more, but less than \$150,000,000, in qualified film
44 production expenses in the State, an amount, not to exceed
45 \$40,000,000, of the wages or salaries or other compensation for
46 writers, directors, including music directors, producers, and
47 performers, other than background actors with no scripted lines,
48 shall constitute qualified film production expenses; and

1 (4) for a New Jersey **[film]** studio partner that incurs
2 \$150,000,000 or more in qualified film production expenses in the
3 State, an amount, not to exceed \$60,000,000, of the wages or
4 salaries or other compensation for writers, directors, including
5 music directors, producers, and performers, other than background
6 actors with no scripted lines, shall constitute qualified film
7 production expenses.

8 "Total digital media content production expenses" means costs
9 for services performed and property used or consumed in the
10 production of digital media content.

11 "Total film production expenses" means costs for services
12 performed and tangible personal property used or consumed in the
13 production of a film.

14 i. A business that is not a "taxpayer" as defined and used in the
15 "Corporation Business Tax Act (1945)," P.L.1945, c.162
16 (C.54:10A-1 et seq.) and therefore is not directly allowed a credit
17 under this section, but is a business entity that is classified as a
18 partnership for federal income tax purposes and is ultimately owned
19 by a business entity that is a "corporation" as defined in subsection
20 (c) of section 4 of P.L.1945, c.162 (C.54:10A-4), or a limited
21 liability company formed under the "Revised Uniform Limited
22 Liability Company Act," P.L.2012, c.50 (C.42:2C-1 et seq.), or
23 qualified to do business in this State as a foreign limited liability
24 company, with one member, and is wholly owned by the business
25 entity that is a "corporation" as defined in subsection (c) of section
26 4 of P.L.1945, c.162 (C.54:10A-4), but otherwise meets all other
27 requirements of this section, shall be considered an eligible
28 applicant and "taxpayer" as that term is used in this section.

29 (cf: P.L.2020, c.156, s.110)

30
31 59. Section 2 of P.L.2018, c.56 (C.54A:4-12b) is amended to
32 read as follows:

33 2. a. (1) A taxpayer, upon approval of an application to the
34 authority and the director, shall be allowed a credit against the tax
35 otherwise due for the taxable year under the "New Jersey Gross
36 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to **[30]**
37 35 percent of the qualified film production expenses of the taxpayer
38 during a taxable year commencing on or after July 1, 2018 but
39 before July 1, **[2028]** 2034, provided that:

40 (a) at least 60 percent of the total film production expenses,
41 exclusive of post-production costs, of the taxpayer are incurred for
42 services performed, and goods purchased through vendors
43 authorized to do business, in New Jersey, or the qualified film
44 production expenses of the taxpayer during the taxable year for
45 services performed, and goods purchased, through vendors
46 authorized to do business in New Jersey, exceed \$1,000,000 per
47 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】** 30
22 percent of the qualified film production expenses of the taxpayer
23 during a taxable year that are incurred for services performed and
24 tangible personal property purchased **【**through vendors whose
25 primary place of business is located in Atlantic, Burlington,
26 Camden, Cape May, Cumberland, Gloucester, Mercer, or Salem
27 County**】** for use at a sound stage or other location that is located in
28 the State within a 30-mile radius of the intersection of Eighth
29 Avenue/Central Park West, Broadway, and West 59th Street/Central
30 Park South, New York, New York.

31 b. (1) A taxpayer, upon approval of an application to the
32 authority and the director, shall be allowed a credit against the tax
33 otherwise due for the taxable year under the "New Jersey Gross
34 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to 20
35 percent of the qualified digital media content production expenses
36 of the taxpayer during a taxable year commencing on or after July
37 1, 2018 but before July 1, **【2028】** 2034, provided that:

38 (a) at least \$2,000,000 of the total digital media content
39 production expenses of the taxpayer are incurred for services
40 performed, and goods purchased through vendors authorized to do
41 business, in New Jersey;

42 (b) at least 50 percent of the qualified digital media content
43 production expenses of the taxpayer are for wages and salaries paid
44 to full-time or full-time equivalent employees in New Jersey;

45 (c) the taxpayer submits a tax credit verification report prepared
46 by an independent certified public accountant licensed in this State
47 in accordance with subsection g. of this section; and

1 (d) the taxpayer complies with the withholding requirements
2 provided for payments to loan out companies and independent
3 contractors in accordance with subsection h. of this section.

4 (2) Notwithstanding the provisions of paragraph (1) of
5 subsection b. of this section to the contrary, the tax credit allowed
6 pursuant to this subsection against the tax otherwise due for the
7 taxable year under the "New Jersey Gross Income Tax Act,"
8 N.J.S.54A:1-1 et seq., shall be in an amount equal to 25 percent for
9 the qualified digital media content production expenses of the
10 taxpayer during a taxable year that are incurred for services
11 performed and tangible personal property purchased through
12 vendors whose primary place of business is located in Atlantic,
13 Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer,
14 or Salem County.

15 c. No tax credit shall be allowed pursuant to this section for
16 any costs or expenses included in the calculation of any other tax
17 credit or exemption granted pursuant to a claim made on a tax
18 return filed with the director, or included in the calculation of an
19 award of business assistance or incentive, for a period of time that
20 coincides with the taxable year for which a tax credit authorized
21 pursuant to this section is allowed. The order of priority in which
22 the tax credit allowed pursuant to this section and any other tax
23 credits allowed by law may be taken shall be as prescribed by the
24 director. The amount of the tax credit applied under this section
25 against the tax otherwise due under the "New Jersey Gross Income
26 Tax Act," N.J.S.54A:1-1 et seq., for a taxable year, when taken
27 together with any other payments, credits, deductions, and
28 adjustments allowed by law shall not reduce the tax liability of the
29 taxpayer to an amount less than zero. The amount of the tax credit
30 otherwise allowable under this section which cannot be applied for
31 the taxable year due to the limitations of this subsection or under
32 other provisions of N.J.S.54A:1-1 et seq., may be carried forward, if
33 necessary, to the seven taxable years following the taxable year for
34 which the tax credit was allowed.

35 d. (1) A business entity that is classified as a partnership for
36 federal income tax purposes shall not be allowed a tax credit
37 pursuant to this section directly, but the amount of tax credit of a
38 taxpayer in respect of a distributive share of entity income, shall be
39 determined by allocating to the taxpayer that proportion of the tax
40 credit acquired by the entity that is equal to the taxpayer's share,
41 whether or not distributed, of the total distributive income or gain
42 of the entity for its taxable year ending within or with the taxpayer's
43 taxable year.

44 (2) A New Jersey S Corporation shall not be allowed a tax credit
45 pursuant to this section directly, but the amount of tax credit of a
46 taxpayer in respect of a pro rata share of S Corporation income,
47 shall be determined by allocating to the taxpayer that proportion of
48 the tax credit acquired by the New Jersey S Corporation that is

1 equal to the taxpayer's share, whether or not distributed, of the total
2 pro rata share of S Corporation income of the New Jersey S
3 Corporation for its privilege period ending within or with the
4 taxpayer's taxable year.

5 A business entity that is not a gross income "taxpayer" as defined
6 and used in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
7 et seq., and therefore is not directly allowed a credit under this
8 section, but otherwise meets all the other requirements of this
9 section, shall be considered an eligible applicant and "taxpayer" as
10 that term is used in this section, and the application of an otherwise
11 allowed credit amount shall be distributed to appropriate gross
12 income taxpayers pursuant to the other requirements of this
13 subsection.

14 e. A taxpayer, with an application for a tax credit provided for
15 in subsection a. or subsection b. of this section, may apply to the
16 authority and the director for a tax credit transfer certificate in lieu
17 of the taxpayer being allowed any amount of the tax credit against
18 the tax liability of the taxpayer. The tax credit transfer certificate,
19 upon receipt thereof by the taxpayer from the authority and the
20 director, may be sold or assigned, in full or in part, to any other
21 taxpayer that may have a tax liability under the "New Jersey Gross
22 Income Tax Act," N.J.S.54A:1-1 et seq., or the "Corporation
23 Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), in
24 exchange for private financial assistance to be provided by the
25 purchaser or assignee to the taxpayer that has applied for and been
26 granted the tax credit. The tax credit transfer certificate provided to
27 the taxpayer shall include a statement waiving the taxpayer's right
28 to claim that amount of the tax credit against the tax imposed
29 pursuant to N.J.S.54A:1-1 et seq. that the taxpayer has elected to
30 sell or assign. The sale or assignment of any amount of a tax credit
31 transfer certificate allowed under this section shall not be
32 exchanged for consideration received by the taxpayer of less than
33 75 percent of the transferred tax credit amount. Any amount of a
34 tax credit transfer certificate used by a purchaser or assignee against
35 a tax liability under N.J.S.54A:1-1 et seq. shall be subject to the
36 same limitations and conditions that apply to the use of a tax credit
37 pursuant to subsections c. and d. of this section. Any amount of a
38 tax credit transfer certificate obtained by a purchaser or assignee
39 under subsection e. of this section may be applied against the
40 purchaser's or assignee's tax liability under P.L.1945, c.162
41 (C.54:10A-1 et seq.) and shall be subject to the same limitations
42 and conditions that apply to the use of a credit pursuant to
43 subsection c. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b).

44 f. (1) The value of tax credits, including tax credits allowed
45 through the granting of tax credit transfer certificates, approved by
46 the director and the authority pursuant to subsection a. of this
47 section and pursuant to subsection a. of section 1 of P.L.2018, c.56
48 (C.54:10A-5.39b) to taxpayers, other than New Jersey **[film]** studio

1 partners and New Jersey film-lease partners, shall not exceed a
2 cumulative total of \$100,000,000 in fiscal year 2019 and in each
3 fiscal year thereafter prior to fiscal year **【2029】 2035** to apply
4 against the tax imposed pursuant to the "New Jersey Gross Income
5 Tax Act," N.J.S.54A:1-1 et seq., and pursuant to section 5 of
6 P.L.1945, c.162 (C.54:10A-5). In addition to the \$100,000,000
7 limitation on the value of tax credits approved by the director for
8 New Jersey film-lease partners and the \$100,000,000 limitation on
9 the value of tax credits approved by the director for other taxpayers
10 imposed by this paragraph, the value of tax credits, including tax
11 credits allowed through the granting of tax credit transfer
12 certificates, approved by the director and the authority pursuant to
13 subsection a. of this section and pursuant to subsection a. of section
14 **【2】 1** of P.L.2018, c.56 **【(C.54A:4-12b)】 (C.54:10A-5.39b)** to New
15 Jersey **【film】 studio** partners shall not exceed a cumulative total of
16 \$100,000,000 in fiscal year 2021 and in each fiscal year thereafter
17 prior to fiscal year 2034 to apply against the tax imposed pursuant
18 to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed
19 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
20 et seq. Beginning in fiscal year 2025, in addition to the
21 \$100,000,000 made available for New Jersey studio partners
22 pursuant to this paragraph, up to an additional \$350,000,000 may be
23 made available annually, in the discretion of the authority, to New
24 Jersey studio partners for the award of tax credits, including tax
25 credits allowed through the granting of tax credit transfer
26 certificates, pursuant to subsection a. of this section and subsection
27 a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b), from the funds
28 made available pursuant to subparagraph (i) of paragraph (1) of
29 subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362). In
30 addition to the \$100,000,000 limitation on the value of tax credits
31 approved by the director for New Jersey **【film】 studio** partners and
32 the \$100,000,000 limitation on the value of tax credits approved by
33 the director for other taxpayers imposed by this paragraph, the
34 value of tax credits, including tax credits allowed through the
35 granting of tax credit transfer certificates, approved by the director
36 and the authority pursuant to subsection a. of this section and
37 pursuant to subsection a. of section 1 of P.L.2018, c.56 **【(C.54A:4-**
38 **12b)】 (C.54:10A-5.39b)** to New Jersey film-lease partners shall not
39 exceed a cumulative total of \$100,000,000 in fiscal year 2021 and
40 in each fiscal year thereafter prior to fiscal year 2034 to apply
41 against the tax imposed pursuant to section 5 of P.L.1945, c.162
42 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey
43 Gross Income Tax Act," N.J.S.54A:1-1 et seq. Approvals made to
44 New Jersey studio partners and New Jersey film-lease partners shall
45 be subject to award agreements with the authority detailing
46 obligations of the awardee and outcomes relating to events of
47 default, including, but not limited to, recapture, forfeiture, and

1 termination. If in any taxable year, beginning following a date
2 determined by the authority, a New Jersey film-lease partner's
3 annual average of qualified film production expenses falls below
4 \$50,000,000, the authority shall reduce by 20 percent any tax credit
5 award for a film for which final documentation pursuant to
6 N.J.A.C.19:31-21.7(c) has been submitted, until a taxable year
7 when the annual average of qualified film production expenses has
8 been restored to \$50,000,000. The authority shall establish a non-
9 binding, administrative pre-certification process for potentially
10 eligible projects.

11 If the cumulative total amount of tax credits, and tax credit
12 transfer certificates, allowed to taxpayers for taxable years or
13 privilege periods commencing during a single fiscal year under
14 subsection a. of this section and subsection a. of section 1 of
15 P.L.2018, c.56 (C.54:10A-5.39b) exceeds the amount of tax credits
16 available in that fiscal year, then taxpayers who have first applied
17 for and have not been allowed a tax credit or tax credit transfer
18 certificate amount for that reason shall be allowed, in the order in
19 which they have submitted an application, the amount of tax credit
20 or tax credit transfer certificate on the first day of the next
21 succeeding fiscal year in which tax credits and tax credit transfer
22 certificates under subsection a. of this section and subsection a. of
23 section 1 of P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of
24 the amount of credits available.

25 Notwithstanding any provision of paragraph (1) of this
26 subsection to the contrary, for any fiscal year in which the amount
27 of tax credits approved pursuant to this paragraph is less than the
28 cumulative total amount of tax credits permitted to be approved in
29 that fiscal year, the authority shall certify the amount of the
30 remaining tax credits available for approval in that fiscal year, and
31 shall increase the cumulative total amount of tax credits permitted
32 to be approved for New Jersey studio partners in the subsequent
33 fiscal year by the certified amount remaining from the prior fiscal
34 year. The authority shall also certify, for each fiscal year, the
35 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 for New Jersey studio partners in
39 the subsequent fiscal year by the amount of tax credits previously
40 approved, but not subject to redemption or transfer.

41 (2) The value of tax credits, including tax credits allowed
42 through the granting of tax credit transfer certificates, approved by
43 the authority and the director pursuant to subsection b. of this
44 section and pursuant to subsection b. of section 1 of P.L.2018, c.56
45 (C.54:10A-5.39b) shall not exceed a cumulative total of
46 \$10,000,000 in fiscal year 2019 and in each fiscal year thereafter
47 prior to fiscal year **[2029]** 2035 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 the tax imposed pursuant to section 5 of P.L.1945, c.162
2 (C.54:10A-5).

3 If the total amount of tax credits and tax credit transfer
4 certificates allowed to taxpayers for taxable years or privilege
5 periods commencing during a single fiscal year under subsection b.
6 of this section and subsection b. of section 1 of P.L.2018, c.56
7 (C.54:10A-5.39b) exceeds the amount of tax credits available in
8 that year, then taxpayers who have first applied for and have not
9 been allowed a tax credit or tax credit transfer certificate amount for
10 that reason shall be allowed, in the order in which they have
11 submitted an application, the amount of tax credit or tax credit
12 transfer certificate on the first day of the next succeeding fiscal year
13 in which tax credits and tax credit transfer certificates under
14 subsection b. of this section and subsection b. of section 1 of
15 P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of the amount of
16 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
20 of tax credits permitted to be approved in that fiscal year, the
21 authority shall certify the amount of the remaining tax credits
22 available for approval in that fiscal year, and shall increase the
23 cumulative total amount of tax credits permitted to be approved in
24 the subsequent fiscal year by the certified amount remaining from
25 the prior fiscal year. The authority shall also certify, for each fiscal
26 year, the amount of tax credits that were previously approved, but
27 that the taxpayer is not able to redeem or transfer to another
28 taxpayer under this section, and shall increase the cumulative total
29 amount of tax credits permitted to be approved in the subsequent
30 fiscal year by the amount of tax credits previously approved, but not
31 subject to redemption or 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
45 certified public accountant's report, and shall make a determination
46 as to the qualified film production expenses or the qualified digital
47 media content production expenses of the taxpayer. The authority's
48 and the director's review shall include, but shall not be limited to: a

1 review of all non-payroll qualified film production expense items
2 and non-payroll digital media content production expense items
3 over \$20,000; a review of 100 randomly selected non-payroll
4 qualified film production expense items and non-payroll digital
5 media content production expense items that are greater than
6 \$2,500, but less than \$20,000; a review of 100 randomly selected
7 non-payroll qualified film production expense items and non-
8 payroll digital media content production expense items that are less
9 than \$2,500; a review of the qualified wages for the 15 employees,
10 independent contractors, or loan-out companies with the highest
11 qualified wages; and a review of the qualified wages for 35
12 randomly selected employees, independent contractors, or loan-out
13 companies with qualified wages other than the 15 employees,
14 independent contractors, or loan-out companies with the highest
15 qualified wages. The taxpayer's qualified film production expenses
16 and digital media content production expenses shall be adjusted
17 based on any discrepancies identified for the reviewed non-payroll
18 qualified film production expense items, non-payroll digital media
19 content production expense items and qualified wages. The
20 taxpayer's qualified film production expenses and digital media
21 content production expenses also shall be adjusted based on the
22 projection of any discrepancies identified based on the review of
23 randomly selected expense items or wages pursuant to this
24 subsection to the extent that the discrepancies exceed one percent of
25 the total reviewed non-payroll qualified film production expense
26 items, non-payroll digital media content production expense items,
27 or qualified wages. The determination shall be provided in writing
28 to the taxpayer, and a copy of the written determination shall be
29 included in the filing of a return that includes a claim for a tax
30 credit allowed pursuant to this section.

31 h. A taxpayer shall withhold from each payment to a loan out
32 company or to an independent contractor an amount equal to 6.37
33 percent of the payment otherwise due. The amounts withheld shall
34 be deemed to be withholding of liability pursuant to the "New
35 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the
36 taxpayer shall be deemed to have the rights, duties, and
37 responsibilities of an employer pursuant to chapter 7 of Title 54A of
38 the New Jersey Statutes. The director shall allocate the amounts
39 withheld for a taxable year to the accounts of the individuals who
40 are employees of a loan out company in proportion to the
41 employee's payment by the loan out company in connection with a
42 trade, profession, or occupation carried on in this State or for the
43 rendition of personal services performed in this State during the
44 taxable year. A loan out company that reports its payments to
45 employees in connection with a trade, profession, or occupation
46 carried on in this State or for the rendition of personal services
47 performed in this State during a taxable year shall be relieved of its
48 duties and responsibilities as an employer pursuant to chapter 7 of

1 Title 54A of the New Jersey Statutes for the taxable year for any
2 payments relating to the payments on which the taxpayer withheld.

3 i. As used in this section:

4 "Authority" means the New Jersey Economic Development
5 Authority.

6 "Business assistance or incentive" means "business assistance or
7 incentive" as that term is defined pursuant to section 1 of P.L.2007,
8 c.101 (C.54:50-39).

9 "Commission" means the Motion Picture and Television
10 Development Commission.

11 "Digital media content" means any data or information that is
12 produced in digital form, including data or information created in
13 analog form but reformatted in digital form, text, graphics,
14 photographs, animation, sound, and video content. "Digital media
15 content" shall not mean content offerings generated by the end user
16 (including postings on electronic bulletin boards and chat rooms);
17 content offerings comprised primarily of local news, events,
18 weather or local market reports; public service content; electronic
19 commerce platforms (such as retail and wholesale websites);
20 websites or content offerings that contain obscene material as
21 defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or
22 content that are produced or maintained primarily for private,
23 industrial, corporate, or institutional purposes; or digital media
24 content acquired or licensed by the taxpayer for distribution or
25 incorporation into the taxpayer's digital media content.

26 "Film" means a feature film, a television series, or a television
27 show of 22 minutes or more in length, intended for a national
28 audience, or a television series or a television show of 22 minutes
29 or more in length intended for a national or regional audience,
30 including, but not limited to, a game show, award show, or other
31 gala event filmed and produced at a nonprofit arts and cultural
32 venue receiving State funding. "Film" shall not include a
33 production featuring news, current events, weather, and market
34 reports or public programming, talk show, sports event, or reality
35 show, a production that solicits funds, a production containing
36 obscene material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-
37 3, or a production primarily for private, industrial, corporate, or
38 institutional purposes. "Film" shall not include an award show or
39 other gala event that is not filmed and produced at a nonprofit arts
40 and cultural venue receiving State funding.

41 "Full-time or full-time equivalent employee" means an individual
42 employed by the taxpayer for consideration for at least 35 hours a
43 week, or who renders any other standard of service generally
44 accepted by custom or practice as full-time or full-time equivalent
45 employment, whose wages are subject to withholding as provided in
46 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or
47 who is a partner of a taxpayer, who works for the partnership for at
48 least 35 hours a week, or who renders any other standard of service

1 generally accepted by custom or practice as full-time or full-time
2 equivalent employment, and whose distributive share of income,
3 gain, loss, or deduction, or whose guaranteed payments, or any
4 combination thereof, is subject to the payment of estimated taxes, as
5 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
6 et seq. "Full-time or full-time equivalent employee" shall not
7 include an individual who works as an independent contractor or on
8 a consulting basis for the taxpayer.

9 "Highly compensated individual" means an individual who
10 directly or indirectly receives compensation in excess of \$500,000
11 for the performance of services used directly in a production. An
12 individual receives compensation indirectly when the taxpayer pays
13 a loan out company that, in turn, pays the individual for the
14 performance of services.

15 "Incurred in New Jersey" means, for any application submitted
16 after the effective date of P.L.2018, c.56 (C.54:10A-5.39b et al.),
17 pursuant to which a tax credit has not been allowed prior to the
18 effective date of P.L. , c. (pending before the Legislature as this
19 bill), service performed within New Jersey and tangible personal
20 property used or consumed in New Jersey. A service is performed
21 in New Jersey to the extent that the individual performing the
22 service is physically located in New Jersey while performing the
23 service. Notwithstanding where the property is delivered or
24 acquired, rented tangible property is used or consumed in New
25 Jersey to the extent that the property is located in New Jersey
26 during its use or consumption and is rented from a vendor
27 authorized to do business in New Jersey or the film production
28 company provides to the authority the vendor's information in a
29 form and manner prescribed by the authority. Purchased tangible
30 property is not used and consumed in New Jersey unless it is
31 purchased from a vendor authorized to do business in New Jersey
32 and is delivered to or acquired within New Jersey; provided,
33 however, that if a production is also located in another jurisdiction,
34 the purchased tangible property is used and consumed in New
35 Jersey if the acquisition and delivery of purchased tangible property
36 is located in either New Jersey or another jurisdiction where the
37 production takes place.

38 "Independent contractor" means an individual treated as an
39 independent contractor for federal and State tax purposes who is
40 contracted with by the taxpayer for the performance of services
41 used directly in a production.

42 "Loan out company" means a personal service corporation or
43 other entity that is contracted with by the taxpayer to provide
44 specified individual personnel, such as artists, crew, actors,
45 producers, or directors for the performance of services used directly
46 in a production. "Loan out company" shall not include entities
47 contracted with by the taxpayer to provide goods or ancillary

1 contractor services such as catering, construction, trailers,
2 equipment, or transportation.

3 **["New Jersey film partner" means a film production company**
4 **that has made a commitment to produce films or commercial**
5 **audiovisual products in New Jersey and has developed, purchased,**
6 **or executed a 10-year contract to lease a production facility of**
7 **250,000 square feet or more as a "transformative project" pursuant**
8 **to section 65 of P.L.2020, c.156 (C.34:1B-333). No more than five**
9 **film production companies may be designated as a New Jersey film**
10 **partner.】**

11 "New Jersey film-lease partner" means a taxpayer, including any
12 taxpayer that is a member of a combined group under P.L.2018,
13 c.131 (C:54:10A-4.11), that has made a commitment to lease or
14 acquire a New Jersey production facility with an aggregate square
15 footage of at least 50,000 square feet, which includes a sound stage
16 and production support space such as production offices or a
17 backlot, for a period of five or more successive years and commits
18 to spend, on a separate-entity basis or in the aggregate with other
19 members of the taxpayer's combined group, an annual average of
20 \$50,000,000 of qualified film production expenses over the period
21 of at least five but not to exceed 10 years.

22 "New Jersey studio partner" means a film production company
23 that 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.2020, c.156 (C.34:1B-333). No more than
28 three film production companies may be designated as a New Jersey
29 studio partner.

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

32 "Post-production costs" means the costs of the phase of
33 production of a film that follows principal photography, in which
34 raw footage is cut and assembled into a finished film with sound
35 synchronization and visual effects.

36 "Pre-production costs" means the costs of the phase of
37 production of a film that precedes principal photography, in which a
38 detailed schedule and budget for the production is prepared, the
39 script and location is finalized, and contracts with vendors are
40 negotiated.

41 "Qualified digital media content production expenses" means an
42 expense incurred in New Jersey for the production of digital media
43 content. "Qualified digital media content production expenses"
44 shall include but not be limited to: wages and salaries of individuals
45 employed in the production of digital media content on which the
46 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 of
48 computer software and hardware, data processing, visualization

1 technologies, sound synchronization, editing, and the rental of
2 facilities and equipment. Payment made to a loan out company or
3 to an independent contractor shall not be deemed a "qualified digital
4 media content production expense" unless the payment is made in
5 connection with a trade, profession, or occupation carried on in this
6 State or for the rendition of personal services performed in this
7 State and the taxpayer has made the withholding required pursuant
8 to subsection h. of this section. "Qualified digital media content
9 production expenses" shall not include expenses incurred in
10 marketing, promotion, or advertising digital media or other costs
11 not directly related to the production of digital media content.
12 Costs related to the acquisition or licensing of digital media content
13 by the taxpayer for distribution or incorporation into the taxpayer's
14 digital media content shall not be deemed "qualified digital media
15 content production expenses."

16 "Qualified film production expenses" means an expense incurred
17 in New Jersey for the production of a film including pre-production
18 costs and post-production costs incurred in New Jersey. "Qualified
19 film production expenses" shall include but not be limited to:
20 wages and salaries of individuals employed in the production of a
21 film on which the tax imposed by the "New Jersey Gross Income
22 Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; and the
23 costs for tangible personal property used, and services performed,
24 directly and exclusively in the production of a film, such as
25 expenditures for film production facilities, props, makeup,
26 wardrobe, film processing, camera, sound recording, set
27 construction, lighting, shooting, editing, and meals. Payment made
28 to a loan out company or to an independent contractor shall not be
29 deemed a "qualified film production expense" unless the payment is
30 made in connection with a trade, profession, or occupation carried
31 on in this State or for the rendition of personal services performed
32 in this State and the taxpayer has made the withholding required by
33 subsection h. of this section. "Qualified film production expenses"
34 shall not include: expenses incurred in marketing or advertising a
35 film; and payment in excess of \$500,000 to a highly compensated
36 individual for costs for a story, script, or scenario used in the
37 production of a film and wages or salaries or other compensation
38 for writers, directors, including music directors, producers, and
39 performers, other than background actors with no scripted lines,
40 except as follows:

41 (1) for a New Jersey **[film]** studio partner that incurs more than
42 \$15,000,000, but less than \$50,000,000, in qualified film production
43 expenses in the State, an amount, not to exceed \$15,000,000, of the
44 wages or salaries or other compensation for writers, directors,
45 including music directors, producers, and performers, other than
46 background actors with no scripted lines, shall constitute qualified
47 film production expenses;

1 (2) for a New Jersey **【film】** studio partner that incurs
2 \$50,000,000 or more, but less than \$100,000,000, in qualified film
3 production expenses in the State, an amount, not to exceed
4 \$25,000,000, of the wages or salaries or other compensation for
5 writers, directors, including music directors, producers, and
6 performers, other than background actors with no scripted lines,
7 shall constitute qualified film production expenses;

8 (3) for a New Jersey **【film】** studio partner that incurs
9 \$100,000,000 or more, but less than \$150,000,000, in qualified film
10 production expenses in the State, an amount, not to exceed
11 \$40,000,000, of the wages or salaries or other compensation for
12 writers, directors, including music directors, producers, and
13 performers, other than background actors with no scripted lines,
14 shall constitute qualified film production expenses; and

15 (4) for a New Jersey **【film】** studio partner that incurs
16 \$150,000,000 or more in qualified film production expenses in the
17 State, an amount, not to exceed \$60,000,000, of the wages or
18 salaries or other compensation for writers, directors, including
19 music directors, producers, and performers, other than background
20 actors with no scripted lines, shall constitute qualified film
21 production expenses.

22 "Total digital media content production expenses" means costs
23 for services performed and property used or consumed in the
24 production of digital media content.

25 "Total film production expenses" means costs for services
26 performed and tangible personal property used or consumed in the
27 production of a film.

28 (cf: P.L.2020, c.156, s.111)

29

30 60. Section 9 of P.L.1985, c.334 (C.58:11B-9) is amended to
31 read as follows:

32 9. a. (1) The trust may make and contract to make loans to
33 local government units, or to a local government unit on behalf of
34 another local government unit, in accordance with and subject to the
35 provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997,
36 c.224 (C.58:11B-10.1 et al.) to finance the cost of any wastewater
37 treatment system project or water supply project, which the local
38 government unit may lawfully undertake or acquire and for which
39 the local government unit is authorized by law to borrow money.

40 (2) The trust may make and contract to make loans to public
41 water utilities, or to any other person or local government unit on
42 behalf of a public water utility, in accordance with and subject to
43 the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997,
44 c.224 (C.58:11B-10.1 et al.) to finance the cost of any water supply
45 project, which the public water utility may lawfully undertake or
46 acquire.

47 (3) The trust may make and contract to make loans to private
48 persons other than local government units, or to any other person or

1 local government unit on behalf of a private person, in accordance
2 with and subject to the provisions of P.L.1985, c.334 (C.58:11B-1
3 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to finance the cost
4 of stormwater management systems.

5 (4) The trust may make and contract to make loans and provide
6 other assistance to a local government unit or consortia thereof to
7 finance the cost of transportation projects pursuant to sections 22
8 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through
9 C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-
10 22.4), and provided that the federally-funded subaccount is operated
11 in accordance with the provisions of the federal infrastructure bank
12 program.

13 The loans may be made subject to those terms and conditions as
14 the trust shall determine to be consistent with the purposes thereof.
15 Each loan by the trust and the terms and conditions thereof shall be
16 subject to approval by the State Treasurer, and the trust shall make
17 available to the State Treasurer all information, statistical data and
18 reports of independent consultants or experts as the State Treasurer
19 shall deem necessary in order to evaluate the loan. Each loan to a
20 local government unit, public water utility or any other person shall
21 be evidenced by notes, bonds or other obligations thereof issued to
22 the trust. In the case of each local government unit, notes and
23 bonds to be issued to the trust and, if applicable, the State, acting by
24 and through the Department of Environmental Protection, by the
25 local government unit (1) shall be authorized and issued as provided
26 by law for the issuance of notes and bonds by the local government
27 unit, (2) notwithstanding any provisions of the "Local Authorities
28 Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.) to the
29 contrary, shall be approved by the Director of the Division of Local
30 Government Services in the Department of Community Affairs, and
31 (3) notwithstanding the provisions of N.J.S.40A:2-27, N.J.S.40A:2-
32 28 and N.J.S.40A:2-29 or any other provisions of law to the
33 contrary, may be sold at private sale to the trust or the State, as the
34 case may be, at any price, whether or not less than par value, and
35 shall be subject to redemption prior to maturity at any times and at
36 any prices as the trust or the State, as the case may be, and local
37 government units may agree. Each loan to a local government unit,
38 public water utility or any other person and the notes, bonds or
39 other obligations thereby issued shall bear interest at a rate or rates
40 per annum as the trust or the State, as the case may be, and the local
41 government unit, public water utility or any other person, as the
42 case may be, may agree.

43 b. The trust is authorized to guarantee or contract to guarantee
44 the payment of all or any portion of the principal and interest on
45 bonds, notes or other obligations issued by a local government unit
46 to finance the cost of any wastewater treatment system project,
47 water supply project, **[or]** transportation project, or redevelopment
48 project that includes, as a portion thereof, any wastewater treatment

1 system project, water supply project, or transportation project,
2 which the local government unit may lawfully undertake or acquire
3 and for which the local government unit is authorized by law to
4 borrow money, and the guarantee shall constitute an obligation of
5 the trust, and shall be in furtherance of the corporate purposes of the
6 trust, for the purposes of P.L.1985, c.334 (C.58:11B-1 et seq.),
7 P.L.1997, c.224 (C.58:11B-10.1 et al.), or sections 22 and 34
8 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-
9 10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4). Each
10 guarantee by the trust and the terms and conditions thereof shall be
11 subject to approval by the State Treasurer, and the trust shall make
12 available to the State Treasurer all information, statistical data and
13 reports of independent consultants or experts as the State Treasurer
14 shall deem necessary in order to evaluate the guarantee.

15 c. The trust shall not make or contract to make any loans or
16 guarantees to local government units, public water utilities or any
17 other person, or otherwise incur any additional indebtedness, on or
18 after June 30, 2033.

19 d. Notwithstanding any provision of P.L.1985, c.334
20 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to
21 the contrary, the trust may receive funds from any source including,
22 without limitation, any funds drawn by the trust from a revolving
23 line of credit or other similar financial vehicle that may be procured
24 by the trust, either through a competitive or negotiated process,
25 pursuant to section 5 of P.L.1985, c.334 (C.58:11B-5), for deposit
26 into the Interim Environmental Financing Program Fund or the trust
27 may issue its bonds, notes or other obligations, including
28 commercial paper issued through a competitive or negotiated
29 process, in any principal amounts, in either case, as in the judgment
30 of the trust shall be necessary to provide sufficient funds to finance
31 or refinance short-term or temporary loans to local government
32 units, public water utilities or private persons for any wastewater
33 treatment system projects included on the Department of
34 Environmental Protection project priority list and eligible for
35 approval pursuant to section 20 of P.L.1985, c.334 (C.58:11B-20)
36 or water supply projects included on the Department of
37 Environmental Protection project priority list and eligible for
38 approval pursuant to section 24 of P.L.1997, c.224 (C.58:11B-20.1),
39 as applicable, without regard to any other provisions of P.L.1985,
40 c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et
41 al.), including, without limitation, any administrative or legislative
42 approvals.

43 The trust shall create and establish a special fund to be known as
44 the "Interim Environmental Financing Program Fund" for the short-
45 term or temporary loan financing or refinancing program to be
46 known as the "Interim Environmental Financing Program." The
47 monies in the fund shall be used for short-term or temporary loans

1 for clean water and drinking water projects pursuant to the New
2 Jersey Environmental Infrastructure Financing Program.

3 Except as provided in section 1 of P.L.2013, c.93 (C.58:11B-
4 9.5), any short-term or temporary loans made by the trust pursuant
5 to this subsection may only be made in advance of the anticipated
6 loans the trust may make and contract to make under the provisions
7 of subsection a. of this section from any source of funds anticipated
8 to be received by the trust. Any such short-term or temporary loan
9 made pursuant to the Interim Environmental Financing Program
10 shall mature no later than the last day of the third succeeding fiscal
11 year following the closing date on which the short-term or
12 temporary loan was made by the trust to the project sponsor; except
13 a planning, design, and construction loan shall mature no later than
14 the last day of the fifth succeeding fiscal year following the closing
15 date of the planning, design, and construction loan or the last day of
16 the third succeeding fiscal year following the date of construction
17 certification following the closing date of the planning, design, and
18 construction loan, whichever is sooner, provided that, in either case,
19 project planning or engineering design activities shall not exceed
20 two years from the closing date of the planning, design, and
21 construction loan; and except a short-term or temporary loan made
22 pursuant to this subsection for environmental planning and
23 engineering design costs associated with long-term control plans for
24 combined sewer overflow projects shall mature no later than the last
25 day of the 10th succeeding fiscal year following the closing date on
26 which the short-term or temporary loan was made by the trust to the
27 project sponsor. With respect to any short-term or temporary loan
28 or planning, design, and construction loan made by the trust
29 pursuant to this subsection, the trust may authorize one short-term
30 supplemental loan for residual project expenses thereof upon receipt
31 by the trust from the Department of Environmental Protection of a
32 certification that states that the time required by the project sponsor
33 to complete construction of the project exceeds the maximum
34 maturity date of the project sponsor's outstanding short-term or
35 temporary loan or planning, design, and construction loan. Any
36 such short-term supplemental loan shall not exceed in duration the
37 last day of the third succeeding fiscal year following the loan
38 closing of the supplemental loan. The trust may make short-term or
39 temporary loans pursuant to the Interim Environmental Financing
40 Program to any one or more of the project sponsors, for the
41 respective projects thereof, identified in the interim financing
42 project priority list to be known as the "Interim Environmental
43 Financing Program Project Priority List" in the form provided to the
44 Legislature by the Commissioner of Environmental Protection.

45 The Interim Environmental Financing Program Project Priority
46 List, including any revision thereof or supplement thereto, shall be
47 submitted to the Legislature pursuant to section 2 of P.L.1991,
48 c.164 (C.52:14-19.1) at least once in each fiscal year as provided in

1 section 20 of P.L.1985, c.334 (C.58:11B-20) and section 24 of
2 P.L.1997, c.224 (C.58:11B-20.1). The Secretary and the Clerk shall
3 cause the date of submission to be entered upon the Senate Journal
4 and the Minutes of the General Assembly, respectively. The trust
5 may revise or supplement the Interim Environmental Financing
6 Program Project Priority List no more than four times during the
7 fiscal year and shall submit the revised list to the Legislature when
8 the revisions are made. Any environmental infrastructure project or
9 the project sponsor thereof not identified in the Interim
10 Environmental Financing Program Project Priority List shall not be
11 eligible for a short-term or temporary loan from the Interim
12 Environmental Financing Program Fund. The trust may issue short-
13 term or temporary loans pursuant to this subsection only if a project
14 is listed on an Interim Environmental Financing Program Project
15 Priority List that has been submitted to the Legislature. No funds
16 may be disbursed pursuant to this section for project activities prior
17 to a determination and certification, in writing, from the
18 Department of Environmental Protection, that the project activities
19 satisfy the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.).

20 e. Notwithstanding any provisions of the "Local Bond Law"
21 (N.J.S.40A:2-1 et seq.), the "sewerage authorities law," P.L.1946,
22 c.138 (C.40:14A-1 et seq.), or the "municipal and county utilities
23 authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.) to the
24 contrary, short-term or temporary loans made by the trust pursuant
25 to section 9 of P.L.1985, c.334 (C.58:11B-9) or section 1 of
26 P.L.2013, c.93 (C.58:11B-9.5), and the obligations issued by project
27 sponsors to evidence such loans, may, at the discretion of the trust
28 and upon application by the project sponsor, bear interest at a
29 variable rate determined pursuant to a methodology as may be
30 established by the trust from time to time.

31 Further, notwithstanding any provisions of the "Local Bond
32 Law" (N.J.S.40A:2-1 et seq.), the "sewerage authorities law,"
33 P.L.1946, c.138 (C.40:14A-1 et seq.), or the "municipal and county
34 utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.) to
35 the contrary, any short-term or temporary loans made by the trust
36 pursuant to section 9 of P.L.1985, c.334 (C.58:11B-9) or section 1
37 of P.L.2013, c.93 (C.58:11B-9.5), and any notes or other
38 obligations issued by project sponsors to evidence such short-term
39 or temporary loans, as such loans, notes, or other obligations may
40 be refinanced or extended, as provided in subsections d. and g. of
41 this section and section 1 of P.L.2013, c.93 (C.58:11B-9.5), except
42 for loans for environmental planning and engineering design costs
43 associated with long-term control plans for combined sewer
44 overflow projects as provided in subsection d. of this section, shall
45 mature no later than the maturity date as established pursuant to
46 subsections d. and g. of this section and section 1 of P.L.2013, c.93
47 (C.58:11B-9.5), without payment by project sponsors of any portion
48 of the principal thereof prior to maturity.

1 f. Any balances remaining in the Emergency Loan Fund
2 established pursuant to section 4 of P.L.2007, c.138 (C.58:11B-9.1),
3 the Planning and Design Fund established pursuant to section 1 of
4 P.L.2009, c.59 (C.58:11B-9.2), the Onsite Wastewater Disposal
5 Loan Fund established pursuant to section 5 of P.L.2009, c.103
6 (C.58:11B-9.3), the Supplemental Loan Fund established pursuant
7 to section 2 of P.L.2011, c.94 (C.58:11B-9.4), and the Equipment
8 Loan Fund established pursuant to section 1 of P.L.2014, c.28
9 (C.58:11B-9.6) after the date of enactment of P.L.2016, c.30 shall
10 be transferred to the Interim Environmental Financing Program
11 Fund, and any loan repayments to the trust of principal and interest
12 or premium on loans made from those funds shall be credited to the
13 Interim Environmental Financing Program Fund.

14 g. The trust shall create and establish a special fund to be
15 known as the "Interim Transportation Financing Program Fund" for
16 the short-term or temporary loan financing or refinancing program
17 to be known as the "Interim Transportation Financing Program."

18 Notwithstanding any provision of P.L.1985, c.334 (C.58:11B-1
19 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to the contrary,
20 the trust may receive funds from any source including, without
21 limitation, any funds drawn by the trust from a revolving line of
22 credit or other similar financial vehicle that may be procured by the
23 trust, either through a competitive or negotiated process, pursuant to
24 section 5 of P.L.1985, c.334 (C.58:11B-5), for deposit into the
25 Interim Transportation Financing Program Fund or the trust may
26 issue its bonds, notes or other obligations in any principal amounts,
27 in either case, as in the judgment of the trust shall be necessary to
28 provide sufficient funds to finance or refinance short-term or
29 temporary loans to local government units or private persons for
30 any transportation project included on the Department of
31 Transportation Interim Transportation Financing Program Project
32 Priority List for the ensuing fiscal year and eligible for approval
33 pursuant to sections 22 and 34 through 38 of P.L.2016, c.56
34 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-
35 22.3, and C.58:11B-22.4), without regard to any other provisions of
36 P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-
37 10.1 et al.), or sections 22 and 34 through 38 of P.L.2016, c.56
38 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-
39 22.3, and C.58:11B-22.4), including, without limitation, any
40 administrative or legislative approvals.

41 Any short-term or temporary loans made by the trust pursuant to
42 this subsection may only be made in advance of the anticipated
43 loans the trust may make and contract to make under the provisions
44 of subsection a. of this section from any source of funds anticipated
45 to be received by the trust. Any such short-term or temporary loan
46 made pursuant to the Interim Transportation Financing Program
47 shall mature no later than the last day of the third succeeding fiscal
48 year following the closing date on which the short-term or

1 temporary loan was made by the trust to the project sponsor; except
2 a planning, design, and construction loan shall mature no later than
3 the last day of the fifth succeeding fiscal year following the closing
4 date of the planning, design, and construction loan or the last day of
5 the third succeeding fiscal year following the date of construction
6 certification following the closing date of the planning, design, and
7 construction loan, whichever is sooner, provided that, in either case,
8 project planning or engineering design activities shall not exceed
9 two years from the closing date of the planning, design, and
10 construction loan. With respect to any short-term or temporary loan
11 or planning, design, and construction loan made by the trust
12 pursuant to this subsection, the trust may authorize one short-term
13 supplemental loan for residual expenses thereof upon receipt by the
14 trust from the Department of Transportation of a certification that
15 states that the time required by the project sponsor to complete
16 construction of the project exceeds the maximum maturity date of
17 the short-term or temporary loan or planning, design, and
18 construction loan. Any such short-term supplemental loan shall not
19 exceed in duration the last day of the third succeeding fiscal year
20 following the loan closing of the short-term supplemental loan. The
21 trust may make short-term or temporary loans pursuant to the
22 Interim Transportation Financing Program to any one or more of the
23 project sponsors, for the respective projects thereof, only if a
24 project is identified in the Department of Transportation Interim
25 Transportation Financing Program Project Priority List to be known
26 as the "Interim Transportation Financing Program Project Priority
27 List" in the form provided to the Legislature by the Commissioner
28 of Transportation.

29 The Interim Transportation Financing Program Project Priority
30 List, including any revision thereof or supplement thereto, shall be
31 submitted to the Secretary of the Senate and the Clerk of the
32 General Assembly on or before July 1 of each year. The Interim
33 Transportation Financing Program Project Priority List shall be
34 submitted to the Legislature pursuant to section 2 of P.L.1991,
35 c.164 (C.52:14-19.1) at least once in each fiscal year. The
36 Secretary and the Clerk shall cause the date of submission to be
37 entered upon the Senate Journal and the Minutes of the General
38 Assembly, respectively. Any transportation infrastructure project or
39 the project sponsor thereof not identified in the Interim
40 Transportation Financing Program Project Priority List shall not be
41 eligible for a short-term or temporary loan from the Interim
42 Transportation Financing Program Fund. The trust may revise or
43 supplement the Interim Transportation Financing Program Project
44 Priority List no more than four times during the fiscal year, and
45 shall submit the revised list to the Legislature when the revisions
46 are made.

47 No funds may be disbursed pursuant to this subsection for
48 project activities prior to written notification of award concurrence

1 from the Department of Transportation and certification in writing,
2 from the trust, that the project activities satisfy the provisions of
3 P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-
4 10.1 et al.), or sections 22 and 34 through 38 of P.L.2016, c.56
5 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-
6 22.3, and C.58:11B-22.4).
7 (cf: P.L.2019, c.516, s.2)

8
9 61. Section 2 of P.L.2011, c.149 (C.34:1B-243) is amended to
10 read as follows:

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

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

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 "Aviation district" means all areas within the boundaries of the
31 "Atlantic City International Airport," established pursuant to section
32 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation
33 Administration William J. Hughes Technical Center and the area
34 within a one-mile radius of the outermost boundary of the "Atlantic
35 City International Airport" and the Federal Aviation Administration
36 William J. Hughes Technical Center.

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

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

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

44 a partnership;

45 an S corporation;

46 a limited liability company; or

47 a non-profit corporation.

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

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

11 "Capital investment" in a qualified business facility means
12 expenses by a business or any affiliate of the business incurred after
13 application for:

14 a. site preparation and construction, repair, renovation,
15 improvement, equipping, or furnishing on real property or of a
16 building, structure, facility, or improvement to real property;

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

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

26 d. any of the foregoing.

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

36 In addition to the foregoing, if a business acquires or leases a
37 qualified business facility, the capital investment made or acquired
38 by the seller or owner, as the case may be, if pertaining primarily to
39 the premises of the qualified business facility, shall be considered a
40 capital investment by the business and, if pertaining generally to the
41 qualified business facility being acquired or leased, shall be
42 allocated to the premises of the qualified business facility on the
43 basis of the gross leasable area of the premises in relation to the
44 total gross leasable area in the qualified business facility. The
45 capital investment described herein may include any capital
46 investment made or acquired within 24 months prior to the date of
47 application so long as the amount of capital investment made or
48 acquired by the business, any affiliate of the business, or any owner

1 after the date of application equals at least 50 percent of the amount
2 of capital investment, allocated to the premises of the qualified
3 business facility being acquired or leased on the basis of the gross
4 leasable area of the premises in relation to the total gross leasable
5 area in the qualified business facility made or acquired prior to the
6 date of application.

7 "College or university" means a county college, an independent
8 institution of higher education, a public research university, or a
9 State college.

10 "Commitment period" means the period of time that is 1.5 times
11 the eligibility period.

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

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

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

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

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

45 "Eligibility period" means the period in which a business may
46 claim a tax credit under the Grow New Jersey Assistance 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 and employment requirements of the Grow New Jersey Assistance
2 Program and extending thereafter for a term of not more than 10
3 years, with the term to be determined solely at the discretion of the
4 applicant.

5 "Eligible position" or "full-time job" means a full-time position
6 in a business in this State, which position the business has filled
7 with a full-time employee, who shall have their primary office at
8 the qualified business facility and spend at least 60 percent of their
9 time at the qualified business facility. This requirement shall
10 supersede any law, regulation, or incentive agreement that imposes
11 a requirement that the employee be present at the qualified business
12 facility for a specified percentage of time greater than 60 percent.
13 This amendment shall not alter or terminate any waiver of the
14 requirement that an employee spend time at the qualified business
15 facility implemented by the authority due to COVID-19 public
16 health emergency and state of emergency.

17 "Full-time employee" means a person:

18 a. who is employed by a business for consideration for at least
19 35 hours a week, or who renders any other standard of service
20 generally accepted by custom or practice as full-time employment;
21 or

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

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

40 d. who, except for purposes of the Statewide workforce, is
41 provided, by the business, with employee health benefits under a
42 health benefits plan authorized pursuant to State or federal law.

43 With respect to a logistics, manufacturing, energy, defense,
44 aviation, or maritime business, excluding primarily warehouse or
45 distribution operations, located in a port district having a container
46 terminal:

47 the requirement that employee health benefits are to be provided
48 shall be deemed to be satisfied if the benefits are provided in

1 accordance with industry practice by a third party obligated to
2 provide such benefits pursuant to a collective bargaining agreement;

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

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

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

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

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

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

37 "Garden State Growth Zone" or "growth zone" means the four
38 New Jersey cities with the lowest median family income based on
39 the 2009 American Community Survey from the US Census, (Table
40 708. Household, Family, and Per Capita Income and Individuals,
41 and Families Below Poverty Level by City: 2009); a municipality
42 which contains a Tourism District as established pursuant to section
43 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino
44 Reinvestment Development Authority; or an aviation district.

45 "Highlands development credit receiving area or redevelopment
46 area" means an area located within a qualified incentive area and
47 designated by the Highlands Water Protection and Planning Council
48 for the receipt of Highlands Development Credits under the

1 Highlands Transfer Development Rights Program authorized
2 pursuant to section 13 of P.L.2004, c.120 (C.13:20-13).

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

11 "Independent institution of higher education" means a college or
12 university incorporated and located in New Jersey, which by virtue
13 of law or character or license is a nonprofit educational institution
14 authorized to grant academic degrees and which provides a level of
15 education which is equivalent to the education provided by the
16 State's public institutions of higher education, as attested by the
17 receipt of and continuation of regional accreditation by the Middle
18 States Association of Colleges and Schools, and which is eligible to
19 receive State aid under the provisions of the Constitution of the
20 United States and the Constitution of the State of New Jersey, but
21 does not include any educational institution dedicated primarily to
22 the education or training of ministers, priests, rabbis or other
23 professional persons in the field of religion.

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

28 "Mega project" means:

29 a. a qualified business facility located in a port district housing
30 a business in the logistics, manufacturing, energy, defense, or
31 maritime industries, either:

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

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

37 b. a qualified business facility located in an aviation district
38 housing a business in the aviation industry, in a Garden State
39 Growth Zone, or in a priority area housing the United States
40 headquarters and related facilities of an automobile manufacturer,
41 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
44 created or retained, or

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

47 c. a qualified business facility located in an urban transit hub
48 housing a business of any kind, having a capital investment in

1 excess of \$50,000,000, and at which more than 250 full-time
2 employees of the business are created or retained;

3 d. a project located in an area designated in need of
4 redevelopment, pursuant to P.L.1992, c.79 (C.40A:12A-1 et al.)
5 prior to the enactment of P.L.2014, c.63 (C.34:1B-251 et al.) within
6 Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester,
7 Ocean, or Salem counties having a capital investment in excess of
8 \$20,000,000, and at which more than 150 full-time employees of
9 the business are created or retained; or

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

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

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

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

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

36 "Municipal Revitalization Index" means the 2007 index by the
37 Office for Planning Advocacy within the Department of State
38 measuring or ranking municipal distress.

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

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

47 "Partnership" means an entity classified as a partnership for
48 federal income tax purposes.

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

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

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

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

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

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

24 c. are the proposed site of a disaster recovery project, a
25 qualified incubator facility, a highlands development credit
26 receiving area or redevelopment area, a tourism destination project,
27 or transit oriented development; or

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

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

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

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

41 "Qualified business facility" means any building, complex of
42 buildings or structural components of buildings, and all machinery
43 and equipment located within a qualified incentive area, used in
44 connection with the operation of a business that is not engaged in
45 final point of sale retail business at that location unless the building,
46 complex of buildings or structural components of buildings, and all
47 machinery and equipment located within a qualified incentive area,
48 are used in connection with the operation of:

- 1 a. a final point of sale retail business located in a Garden State
2 Growth Zone that will include a retail facility of at least 150,000
3 square feet, of which at least 50 percent is occupied by either a full-
4 service supermarket or grocery store; or
- 5 b. a tourism destination project located in the Atlantic City
6 Tourism District as established pursuant to section 5 of P.L.2011,
7 c.18 (C.5:12-219).
- 8 "Qualified incentive area" means:
- 9 a. an aviation district;
- 10 b. a port district;
- 11 c. a distressed municipality or urban transit hub municipality;
- 12 d. an area (1) designated pursuant to the "State Planning Act,"
13 P.L.1985, c.398 (C.52:18A-196 et seq.), as:
- 14 (a) Planning Area 1 (Metropolitan);
- 15 (b) Planning Area 2 (Suburban); or
- 16 (c) Planning Area 3 (Fringe Planning Area);
- 17 (2) located within a smart growth area and planning area
18 designated in a master plan adopted by the New Jersey
19 Meadowlands Commission pursuant to subsection (i) of section 6 of
20 P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan
21 adopted by the New Jersey Meadowlands Commission pursuant to
22 section 20 of P.L.1968, c.404 (C.13:17-21);
- 23 (3) located within any land owned by the New Jersey Sports and
24 Exposition Authority, established pursuant to P.L.1971, c.137
25 (C.5:10-1 et seq.), within the boundaries of the Hackensack
26 Meadowlands District as delineated in section 4 of P.L.1968, c.404
27 (C.13:17-4);
- 28 (4) located within a regional growth area, rural development
29 area zoned for industrial use as of the effective date of P.L.2016,
30 c.75, town, village, or a military and federal installation area
31 designated in the comprehensive management plan prepared and
32 adopted by the Pinelands Commission pursuant to the "Pinelands
33 Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.);
- 34 (5) located within the planning area of the Highlands Region as
35 defined in section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands
36 development credit receiving area or redevelopment area;
- 37 (6) located within a Garden State Growth Zone;
- 38 (7) located within land approved for closure under any federal
39 Commission on Base Realignment and Closure action; or
- 40 (8) located only within the following portions of the areas
41 designated pursuant to the "State Planning Act," P.L.1985, c.398
42 (C.52:18A-196 et seq.), as Planning Area 4A (Rural Planning
43 Area), Planning Area 4B (Rural/Environmentally Sensitive) or
44 Planning Area 5 (Environmentally Sensitive) if Planning Area 4A
45 (Rural Planning Area), Planning Area 4B (Rural/Environmentally
46 Sensitive) or Planning Area 5 (Environmentally Sensitive) is
47 located within:

- 1 (a) a designated center under the State Development and
2 Redevelopment Plan;
- 3 (b) a designated growth center in an endorsed plan until the
4 State Planning Commission revises and readopts New Jersey's State
5 Strategic Plan and adopts regulations to revise this definition as it
6 pertains to Statewide planning areas;
- 7 (c) any area determined to be in need of redevelopment pursuant
8 to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and
9 C.40A:12A-6) or in need of rehabilitation pursuant to section 14 of
10 P.L.1992, c.79 (C.40A:12A-14);
- 11 (d) any area on which a structure exists or previously existed
12 including any desired expansion of the footprint of the existing or
13 previously existing structure provided the expansion otherwise
14 complies with all applicable federal, State, county, and local
15 permits and approvals;
- 16 (e) the planning area of the Highlands Region as defined in
17 section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands
18 development credit receiving area or redevelopment area; or
- 19 (f) any area on which an existing tourism destination project is
20 located.
- 21 "Qualified incentive area" shall not include any property located
22 within the preservation area of the Highlands Region as defined in
23 section 3 of P.L.2004, c.120 (C.13:20-3).
- 24 "Qualified incubator facility" means a commercial building
25 located within a qualified incentive area: which contains 50,000 or
26 more square feet of office, laboratory, or industrial space; which is
27 located near, and presents opportunities for collaboration with, a
28 research institution, teaching hospital, college, or university; and
29 within which, at least 50 percent of the gross leasable area is
30 restricted for use by one or more technology startup companies
31 during the commitment period.
- 32 "Retained full-time job" means an eligible position that currently
33 exists in New Jersey and is filled by a full-time employee but
34 which, because of a potential relocation by the business, is at risk of
35 being lost to another state or country, or eliminated. For the
36 purposes of determining a number of retained full-time jobs, the
37 eligible positions of an affiliate shall be considered eligible
38 positions of the business. For the purposes of the certifications and
39 annual reports required in the incentive agreement pursuant to
40 subsection e. of section 4 of P.L.2011, c.149 (C.34:1B-245), to the
41 extent an eligible position that was the basis of the award no longer
42 exists, a business shall include as a retained full-time job a new
43 eligible position that is filled by a full-time employee provided that
44 the position is included in the order of date of hire and is not the
45 basis for any other incentive award. For a project located in a
46 Garden State Growth Zone which qualified for the "Municipal
47 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
48 (C.52:27BBB-1 et al.), retained full-time job shall include any

1 employee previously employed in New Jersey and transferred to the
2 new location in the Garden State Growth Zone which qualified for
3 the "Municipal Rehabilitation and Economic Recovery Act,"
4 P.L.2002, c.43 (C.52:27BBB-1 et al.).

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

7 "SDA municipality" means a municipality in which an SDA
8 district is situate.

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

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

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

26 "Tourism destination project" means a qualified non-gaming
27 business facility that will be among the most visited privately
28 owned or operated tourism or recreation sites in the State, and
29 which is located within the qualified incentive area and has been
30 determined by the authority to be in an area appropriate for
31 development and in need of economic development incentive
32 assistance, including a non-gaming business within an established
33 Tourism District with a significant impact on the economic viability
34 of that District.

35 "Transit oriented development" means a qualified business
36 facility located within a 1/2-mile radius, or one-mile radius for
37 projects located in a Garden State Growth Zone, surrounding the
38 mid-point of a New Jersey Transit Corporation, Port Authority
39 Transit Corporation, or Port Authority Trans-Hudson Corporation
40 rail, bus, or ferry station platform area, including all light rail
41 stations.

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

46 "Urban transit hub municipality" means a municipality: a. which
47 qualifies for State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et
48 seq.), or which has continued to be a qualified municipality

1 thereunder pursuant to P.L.2007, c.111; and b. in which 30 percent
2 or more of the value of real property was exempt from local
3 property taxation during tax year 2006. The percentage of exempt
4 property shall be calculated by dividing the total exempt value by
5 the sum of the net valuation which is taxable and that which is tax
6 exempt.

7 (cf: P.L.2020, c.156, s.120)

8

9 62. Section 2 of P.L.2007, c.346 (C.34:1B-208) is amended to
10 read as follows:

11 2. As used in this act:

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

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 "Business" means a corporation that is subject to the tax imposed
31 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), a
32 corporation that is subject to the tax imposed pursuant to sections 2
33 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of
34 P.L.1950, c.231 (C.17:32-15) or N.J.S.17B:23-5, or is a partnership,
35 an S corporation, or a limited liability corporation. A business shall
36 include an affiliate of the business if that business applies for a
37 credit based upon any capital investment made by or full-time
38 employees of an affiliate.

39 "Capital investment" in a qualified business facility means
40 expenses incurred after, but before the end of the eighth year after,
41 the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.) for: a.
42 the site preparation and construction, repair, renovation,
43 improvement, equipping, or furnishing of a building, structure,
44 facility or improvement to real property; and b. obtaining and
45 installing furnishings and machinery, apparatus or equipment for
46 the operation of a business in a building, structure, facility or
47 improvement to real property.

1 "Eligible municipality" means a municipality: (1) which qualifies
2 for State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.) or
3 which was continued to be a qualified municipality thereunder
4 pursuant to P.L.2007, c.111; and (2) in which 30 percent or more of
5 the value of real property was exempt from local property taxation
6 during tax year 2006. The percentage of exempt property shall be
7 calculated by dividing the total exempt value by the sum of the net
8 valuation which is taxable and that which is tax exempt.

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

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

44 "Mixed use project" means a project comprising both a qualified
45 business facility and a qualified residential project.

46 "Partnership" means an entity classified as a partnership for
47 federal income tax purposes.

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

4 "Qualified business facility" means any building, complex of
5 buildings or structural components of buildings, and all machinery
6 and equipment located within a designated urban transit hub in an
7 eligible municipality, used in connection with the operation of a
8 business.

9 "Qualified residential project" shall have the meaning ascribed to
10 that term under section 34 of P.L.2009, c.90 (C.34:1B-209.2).

11 "Residential unit" means a residential dwelling unit such as a
12 rental apartment, a condominium or cooperative unit, a hotel room,
13 or a dormitory room.

14 "Urban transit hub" means:

15 a. (1) property located within a 1/2-mile radius surrounding the
16 mid point of a New Jersey Transit Corporation, Port Authority
17 Transit Corporation or Port Authority Trans-Hudson Corporation
18 rail station platform area, including all light rail stations, and

19 (2) property located within a one-mile radius of the mid point of
20 the platform area of such a rail station if the property is in a
21 qualified municipality under the "Municipal Rehabilitation and
22 Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et seq.) or
23 in an area that is the subject of a Choice Neighborhoods
24 Transformation Plan funded by the federal Department of Housing
25 and Urban Development, and

26 (3) the site of the campus of an acute care medical facility
27 located within a one-mile radius of the mid point of the platform
28 area of such a rail station, and

29 (4) the site of a closed hospital located within a one-mile radius
30 of the mid point of the platform area of such a rail station;

31 b. property located within a 1/2-mile radius surrounding the
32 mid point of one of up to two underground light rail stations'
33 platform areas that are most proximate to an interstate rail station;

34 c. property adjacent to, or connected by rail spur to, a freight
35 rail line if the business utilizes that freight line at any rail spur
36 located adjacent to or within a one-mile radius surrounding the
37 entrance to the property for loading and unloading freight cars on
38 trains;

39 which property shall have been specifically delineated by the
40 authority pursuant to subsection e. of section 3 of P.L.2007, c.346
41 (C.34:1B-209).

42 A property which is partially included within the radius shall
43 only be considered part of the urban transit hub if over 50 percent
44 of its land area falls within the radius.

45 "Rail station" shall not include any rail station located at an
46 international airport, except that any property within a 1/2-mile
47 radius surrounding the mid point of a New Jersey Transit
48 Corporation rail station platform area at an international airport

1 upon which a qualified business facility is constructed or renovated
2 commencing after the effective date of P.L.2011, c.149 (C.34:1B-
3 242 et al.) shall be deemed an urban transit hub, excluding any
4 property owned or controlled by the Port Authority of New York
5 and New Jersey.

6 (cf: P.L.2011, c.149, s.10)

7

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

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

14 "Advanced computing" means a technology used in the
15 designing and developing of computing hardware and software,
16 including innovations in designing the full spectrum of hardware
17 from hand-held calculators to super computers, and peripheral
18 equipment.

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

24 "Advanced materials" means materials with engineered
25 properties created through the development of specialized
26 processing and synthesis technology, including ceramics, high
27 value-added metals, electronic materials, composites, polymers, and
28 biomaterials. "Advanced materials company" means a person,
29 whose headquarters or base of operations is located in New Jersey,
30 engaged in the research, development, production, or provision of
31 advanced materials for the purpose of developing or providing
32 products or processes for specific commercial or public purposes.

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

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

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

41 "Biotechnology" means the continually expanding body of
42 fundamental knowledge about the functioning of biological systems
43 from the macro level to the molecular and sub-atomic levels, as
44 well as novel products, services, technologies, and sub-technologies
45 developed as a result of insights gained from research advances
46 which add to that body of fundamental knowledge.

47 "Biotechnology company" means a person, whose headquarters
48 or base of operations is located in New Jersey, engaged in the

1 research, development, production, or provision of biotechnology
2 for the purpose of developing or providing products or processes for
3 specific commercial or public purposes, including but not limited
4 to, medical, pharmaceutical, nutritional, and other health-related
5 purposes, agricultural purposes, and environmental purposes, or a
6 person, whose headquarters or base of operations is located in New
7 Jersey, engaged in providing services or products necessary for
8 such research, development, production, or provision.

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

11 "Business" means a corporation; sole proprietorship; partnership;
12 corporation that has made an election under Subchapter S of
13 Chapter One of Subtitle A of the Internal Revenue Code of 1986, or
14 any other business entity through which income flows as a
15 distributive share to its owners; limited liability company; nonprofit
16 corporation; or any other form of business organization located
17 either within or outside this State. A grant received under
18 P.L.1996, c.26 (C.34:1B-124 et seq.) by a partnership, Subchapter
19 S-Corporation, or other business entity shall be apportioned among
20 the persons to whom the income or profit of the partnership,
21 Subchapter S-Corporation, or other entity is distributed, in the same
22 proportions as those in which the income or profit is distributed.

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

29 "Designated industry" means a business engaged in the field of
30 biotechnology, pharmaceuticals, financial services, transportation
31 and logistics, advanced computing, advanced materials, electronic
32 device technology, environmental technology, or medical device
33 technology.

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

35 "Division" means the Division of Taxation in the Department of
36 the Treasury.

37 "Electronic device technology" means a technology involving
38 microelectronics, semiconductors, electronic equipment, and
39 instrumentation, radio frequency, microwave, and millimeter
40 electronics, and optical and optic-electrical devices, or data and
41 digital communications and imaging devices.

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

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

4 "Eligible position" is a new full-time position created by a
5 business in New Jersey or transferred from another state by the
6 business under the terms and conditions set forth in P.L.1996, c.26
7 (C.34:1B-124 et seq.) during the base years or in subsequent years
8 of a grant. In determining if positions are eligible positions, the
9 authority shall give greater consideration to positions that average
10 at least 1.5 times the minimum hourly wage during the term of an
11 agreement authorized pursuant to P.L.1996, c.26 (C.34:1B-124 et
12 seq.). For grants awarded on or after July 1, 2003, eligible position
13 includes only a position for which a business provides employee
14 health benefits under a group health plan as defined under section
15 14 of P.L.1997, c.146 (C.17B:27-54), a health benefits plan as
16 defined under section 1 of P.L.1992, c.162 (C.17B:27A-17), or a
17 policy or contract of health insurance covering more than one
18 person issued pursuant to Article 2 of Title 17B of the New Jersey
19 Statutes. An "eligible position" shall also include all current and
20 future partners or members of a partnership or limited liability
21 company created by a business in New Jersey or transferred from
22 another state by the business pursuant to the conditions set forth in
23 P.L.1996, c.26 (C.34:1B-124 et seq.) during the base years or in
24 subsequent years of a grant. An "eligible position" shall also
25 include a position occupied by a resident of this State whose
26 position is relocated to this State from another state but who does
27 not qualify as a "new employee" because prior to relocation the
28 resident's wages or the resident's distributive share of income from
29 a gain, from a loss or deduction, or the resident's guaranteed
30 payments or any combination thereof, prior to the relocation, were
31 not subject to income taxes imposed by the state or municipality in
32 which the position was previously located. An "eligible position"
33 shall also include a position occupied by a resident of another State
34 whose position is relocated to this State but whose income is not
35 subject to the New Jersey gross income tax pursuant to the "New
36 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. An "eligible
37 position" shall not include any position located within New Jersey,
38 which, within a period either three months prior to the business'
39 application for a grant under P.L.1996, c.26 (C.34:1B-124 et seq.)
40 or six months after the date of application, ceases to exist or be
41 located within New Jersey.

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

45 "Environmental technology" means assessment and prevention of
46 threats or damage to human health or the environment,
47 environmental cleanup, or the development of alternative energy
48 sources.

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

7 "Estimated tax" means an amount calculated for a partner in an
8 eligible position equal to 6.37 percent of the lesser of: a. the amount
9 of the partner's net income from the eligible partnership that is
10 sourced to New Jersey as reflected in Column B of the partner's
11 Schedule NJK-1 of the application year less the amount of the
12 partner's net income from the eligible partnership that is sourced to
13 New Jersey as reflected in column B of the partner's Schedule NJK-
14 1 in the foundation year; or b. the net of all items of partnership
15 income upon which tax has been paid as reflected on the partner's
16 New Jersey Gross Income Tax return in the application year.

17 "Foundation year" means the year immediately prior to the
18 creation of the eligible position.

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

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

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

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
4 regulated by the federal Food and Drug Administration.

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

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

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

47 "Partner" means a person who is entitled to either a distributive
48 share of a partnership's income, gain, loss, or deduction, or

1 guaranteed payments, or any combination thereof, by virtue of
2 holding an interest in the partnership. "Partner" also includes a
3 person who is a member of a limited liability company which is
4 treated as a partnership, as provided in the "New Jersey Gross
5 Income Tax Act," N.J.S.54A:1-1 et seq.

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

10 "Residual withholdings" means for any period of time, the excess
11 of the estimated cumulative withholdings for all executed
12 agreements eligible for payments under P.L.1996, c.26 (C.34:1B-
13 124 et seq.) over the cumulative anticipated grant amounts.

14 "Schedule NJK-1" means Schedule NJK-1 as the form existed for
15 taxable year 1997.

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

25 (cf: P.L.2015, c.194, s.1)

26

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

29 2. As used in this act:

30 "Affiliate" means an entity that directly or indirectly controls, is
31 under common control with, or is controlled by the business.
32 Control exists in all cases in which the entity is a member of a
33 controlled group of corporations as defined pursuant to section 1563
34 of the Internal Revenue Code of 1986 (26 U.S.C. s.1563) or the
35 entity is an organization in a group of organizations under common
36 control as defined pursuant to subsection (b) or (c) of section 414 of
37 the Internal Revenue Code of 1986 (26 U.S.C. s.414). An entity
38 may establish by clear and convincing evidence, as determined by
39 the Director of the Division of Taxation in the Department of the
40 Treasury, that control exists in situations involving lesser
41 percentages of ownership than required by those statutes;

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

44 "Business retention or relocation grant of tax credits" or "grant of
45 tax credits" means a grant which consists of the value of
46 corporation business tax credits against the liability imposed
47 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) or credits
48 against the taxes imposed on insurers pursuant to P.L.1945, c.132

1 (C.54:18A-1 et al.), section 1 of P.L.1950, c.231 (C.17:32-15), and
2 N.J.S.17B:23-5, provided to fund a portion of retention and
3 relocation costs pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.);

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

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

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

43 "Chief executive officer" means the chief executive officer of the
44 New Jersey Economic Development Authority;

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

1 "Designated industry" means an industry identified by the
2 authority as desirable for the State to maintain, which may be
3 designated and amended via the promulgation of rules by the
4 authority to reflect changing market conditions;

5 "Designated urban center" means an urban center designated in
6 the State Development and Redevelopment Plan adopted by the
7 State Planning Commission;

8 "Eligible position" means a full-time position retained by a
9 business in this State for which a business provides employee health
10 benefits under a group health plan as defined under section 14 of
11 P.L.1997, c.146 (C.17B:27-54), a health benefits plan as defined
12 under section 1 of P.L.1992, c.162 (C.17B:27A-17), or a policy or
13 contract of health insurance covering more than one person issued
14 pursuant to Article 2 of Chapter 27 of Title 17B of the New Jersey
15 Statutes;

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

40 "Full-time employee at the qualified business facility" means a
41 full-time position in a business in this State, which position the
42 business has filled with a full-time employee, who shall have their
43 primary office at the qualified business facility and spend at least 60
44 percent of their time at the qualified business facility. This
45 requirement shall supersede any law, regulation, or incentive
46 agreement that imposes a requirement that the employee be present
47 at the qualified business facility for a specified percentage of time
48 greater than 60 percent. This amendment shall not alter or

1 terminate any waiver of the requirement that an employee spend
2 time at the qualified business facility implemented by the authority
3 due to COVID-19 public health emergency and state of emergency.

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

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

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

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

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

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

38 (cf: P.L.2011, c.149, s.12)

39

40 65. (New section) Sections 65 through 68 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 Innovation Fellows
43 Program Act."
44

45 66. (New section) The Legislature finds and declares that:

46 a. One of the most difficult challenges for upstart entrepreneurs
47 is forgoing employment to launch their businesses.

1 b. For diverse entrepreneurs from underserved populations, this
2 challenge is often exacerbated as these entrepreneurs historically
3 lack funding from family and friends to support their living
4 expenses while building a business without income.

5 c. Having alternative sources of capital and new ways to
6 deploy capital to entrepreneurs can be crucial for disadvantaged
7 entrepreneurs in particular.

8 d. Although many universities provide fellowships for
9 advancing business ideas, this assistance is often only available to
10 students, and there is a dearth of programs designed specifically to
11 support non-student entrepreneurs.

12 e. The New Jersey Economic Development Authority, through
13 the New Jersey Innovation Fellows Program, shall seek to
14 consolidate public and private economic development efforts
15 through various funding sources into one targeted program to invest
16 in diverse talent critical to New Jersey having a vibrant innovation
17 ecosystem.

18

19 67. (New section) As used in sections 65 through 68 of P.L. ,
20 c. (C.) (pending before the Legislature as this bill):

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

24 “Chief executive officer” means the Chief Executive Officer of
25 the New Jersey Economic Development Authority.

26 “Eligible municipality” means a city of the first class, a
27 municipality with a private research university, a municipality that
28 is qualified to receive assistance under P.L.1978, c.14 (C.52:27D-
29 178 et seq.), a municipality under the supervision of the Local
30 Finance Board pursuant to the provisions of the "Local Government
31 Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a
32 municipality identified by the Director of the Division of Local
33 Government Services in the Department of Community Affairs to
34 be facing serious fiscal distress, a SDA municipality, or a
35 municipality in which a major rail station is located.

36 “Entrepreneur” means an individual starting a small business and
37 who meets the eligibility criteria established by the authority for the
38 program.

39 “Program” means the New Jersey Innovation Fellows Program,
40 established pursuant to section 68 of P.L. , c. (C.) (pending
41 before the Legislature as this bill).

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

1 beverage businesses including food innovation, and other
2 innovative industries that disrupt current technologies or business
3 models.

4
5 68. (New section) a. There is established the “New Jersey
6 Innovation Fellows Program” within the authority for the purpose
7 of providing seed funding to teams of entrepreneurs, through the
8 disbursement of fellowship grants, and facilitating economic growth
9 and job creation in eligible municipalities. The award of a
10 fellowship grant to a team of entrepreneurs shall be limited to
11 \$350,000 per team and shall be used as income-replacement for
12 entrepreneurs who leave the workforce to open and operate a
13 business in an eligible municipality.

14 b. The chief executive officer shall award fellowship grants
15 through a competitive grant solicitation to teams of no less than
16 three entrepreneurs, in which at least half of the team members are
17 first time entrepreneurs, with well-written business plans who:

18 (1) are seeking to open and operate a business in a targeted
19 industry, which business is located in an eligible municipality;

20 (2) commit to working at the business on a full-time basis for
21 two years next following receipt of the fellowship grant;

22 (3) participate in a mentorship program; and

23 (4) pay gross income tax pursuant to N.J.S.54A:1-1 et seq. at the
24 time of applying for the fellowship grant and remain New Jersey
25 taxpayers during the time in which fellowship grants are disbursed
26 and the next following two years. If any member of the original
27 awarded team of entrepreneurs ceases to be a New Jersey taxpayer
28 during the time in which fellowship grants are disbursed and the
29 next following two years, the fellowship grant may be rescinded,
30 and any amount paid may be recouped, by the authority.

31 c. A team of entrepreneurs seeking to participate in the
32 program shall submit an application in a form determined by the
33 chief executive officer. The application shall include information
34 that the chief executive officer determines is necessary to
35 administer the program.

36 d. The chief executive officer shall award fellowship grants in
37 intervals determined by the chief executive officer following
38 application approval and the submission of proof by a team of
39 entrepreneurs that the team has fulfilled the eligibility requirements
40 pursuant to subsection b. of this section and any other requirements
41 determined by the authority. The submission of proof shall be
42 subject to review and audit by the authority.

43 e. A team of entrepreneurs that includes at least one member
44 who is a graduate of a New Jersey college or university or is a
45 diverse entrepreneur, as defined in section 2 of P.L.1997, c.349
46 (C.54:10A-5.29), and meets the eligibility requirements may receive
47 a fellowship grant up to \$400,000.

1 f. Within one year of the effective date of P.L. , c. (C.)
2 (pending before the Legislature as this bill), the authority shall
3 undertake a disparity study analyzing the relative availability of
4 seed money and capital for diverse entrepreneurs, as defined in
5 section 2 of P.L.1997, c.349 (C.54:10A-5.29), in this State and the
6 authority's historic support of such businesses. If recommended by
7 the study, the authority shall establish policies, practices, protocols,
8 and, if appropriate, minimum percentages of the funds to be set
9 aside to eligible teams of entrepreneurs that include at least one
10 diverse entrepreneur or one female entrepreneur. Regardless of
11 whether the disparity study recommends a set-aside for diverse
12 entrepreneurs, the authority may make up to 35 percent of the funds
13 available for the award of fellowship grants to teams of
14 entrepreneurs that include at least one a member that either resides
15 in an New Jersey State opportunity zone, as defined in section 45 of
16 P.L.2020, c.156 (C.34:1B-313), or is seeking to open and operate a
17 business in an opportunity zone eligible census tract.

18

19 69. There is appropriated from the General Fund to the New
20 Jersey Economic Development Authority the sum of \$10,000,000
21 for the award of fellowship grants to teams of entrepreneurs
22 pursuant to sections 65 through 68 of P.L. , c. (C.)
23 (pending before the Legislature as this bill) and for the costs of
24 administering the "New Jersey Innovation Fellows Program."

25

26 70. This act shall take effect immediately, and the amendments
27 made to P.L.2020, c.156 by this act, P.L. , c. (pending before the
28 Legislature as this bill), shall apply to applications submitted
29 pursuant section 72 of P.L.2020, c.156 (C.34:1B-340), section 1 of
30 P.L.2018, c.56 (C.54A:4-12a), and 2 of P.L.2018, c.56 (C.54A:4-
31 12b) on or after the effective date of P.L.2020, c.156, except the
32 amendments made by this act to paragraph (2) of subsection a. of
33 section 1 of P.L.2018, c.56 (C.54A:4-12a) and paragraph (2) of
34 subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) shall
35 apply to applications submitted on and after the effective date of
36 this act. The amendments made to P.L.2020, c.156 by this act shall
37 apply to all other applications submitted under P.L.2020, c.156 on
38 and after the effective date of this act.

39

40

41

STATEMENT

42

43 This bill revises various provisions of the "New Jersey Economic
44 Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.) and
45 establishes the "New Jersey Innovation Fellows Program" within
46 the New Jersey Economic Development Authority (EDA).

1 *The New Jersey Innovation Fellows Program.* Under the
2 program, the EDA would provide fellowship grants, through a
3 competitive process, for teams of entrepreneurs who operate
4 businesses in targeted industries within certain eligible
5 municipalities. The bill provides that the fellowship grants, which
6 may not exceed \$250,000 per team, would be used as income
7 replacement for entrepreneurs who leave the workforce to open and
8 operate the business. The bill appropriates \$10 million from the
9 General Fund to support the program.

10
11 *The New Jersey Aspire Program.* The bill revises various
12 provisions of the New Jersey Aspire Program, including:

13 (1) expanding the definition of “incentive area” to include
14 aviation and port districts;

15 (2) removing the requirement for commercial projects to
16 demonstrate that increases in incremental State revenues would
17 exceed the amounts needed to support the developer’s project
18 financing gap;

19 (3) increasing the tax credit allowance for certain residential
20 projects, which also receive an allocation of federal four-percent
21 low income housing tax credits, to 60 percent of total project costs;

22 (4) increasing the total value of tax credits that may be awarded
23 per redevelopment project to: (i) \$60 million for residential projects
24 that receive federal four-percent low income housing tax credits, or
25 redevelopment projects located in certain designated areas; and (ii)
26 \$42 million for all other redevelopment projects;

27 (5) reducing the amount for which the developers of residential
28 projects may assign tax credit certificates;

29 (6) revising the requirements for new residential projects to
30 dedicate certain units for affordable housing purposes;

31 (7) providing that the EDA may allow up to six years to elapse
32 from the date on which an incentive award agreement is executed to
33 the date in which a certificate of occupancy is issued for certain
34 higher-cost projects;

35 (8) defining the term “technology startup company”;

36 (9) revising the procedures and calculations for recapturing tax
37 credit financing when the developer’s actual project financing gap
38 is less than initially approved and when the developer’s actual
39 return on investment is more than initially approved;

40 (10) reducing the requirements for mixed-use projects to qualify
41 as transformative projects;

42 (11) establishing additional requirements for certain residential
43 projects to qualify as transformative projects;

44 (12) removing the limitation on the number of incentive awards
45 that may be awarded to transformative projects;

46 (13) increasing the tax credit award for transformative projects
47 from 30 percent to 40 percent of total project costs, or \$350 million,
48 whichever is less;

- 1 (14) establishing standards for the execution of transformative
2 phase agreements and the completion of transformative projects in
3 phases;
- 4 (15) requiring transformative projects, other than those that
5 include certain film production infrastructure, to be located within
6 an incentive area, distressed municipality, or enhanced area;
- 7 (16) allowing the acquisition of land to count towards the
8 calculation of project costs;
- 9 (17) revising the definition of “enhanced area” to include any
10 municipality that contains an urban transit hub;
- 11 (18) revising the definitions of “food desert community” to
12 include areas designated under the Food Desert Relief Program and
13 “food delivery service” to reduce the square footage requirement;
- 14 (19) modifying the definition of “qualified childcare facility” to
15 include registered family child care homes, and providing that the
16 term includes facilities that maintain a licensed capacity for
17 children aged 13 or younger who attend for less than 24 hours per
18 day; and
- 19 (20) revising the definition of “cash flow” to include government
20 payments.

21

22 *The New Jersey Emerge Program.* The bill also revises various
23 provisions of the New Jersey Emerge Program, including:

- 24 (1) amending the definition of “full-time employee” to remove
25 certain language concerning the minimum wage requirements;
- 26 (2) replacing references to “incentive agreement” and “incentive
27 phase agreement” with “project agreement” and “project phase
28 agreement,” respectively;
- 29 (3) defining the term “technology startup company”;
- 30 (4) modifying the job retention and creation requirements for
31 eligible projects and providing preferential treatment for projects
32 located in certain areas, including government-restricted
33 municipalities, enhanced areas, and qualified census tracts;
- 34 (5) allowing the EDA to designate the time period in which a
35 business should demonstrate that it has obtained project approval;
- 36 (6) expanding the tax credit bonus for solar energy projects to
37 include projects that generate geo-thermal, wind, or any other
38 renewable or distributive energy;
- 39 (7) eliminating the tax credit bonus for projects located in
40 qualified incentive tracts;
- 41 (8) providing that when one-third or more of the members of an
42 eligible business’s governing body self-identify as members of an
43 underrepresented community, then the \$2,000 per year tax credit
44 bonus would be calculated based on each new or retained full-time
45 job;
- 46 (9) reducing the amount of bonus credits awarded for excess
47 capital investment and higher-paid employees;

1 (10) requiring the EDA to reduce the tax credits awarded to a
2 project located in a government-restricted municipality if the
3 median salary of new and retained positions is less than the existing
4 median salary in the municipality;

5 (11) adjusting the starting point, to the EDA's first issuance of a
6 certificate of compliance, for the two-year period in which the
7 payment of prevailing wages is required for construction work;

8 (12) revising the definition of "incentive area" to include
9 enhanced areas and remove the requirement for certain suburban
10 planning areas and rural centers to be located nearby certain
11 transportation facilities;

12 (13) modifying the definition of "qualified childcare facility" to
13 include registered family child care homes, and providing that the
14 term includes facilities that maintain a licensed capacity for
15 children aged 13 or younger who attend for less than 24 hours per
16 day;

17 (14) revising the definition of "enhanced area" to include any
18 municipality that contains an urban transit hub; and

19 (15) expands the definition of "capital investment to include
20 costs incurred on behalf of a business by its landlord.

21
22 *The Historic Property Reinvestment Program.* The bill revises
23 the amount of credits that may be awarded to eligible business
24 entities under the program. Specifically, the credits would be
25 limited to \$8 million for the rehabilitation of qualified properties
26 located in a qualified incentive tract or government-restricted
27 municipality, \$50 million for the rehabilitation of a transformative
28 project, and \$4 million for any other project. The bill also expands
29 the definition of "transformative project" to include certain projects
30 that are located within government-restricted municipalities.
31 Lastly, the bill provides that prevailing wage requirements would
32 also apply to building services work.

33
34 *The Brownfields Redevelopment Incentive Program.* The bill
35 revises the manner in which tax credit awards are calculated under
36 the program. Specifically, projects located in a qualified incentive
37 tract or government-restricted municipality would receive credits
38 equal to 60 percent of actual remediation costs, 60 percent of
39 projected remediation costs, or \$8 million, whichever is least. All
40 other projects would receive credits equal to 50 percent of actual
41 remediation costs, 50 percent of projected remediation costs, or \$4
42 million, whichever is least. The bill also allows the credit to be
43 claimed against the tax imposed under sections 2 and 3 of P.L.1945,
44 c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231
45 (C.17:32-15), or N.J.S.17B:23-5. The bill also requires developers
46 to provide the EDA with additional forms of evidence concerning
47 actual remediation costs and completion of remediation. Lastly, the

1 bill provides that prevailing wage requirements would also apply to
2 building services work.

3

4 *The New Jersey Innovation Evergreen Program.* The bill
5 reduces the minimum amount of tax credits, from \$1 million to
6 \$500,000, that a potential purchaser may bid for through the
7 competitive auction. The bill also requires a potential purchaser of
8 tax credits to pay not less than 90 percent of the dollar value of the
9 credits.

10

11 *The Food Desert Relief Program.* The bill revises various
12 requirements governing the program. Notably, the bill requires the
13 authority to designate the State’s “food desert communities” based
14 on the geographical areas having limited access to nutritious foods.
15 The bill also allows the authority to consider various additional
16 factors when making this determination. Additionally, the bill
17 expands the definition of “small-food retailer” to include non-
18 traditional retailers such as mobile vendors and farmers’ markets.
19 The bill also allows the authority to award grants to other eligible
20 entities to support initiatives to strengthen the food security of
21 residents in food desert communities.

22

23 *The Main Street Recovery Finance Program.* The bill amends
24 various provisions of the program, including:

25 (1) revises the definition of “microbusiness” to include
26 businesses with less than \$1.5 million in annual gross revenue, as
27 opposed to \$1 million;

28 (2) requires the authority to undertake a disparity study of the
29 relative availability of capital and related banking resources for
30 small businesses and microbusinesses that are women- and
31 minority-owned business enterprises in this State. As
32 recommended by the study, the authority would also establish
33 policies for the set-aside of funds for eligible small businesses and
34 microbusinesses that are minority-owned business enterprises or
35 women-owned business enterprises;

36 (3) allows the authority to provide grants to for-profit and non-
37 profit entities that provide technical assistance to microbusinesses;

38 (4) exempts capital improvements in excess of \$50,000 from
39 certain requirements regarding the use of renewable energy, energy-
40 efficient technology, and non-renewable resources; and

41 (5) provides that minority deposit institutions are eligible to
42 receive grants and loans under the program.

43

44 *Other Changes to Specific Programs in the “New Jersey
45 Economic Recovery Act of 2020.”* The bill makes changes to other
46 constituent programs of the “New Jersey Economic Recovery Act
47 of 2020.” The bill amends the definition of “experienced non-profit
48 or governmental or community development entity” under the

1 Community-Anchored Development Program to remove the
2 requirement for these entities to own or control significant real
3 estate assets.

4 Additionally, the bill expands program eligibility under the New
5 Jersey Ignite Program to include companies founded within the last
6 seven years, as opposed to three years. Under the bill, the
7 maximum aggregate amount of start-up rent grants that may be
8 provided to an approved collaborative workspace could not exceed
9 \$100,000 per calendar year. The bill also provides additional
10 guidance concerning the application of bonus months under the
11 New Jersey Ignite Program.

12 The bill revises parts of the "Economic Development Authority
13 Integrity and Protection Act" to clarify the responsibilities of the
14 Chief Compliance Officer and authorize the authority to recapture
15 any economic development incentive in the case of substantial
16 noncompliance, fraud, or abuse by the recipient. The bill also
17 provides that the Office of the Economic Development Inspector
18 General would be situated in, but not of, the Department of the
19 Treasury.

20 The bill also increases the number of members who will serve on
21 the Working Group on Entrepreneur Zones in the authority from
22 seven to 14 members.

23

24 *General Changes to the "New Jersey Economic Recovery Act of*
25 *2020."* The bill also makes certain changes that apply to multiple
26 components of the "New Jersey Economic Recovery Act of 2020."

27 Notably, the bill provides that up to \$350 million in tax credits,
28 which credits were originally allocated for the New Jersey Aspire
29 Program and the Emerge Program, would instead be made available
30 for qualified offshore wind projects pursuant to section 6 of
31 P.L.2010, c.57 (C.34:1B-209.4). As part of this change, the bill
32 also revises certain elements of that law.

33 Additionally, the bill provides that if the EDA awards less than
34 the annual limitation of tax credits under the New Jersey Aspire
35 Program and the Emerge Program, then the uncommitted credits
36 would be made available to qualified offshore wind projects and
37 New Jersey studio partners, pursuant to P.L.2018, c.56. The bill
38 also provides that beginning in fiscal year 2025, additional tax
39 credits would be made available to New Jersey studio partners.

40 The bill also revises the manner in which the EDA would review
41 the compliance of tax credit recipients. Specifically, the bill
42 requires the EDA to confirm whether the business entity is in
43 substantial good standing with respective State departments, or has
44 entered into an agreement with a department that includes a
45 practical corrective action plan. Additionally, the business entity
46 would be required to confirm whether any contractors or
47 subcontractors that perform work at a project site: (1) are registered
48 under "The Public Works Contractor Registration Act," N.J.S.A.

1 34:11-56.48 et seq.; (2) have not been debarred by Department of
2 Labor and Workforce Development from engaging in or bidding on
3 Public Works Contracts in New Jersey; and (3) possess a tax
4 clearance certificate issued by the Division of Taxation in the
5 Department of the Treasury.

6 Additionally, the bill exempts eligible businesses from the
7 requirement to enter a community benefits agreement under the
8 New Jersey Aspire Program and the Emerge Program when the
9 business submits a copy of the business's approval letter from the
10 EDA or a redevelopment agreement, provided that such
11 documentation is certified by the host municipality and includes
12 provisions that meet or exceed the standards for community benefit
13 agreements.

14 The bill makes changes to the Historic Property Reinvestment
15 Program and the Brownfields Redevelopment Incentive Program to
16 provide that prevailing wage requirements also apply to building
17 services work.

18 The bill also amends the definition of "project financing gap"
19 under the "Historic Property Reinvestment Act," the "Brownfields
20 Redevelopment Incentive Act," and the "New Jersey Aspire
21 Program Act." Specifically, the bill modifies the capital
22 contribution requirements for projects located in a government-
23 restricted municipality, clarifies the meaning of contributed capital,
24 and clarifies the determination of project value.

25 The bill also amends various sections of law to correct
26 typographical errors.

27

28 *Other Economic Development Programs.* The bill revises certain
29 other economic development programs that predated the "New
30 Jersey Economic Recovery Act of 2020."

31 Notably, the bill amends the laws governing the film and digital
32 media tax credit program. Specifically, the bill increases the
33 amount of the film production tax credit to 35 percent of the
34 qualified film production expenses incurred by the taxpayer. The
35 bill also extends the period in which film production credits may be
36 claimed to those expenses incurred before July 1, 2034.
37 Additionally, the bill provides additional requirements concerning
38 the review of tax credit recipients. for The bill also replaces
39 references to "New Jersey film partners" with "New Jersey studio
40 partners," and reduces the number of New Jersey studio partners
41 that may be designated throughout the State.

42 Additionally, the bill amends the various economic development
43 programs, including the Grow New Jersey Assistance Program, the
44 Business Employment Incentive Program, and the Business
45 Retention and Relocation Assistance Grant Program, by adding a
46 new definition for "full-time employee at a qualified business
47 facility." This provision would supersede any existing requirements

1 for employees to be present at the qualified business facility for at
2 least 60 percent of their time.

3 Under the “New Jersey Economic Recovery Act of 2020,” the
4 Economic Redevelopment and Growth Grant (ERGG) Program was
5 extended to provide \$200 million in new tax credits, including \$150
6 for certain commercial projects and \$50 million for residential
7 projects. The bill revises this allocation, providing instead that
8 \$125 million in tax credits would be made available for residential
9 projects and \$75 million in State incentive grants would be made
10 available for commercial properties. The bill also requires the
11 authority to apply certain standards set forth in the New Jersey
12 Aspire Program when determining the repayment amount for
13 recipients under the ERGG program.

14 In addition, the bill revises the New Jersey Emerging
15 Technology and Biotechnology Financial Assistance Program by
16 increasing, from \$10 million to \$15 million, the amount allocated
17 for the surrender of transferable tax benefits for new and expanding
18 emerging technology and biotechnology companies operating in
19 certain areas. The bill also expands eligibility for these funds to
20 include new and expanding emerging technology and biotechnology
21 companies that operate in opportunity zones, or that are certified as
22 a woman- or minority-owned business.

23 Lastly, the bill amends current law to allow the New Jersey
24 Infrastructure Bank to guarantee debt instruments issued by local
25 government units to support redevelopment projects that include
26 wastewater treatment system projects, water supply projects, or
27 transportation projects.

28

29

30

31

32 Revises various provisions of “New Jersey Economic Recovery
33 Act of 2020” and other economic development programs;
34 establishes New Jersey Innovation Fellows Program; appropriates
35 \$10 million.

CHAPTER 160
(CORRECTED COPY OF CORRECTED COPY)

AN ACT concerning State economic development policy, amending various sections of the statutory law, supplementing Title 34 of the Revised Statutes, and making an appropriation.

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

1. Section 3 of P.L.2020, c.156 (C.34:1B-271) is amended to read as follows:

C.34:1B-271 Definitions.

3. As used in sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276):

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

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

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

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

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

"Government-restricted municipality" means a municipality in this State with a municipal revitalization index distress score of at least 75, that met the criteria for designation as an urban aid municipality in the 2019 State fiscal year, and that, on the effective date of P.L.2020, c.156 (C.34:1B-269 et al.), is subject to financial restrictions imposed pursuant to the "Municipal Stabilization and Recovery Act," P.L.2016, c.4 (C.52:27BBBB-1 et seq.), or is restricted in its ability to levy property taxes on property in that municipality as a result of the State of New Jersey owning or controlling property representing at least 25 percent of the total land area of the municipality or as a result of the federal government of the United States owning or controlling at least 50 acres of the total land area of the municipality, which is dedicated as a national natural landmark.

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

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

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

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

"Project financing gap" means the part of the total cost of rehabilitation, including reasonable and appropriate return on investment, that remains to be financed after all other

sources of capital have been accounted for, including, but not limited to, developer contributed capital, which shall not be less than 20 percent of the total cost of rehabilitation, and investor or financial entity capital or loans for which the developer, after making all good faith efforts to raise additional capital, certifies that additional capital cannot be raised from other sources; provided, however, that for a redevelopment project located in a government-restricted municipality, the developer contributed capital shall not be less than 10 percent of the cost of rehabilitation. Developer contributed capital may consist of cash, deferred development fees, costs for project feasibility incurred within the 12 months prior to application, property value less any mortgages when the developer owns the project site, and any other investment by the developer in the project deemed acceptable by the authority, as provided by regulations promulgated by the authority. Property value shall be valued at the lesser of either: a. the purchase price, provided the property was purchased pursuant to an arm's length transaction within 12 months of application; or b. the value as determined by a current appraisal.

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

"Qualified incentive tract" means: a. a population census tract having a poverty rate of 20 percent or more; or b. a census tract in which the median family income for the census tract does not exceed 80 percent of the greater of the Statewide median family income or the median family income of the metropolitan statistical area in which the census tract is situated.

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

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

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

b. (1) individually identified or registered, or located in a district composed of properties identified or registered, for protection as significant historic resources in accordance with criteria established by a municipality in which the property or district is located if the criteria for identification or registration has been approved by the officer as suitable for substantially achieving the purpose of preserving and rehabilitating buildings of historic significance within the jurisdiction of the municipality, and

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

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

"Rehabilitation of the interior of the qualified property or transformative project" means the repair or reconstruction of the structural or substrate components and electrical,

plumbing, and heating components within the interior of a qualified property or transformative project.

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

"Transformative project" means a property that is:

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

b. individually listed on the New Jersey Register of Historic Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.) and which, before the enactment of P.L.2020, c.156 (C.34:1B-269 et al.), received a Determination of Eligibility from the Keeper of the National Register of Historic Places in accordance with the provisions of Part 60 of Title 36 of the Code of Federal Regulations; and

c. (1) located within a one-half mile radius of the center point of a transit village, as designated by the New Jersey Department of Transportation, and located within a city of the first class, as classified under N.J.S.40A:6-4; or (2) located within a government-restricted municipality.

2. Section 4 of P.L.2020, c.156 (C.34:1B-272) is amended to read as follows:

C.34:1B-272 Tax credit.

4. a. (1) A business entity, upon successful application to the New Jersey Economic Development Authority, and commitment to the authority to pay each worker employed to perform construction work and building services work at the qualified property or transformative project a wage not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.), shall be allowed a credit against the tax otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5, for a portion of the cost of rehabilitation paid by the business entity for the rehabilitation of a qualified property or transformative project, if the cost of rehabilitation during a business entity's selected rehabilitation period is not less than the greater of (a) the adjusted basis of the structure of the qualified property or transformative project used for federal income tax purposes as of the beginning of the business entity's selected rehabilitation period, or (b) \$5,000. The amount of the credit claimed in any accounting or privilege period shall not reduce the amount of the tax liability to less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

(2) The amount of credit allowed to a business entity pursuant to this section shall be as follows:

(a) for the rehabilitation of a qualified property located in a qualified incentive tract or government-restricted municipality, 45 percent of the cost of rehabilitation paid by the business entity for the rehabilitation of the qualified property or \$8 million, whichever is less;

(b) for the rehabilitation of a transformative project, 45 percent of the cost of rehabilitation paid by the business entity for the rehabilitation of the transformative project or \$50 million, whichever is less; and

(c) for the rehabilitation of any other qualified property not subject to provisions of subparagraph (a) or (b) of this paragraph, 40 percent of the cost of rehabilitation paid by the business entity for the rehabilitation of the qualified property or \$4 million, whichever is less.

(3) The prevailing wage requirement for construction work shall apply at a qualified property or transformative project during the selected rehabilitation period, and the prevailing wage requirement for building services work shall apply at a qualified property or transformative project for 10 years following completion of the rehabilitation work at the qualified property or transformative project. In the event a qualified property or transformative project, or the aggregate of all qualified properties and transformative projects approved for awards under the program, constitute a lease of more than 35 percent of a facility, the prevailing wage requirements shall apply to the entire facility.

(4) Prior to approval of an application by the authority, the authority shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury whether the business entity is in substantial good standing with the respective department or has entered into an agreement with the respective department that includes a practical corrective action plan for the business entity. The business entity shall certify that any contractors or subcontractors that perform work at the qualified property or transformative project: (a) are registered as required by “The Public Works Contractor Registration Act,” P.L.1999, c.238 (C.34:11-56.48 et seq.); (b) have not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in New Jersey; and (c) possess a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. The authority may also contract with an independent third party to perform a background check on the business entity. Following approval of an application by the authority, but prior to the start of any construction or rehabilitation at the qualified property or transformative project, the authority shall enter into a rehabilitation agreement with the business entity. The authority shall negotiate the terms and conditions of the rehabilitation agreement on behalf of the State.

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

- (a) without the tax credit, the rehabilitation project is not economically feasible; and
- (b) a project financing gap exists.

b. A business entity may claim a credit under this section during the accounting or privilege period: (1) in which it makes the final payment for the cost of the rehabilitation if the business entity has chosen a selected rehabilitation period of 24 months; or (2) in which a distinct project phase of the rehabilitation is completed if the business entity has chosen a selected rehabilitation period of 60 months. The credit may be claimed against any State tax, listed in paragraph (1) of subsection a. of this section, liability otherwise due after any other credits permitted pursuant to law have been applied. The amount of credit claimed in an accounting or privilege period that cannot be applied for that accounting or privilege period due to limitations in this section may be transferred pursuant to section 5 of P.L.2020, c.156 (C.34:1B-273) or carried over, if necessary, to the nine accounting or privilege periods following the accounting or privilege period for which the credit was allowed.

c. A business entity shall submit to the authority satisfactory evidence of the actual cost of rehabilitation, as certified by a certified public accountant, evidence of completion of the

rehabilitation or phase, and a certification that all information provided by the business entity to the authority is true, including information contained in the application, the rehabilitation agreement, any amendment to the rehabilitation agreement, and any other information submitted by the business entity to the authority pursuant to sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276). The business entity, or an authorized agent of the business entity, shall certify under the penalty of perjury that the information provided pursuant to this subsection is true.

3. Section 5 of P.L.2020, c.156 (C.34:1B-273) is amended to read as follows:

C.34:1B-273 Corporation business tax credit transfer certificate program, insurance premiums tax credit transfer certificate program.

5. a. The authority shall, in cooperation with the director, establish and administer a corporation business tax credit transfer certificate program and an insurance premiums tax credit transfer certificate program to enable business entities with unused, otherwise allowable amounts of tax credits issued pursuant to sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276) to exchange these credits, in whole or in part, for private financial assistance prior to the expiration of the tax credit.

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

b. A business entity holding an unused, otherwise allowable tax credit issued pursuant to sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276) may apply to the director and the authority for a tax credit transfer certificate pursuant to subsection a. of this section. Upon receipt thereof, the business entity may sell or assign, in full or in part, the tax credit transfer certificate to another taxpayer in exchange for private financial assistance to be provided by the purchaser or assignee of the tax credit transfer certificate to the seller thereof. The developer shall not sell a tax credit transfer certificate allowed under this section for consideration received by the developer of less than 85 percent of the transferred credit amount before considering any further discounting to present value which shall be permitted, except a developer of a residential project consisting of newly-constructed residential units that has received federal low income housing tax credits under 26 U.S.C. s.42(b)(1)(B)(i) may assign a tax credit transfer certificate for consideration of no less than 75 percent subject to the submission of a plan to the authority and the New Jersey Housing and Mortgage Finance Agency to use the proceeds derived from the assignment of tax credits to complete the residential project. The purchaser or assignee of the tax credit transfer certificate may apply the face value of the tax credit transfer certificate acquired against the purchaser's or assignee's applicable tax liability by claiming the tax credit on the purchaser's or assignee's corporation business tax or insurance premiums tax return with the corresponding tax credit transfer certificate accompanying the tax return. A purchaser or assignee of a tax credit transfer certificate pursuant to this section shall not make any subsequent transfers, assignments, or sales of the tax credit transfer certificate.

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

- (1) the name of the transferor;
- (2) the name of the transferee;
- (3) the value of the tax credit transfer certificate;

- (4) the State tax against which the transferee may apply the tax credit; and
- (5) the consideration received by the transferor.

4. Section 6 of P.L.2020, c.156 (C.34:1B-274) is amended to read as follows:

C.34:1B-274 Rules, regulations.

6. a. The authority shall, in consultation with the officer and the director, promulgate rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as the officer deems necessary to administer the provisions of sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276), including but not limited to rules establishing administrative fees to implement the provisions of sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276), and setting of an annual application submission date, requiring annual reporting by each business entity that receives a tax credit pursuant to sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276). As part of the authority's review of the annual reports required from each business entity that receives a tax credit, the authority shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury that: the business entity is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan for the business entity, and the business entity shall certify that any contractors or subcontractors performing work at the qualified property or transformative project: (1) are registered as required by "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State; and (3) possess a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. The rules and regulations adopted pursuant to this section shall also include a provision to require that business entities forfeit all tax credits awarded in any year in which the Department of Labor and Workforce Development, the Department of Environmental Protection, or the Department of the Treasury advises the authority that the business entity is not in substantial good standing nor has the business entity entered into an agreement with the respective department that includes a practical corrective action plan, and to allow the authority to extend, in individual cases, the deadline for any annual reporting or certification requirement established pursuant to this section.

b. For every tax credit allowed pursuant to section 4 of P.L.2020, c.156 (C.34:1B-272), the authority, in consultation with the officer, shall certify to the director: the total cost of rehabilitation; that the property meets the definition of qualified property or transformative project, as applicable; and that the rehabilitation has been completed in substantial compliance with the requirements of the Secretary of the Interior's Standards for Rehabilitation pursuant to section 67.7 of Title 36, Code of Federal Regulations. The business entity shall attach the certification to the tax return on which the business entity claims the credit.

c. (1) The total amount of credits approved by the authority pursuant to sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276) shall not exceed the limitations set forth in section 98 of P.L.2020, c.156 (C.34:1B-362). If the authority approves less than the total amount of tax credits authorized pursuant to this subsection in a fiscal year, the remaining amount, plus any amounts remaining from previous fiscal years, shall be added to the limit of subsequent fiscal years until that amount of tax credits are claimed or

allowed. Any unapproved, uncertified, or recaptured portion of tax credits during any fiscal year may be carried over and reallocated in succeeding years.

(2) Notwithstanding the provisions of paragraph (1) of this subsection and section 98 of P.L.2020, c.156 (C.34:1B-362) to the contrary, the authority may approve tax credits, pursuant to sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276), for the rehabilitation of a transformative project in an amount that causes the total amount of credits approved during the fiscal year to exceed the limitations set forth in section 98 of P.L.2020, c.156 (C.34:1B-362), provided that the amount of the excess shall be subtracted from the total amount of credits that may be approved by the authority in the subsequent fiscal year, and the amount of the excess shall not exceed 50 percent of the total tax credits otherwise authorized for the fiscal year.

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

5. Section 10 of P.L.2020, c.156 (C.34:1B-278) is amended to read as follows:

C.34:1B-278 Definitions.

10. As used in sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287):

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

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

"Brownfield site" means any former or current commercial or industrial site that is currently vacant or underutilized and on which there has been, or there is suspected to have been, a discharge of a contaminant or on which there is contaminated building material.

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

"Contaminated building material" means components of a structure where abatement or removal of asbestos, or remediation of materials containing hazardous substances defined pursuant to section 3 of P.L.1976, c.141 (C.58:10-23.11b), is required by applicable federal, state, or local rules or regulations.

"Contamination" or "contaminant" means any discharged hazardous substance as defined pursuant to section 3 of P.L.1976, c.141 (C.58:10-23.11b), hazardous waste as defined pursuant to section 1 of P.L.1976, c.99 (C.13:1E-38), pollutant as defined pursuant to section 3 of P.L.1977, c.74 (C.58:10A-3), or contaminated building material.

"Department" means the Department of Environmental Protection.

"Developer" means any person that enters or proposes to enter into a redevelopment agreement with the authority pursuant to the provisions of section 13 of P.L.2020, c.156 (C.34:1B-281).

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

"Government-restricted municipality" means a municipality in this State with a municipal revitalization index distress score of at least 75, that met the criteria for designation as an urban aid municipality in the 2019 State fiscal year, and that, on the effective date of P.L.2020, c.156 (C.34:1B-269 et al.), is subject to financial restrictions imposed pursuant to the "Municipal Stabilization and Recovery Act," P.L.2016, c.4 (C.52:27BBBB-1 et seq.), or is restricted in its ability to levy property taxes on property in that municipality as a result of the State of New Jersey owning or controlling property representing at least 25 percent of the total land area of the municipality or as a result of the federal government of the United States owning or controlling at least 50 acres of the total land area of the municipality, which is dedicated as a national natural landmark.

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

"Program" means the Brownfields Redevelopment Incentive Program established by section 11 of P.L.2020, c.156 (C.34:1B-279).

"Project financing gap" means the part of the total remediation cost, including reasonable and appropriate return on investment, that remains to be financed after all other sources of capital have been accounted for, including, but not limited to, developer contributed capital, which shall not be less than 20 percent of the total remediation cost, and investor or financial entity capital or loans for which the developer, after making all good faith efforts to raise additional capital, certifies that additional capital cannot be raised from other sources; provided, however, that for a redevelopment project located in a government-restricted municipality, the developer contributed capital shall not be less than 10 percent of the cost of rehabilitation. Developer contributed capital may consist of cash, deferred development fees, costs for project feasibility incurred within the 12 months prior to application, property value less any mortgages when the developer owns the project site, and any other investment by the developer in the project deemed acceptable by the authority, as provided by regulations promulgated by the authority. Property value shall be valued at the lesser of either: a. the purchase price, provided the property was purchased pursuant to an arm's length transaction within 12 months of application; or b. the value as determined by a current appraisal.

"Qualified incentive tract" means: a. a population census tract having a poverty rate of 20 percent or more; or b. a census tract in which the median family income for the census tract does not exceed 80 percent of the greater of the Statewide median family income or the median family income of the metropolitan statistical area in which the census tract is situated.

"Redevelopment agreement" means an agreement between the authority and a developer under which the developer agrees to perform any work or undertaking necessary for the remediation of a brownfield site located at the site of the redevelopment project, and for the clearance, development or redevelopment, construction, reconstruction, or rehabilitation of any structure or improvement of commercial, industrial, or public structures or improvements within an area of land whereon a brownfield site is located.

"Redevelopment project" means a specific construction project or improvement undertaken, pursuant to the terms of a redevelopment agreement, by a developer within an

area of land whereon a brownfield site is located. A redevelopment project may involve construction or improvement upon lands, buildings, improvements, or real and personal property, or any interest therein, including lands under water, riparian rights, space rights, and air rights, acquired, owned, developed or redeveloped, constructed, reconstructed, rehabilitated, or improved.

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

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

6. Section 12 of P.L.2020, c.156 (C.34:1B-280) is amended to read as follows:

C.34:1B-280 Application for tax credit.

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

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

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

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

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

(4) a project financing gap exists;

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

(6) each worker employed to perform remediation, construction, or building services work at the redevelopment project shall be paid not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.). The prevailing wage requirements shall apply for remediation or construction work through the completion of the redevelopment project, and the prevailing wage requirements shall apply for building services work at the site of the redevelopment project for 10 years following completion of the redevelopment project. In the event a redevelopment project, or the aggregate of all redevelopment projects approved for an award under the program, constitute a lease of more than 35 percent of a facility, the prevailing wage requirements shall apply to the entire facility.

c. A redevelopment project that received a reimbursement pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through 58:10B-31) shall not be eligible to apply for a tax credit under the program. If the authority receives an application and supporting documentation for approval of a reimbursement pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through 58:10B-31) prior to the effective date of sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287), then the authority may consider the application and award a tax credit to a developer, provided that the authority shall take final action on all applications for approval of a reimbursement pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through 58:10B-31) no later than July 1, 2019. No applications shall be submitted pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through 58:10B-31) after the effective date of sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287).

d. (1) Prior to approval of an application, the authority shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury whether the developer is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan for the developer. The authority may also contract with an independent third party to perform a background check on the developer. The developer shall certify that any contractors or subcontractors that perform work at the redevelopment project: (a) are registered as required by "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (b) have not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in New Jersey, and (c) possess a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. Provided that the developer is in substantial good standing with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury, or has entered into such an agreement, and following approval of an application by the board, the authority shall enter into a redevelopment agreement with the developer, as provided for in section 13 of P.L.2020, c.156 (C.34:1B-281).

(2) The authority, in consultation with the department, may impose additional requirements upon an applicant through rule or regulation adopted pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), if the authority or the department determines the additional requirements to be necessary and appropriate to effectuate the purposes of sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287).

e. The authority, in consultation with the department, shall conduct a review of the applications through a competitive application process whereby the authority and the department shall evaluate all applications submitted by a date certain, as if all received applications were submitted on that date. In addition to the eligibility criteria set forth in subsection b. of this section, the authority, in consultation with the department, may consider additional factors that may include, but shall not be limited to: the economic feasibility of the redevelopment project; the benefit of the redevelopment project to the community in which the remediation project is located; the degree to which the redevelopment project enhances and promotes job creation and economic development and reduces environmental or public health stressors in an overburdened community, as those terms are defined by section 2 of P.L.2020, c.92 (C.13:1D-158), and attendant department regulations; and, if the developer has a board of directors, the extent to which that board of directors is diverse and representative of the community in which the redevelopment project is located. The

authority, in consultation with the department, shall submit applications that comply with the eligibility criteria set forth in this section, fulfill the additional factors considered by the authority pursuant to this subsection, satisfy the submission requirements, and provide adequate information for the subject application, to the board for final approval.

f. The authority shall award tax credits to redevelopment projects until either the available tax credits are exhausted or all redevelopment projects that are eligible for a tax credit pursuant to the provisions of sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287) receive a tax credit, whichever occurs first. If insufficient funding exists to allow a tax credit to a developer in accordance with the provisions of subsection a. of section 16 of P.L.2020, c.156 (C.34:1B-284), the authority may offer the developer a value of the tax credit below the amount provided for in subsection a. of section 16 of P.L.2020, c.156 (C.34:1B-284).

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

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

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

j. A developer who has commenced remediation or clean up at the site and who could not reasonably have known the full extent of the site contamination prior to commencing the remediation may still apply for a tax credit under the program, if the developer certifies to the authority, under the penalty of perjury, that the developer cannot reasonably finish the remediation and commence the redevelopment project absent the tax credit.

7. Section 13 of P.L.2020, c.156 (C.34:1B-281) is amended to read as follows:

C.34:1B-281 Redevelopment agreement.

13. a. Following approval of an application by the board, but prior to the start of any remediation or clean up at the site of the redevelopment project, except activities disclosed at the time of approval, the authority shall enter into a redevelopment agreement with the developer. The chief executive officer of the authority shall negotiate the terms and conditions of the redevelopment agreement on behalf of the State.

b. The redevelopment agreement shall specify the amount of the tax credit to be awarded to the developer, the date on which the developer shall complete the remediation, and the projected project remediation cost. The redevelopment agreement shall require the developer to submit progress reports to the authority and to the department every six months pursuant to section 15 of P.L.2020, c.156 (C.34:1B-283).

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

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

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

(3) the developer pays each worker employed to perform remediation work, construction work, or building services work at the redevelopment project not less than the prevailing wage rate in accordance with the requirements of paragraph (6) of subsection b. of section 12 of P.L.2020, c.156 (C.34:1B-280) for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.).

d. The authority shall not enter into a redevelopment agreement unless the developer demonstrates, to the satisfaction of the Department of Environmental Protection, that the developer did not discharge a hazardous substance at the brownfield site proposed to be in the redevelopment agreement, is not in any way responsible for the hazardous substance, and is not a corporate successor to the discharger or to any person in any way responsible for the hazardous substance or to anyone liable for cleanup and removal costs pursuant to section 8 of P.L.1976, c.141 (C.58:10-23.11g).

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

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

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

f. The redevelopment agreement shall provide that issuance of a tax credit under the program shall be conditioned upon the subrogation to the department of all rights of the developer to recover remediation costs from any other person who discharges a hazardous substance or is in any way responsible, pursuant to section 8 of P.L.1976, c.141 (C.58:10-23.11g), for a hazardous substance that was discharged at the brownfield site.

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

h. A developer shall submit to the authority satisfactory evidence of the actual remediation costs, as certified by a certified public accountant, and a Licensed Site Remediation Professional for costs under the jurisdiction of the "Site Remediation Reform Act," sections 1 through 29 of P.L.2009, c.60 (C.58:10C-1 et seq.), and as applicable, other appropriate licensed or certified professional for costs that are not under the jurisdiction of the "Site Remediation Reform Act," evidence of completion of the remediation as demonstrated by a Response Action Outcome where the remediation is subject to the "Site Remediation Reform Act," a certification from the appropriate licensed or certified professional for other remedial activities, and a certification that all information provided by the developer to the authority is true, including information contained in the application, the redevelopment agreement, any amendment to the redevelopment agreement, and any other information submitted by the developer to the authority pursuant to sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287). The developer, or an authorized agent of the developer, shall certify under the penalty of perjury that the information provided pursuant to this subsection is true.

i. The redevelopment agreement shall include a provision allowing the authority to recapture the tax credits for any year in which the Department of Environmental Protection, the Department of Labor and Workforce Development, or the Department of the Treasury that advises the authority that the developer is not in substantial good standing with the respective department, nor has the developer entered into an agreement with the respective department that includes a practical corrective action plan for the developer. The redevelopment agreement shall also include a provision allowing the authority to recapture the tax credits for any year in which the developer fails to confirm that each contractor or subcontractor performing work at the redevelopment project: (1) is registered as required by "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in New Jersey; and (3) possesses a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. The redevelopment agreement shall also require a developer to engage in on-site consultations with the Division of Workplace Safety and Health in the Department of Health.

8. Section 16 of P.L.2020, c.156 (C.34:1B-284) is amended to read as follows:

C.34:1B-284 Certification upon completion of redevelopment project.

16. a. Upon completion of the remediation, the developer shall seek certification from the department that:

(1) the remediation is complete;

(2) the developer complied with the requirements of section 15 of P.L.2020, c.156 (C.34:1B-283), including the requirements of any memorandum of agreement or other oversight document that the developer may have executed with the Commissioner of Environmental Protection pursuant to that section; and

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

Upon receipt of certification, and confirmation by the authority that the developer's obligations under the redevelopment agreement have been met, a developer shall be awarded a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 as follows: (a) for project located in a qualified incentive tract or government-restricted municipality, in an amount not to exceed 60 percent of the actual remediation costs, or 60 percent of the projected remediation costs as set forth in the redevelopment agreement, or \$8,000,000, whichever is least; and (b) for all other projects, in an amount not to exceed 50 percent of the actual remediation costs, or 50 percent of the projected remediation costs as set forth in the redevelopment agreement, or \$4,000,000, whichever is least. The developer, or an authorized agent of the developer, shall certify that the information provided to the department and the authority pursuant to this subsection is true under the penalty of perjury.

b. When filing an application for certification pursuant to subsection a. of this section, the developer shall submit to the department: (1) the total remediation costs incurred by the developer for the remediation of the subject property located at the site of the redevelopment project, as provided in the redevelopment agreement, and certified by a certified public accountant, and a Licensed Site Remediation Professional for costs under the jurisdiction of the "Site Remediation Reform Act," sections 1 through 29 of P.L.2009, c.60 (C.58:10C-1 et seq.), and as applicable, other appropriate licensed or certified professional for costs that are not under the jurisdiction of the "Site Remediation Reform Act"; (2) evidence of completion of the remediation, as demonstrated by a Response Action Outcome where the remediation is subject to the "Site Remediation Reform Act"; (3) a certification from the appropriate licensed or certified professional for other remedial activities; (4) information concerning the occupancy rate of the buildings or other work areas located on the property subject to the redevelopment agreement; and (5) such other information as the department deems necessary in order to make the certifications and findings pursuant to this section.

c. A developer shall apply the credit awarded against the developer's liability for the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 for the privilege period during which the department awards the developer a tax credit pursuant to subsection a. of this section. A developer shall not carry forward any unused credit.

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

9. Section 17 of P.L.2020, c.156 (C.34:1B-285) is amended to read as follows:

C.34:1B-285 Application for tax credit transfer certificate.

17. a. A developer may apply to the director and the chief executive officer of the authority for a tax credit transfer certificate, during the privilege period in which the director awards the developer a tax credit pursuant to section 16 of P.L.2020, c.156 (C.34:1B-284), in lieu of the developer being allowed to apply any amount of the tax credit against the developer's State tax liability. The tax credit transfer certificate, upon receipt thereof by the developer from the director and the chief executive officer of the authority, may be sold or assigned, in the privilege period during which the developer receives the tax credit transfer certificate from the director, to another person, who may apply the credit against a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The tax credit transfer certificate provided to the developer shall include a statement waiving the developer's right to claim the credit that the developer has elected to sell or assign.

b. The developer shall not sell or assign a tax credit transfer certificate allowed under this section for consideration received by the developer of less than 85 percent of the transferred credit amount before considering any further discounting to present value which shall be permitted, except a developer of a residential project consisting of newly-constructed residential units that has received federal low income housing tax credits under 26 U.S.C. s.42(b)(1)(B)(i) may assign a tax credit transfer certificate for consideration of no less than 75 percent subject to the submission of a plan to the authority and the New Jersey Housing and Mortgage Finance Agency to use the proceeds derived from the assignment of tax credits to complete the residential project. The tax credit transfer certificate issued to a developer by the director shall be subject to any limitations and conditions imposed on the application of State tax credits pursuant to section 16 of P.L.2020, c.156 (C.34:1B-284) and any other terms and conditions that the director may prescribe.

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

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

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

10. Section 19 of P.L.2020, c.156 (C.34:1B-287) is amended to read as follows:

C.34:1B-287 Regulations.

19. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the chief executive officer of the authority, in consultation with the Commissioner of Environmental Protection, may adopt, immediately upon filing with the Office of Administrative Law, regulations that the chief executive officer and commissioner deem necessary to implement the provisions of sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287), which regulations shall be effective for a period not to exceed 360 days from the date of the filing. The chief executive

officer, in consultation with the Commissioner of Environmental Protection, shall thereafter amend, adopt, or readopt the regulations in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.). The rules shall require annual reporting by developers that receive tax credits pursuant to the program, in addition to the regular progress updates. As part of the authority's review of the annual reports required from a developer, the authority shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury that the developer is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan, and the developer shall certify that any contractors or subcontractors performing work at the redevelopment project: a. are registered as required by "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); b. have not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in New Jersey; and c. possess a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. The rules and regulations adopted pursuant to this section shall also include a provision to require that, in any year in which the developer is not in substantial good standing with the Department of Labor and Workforce Development, the Department of Environmental Protection, or the Department of the Treasury, the developer may forfeit all tax credits awarded in that year, and to allow the authority to extend, in individual cases, the deadline for any annual reporting requirement established pursuant to this section.

11. Section 24 of P.L.2020, c.156 (C.34:1B-292) is amended to read as follows:

C.34:1B-292 Sale of tax credits.

24. a. The authority shall sell the tax credits authorized pursuant to section 22 of P.L.2020, c.156 (C.34:1B-290) to purchasers through a competitive auction process.

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

(1) specify the requested amount of tax credits, which shall not be less than \$500,000;

(2) specify the amount the potential purchaser will pay in exchange for the requested amount of tax credits, which shall not be less than 75 percent of the requested dollar amount of tax credits;

(3) commit to serve on the New Jersey Innovation Evergreen Advisory Board, established pursuant to section 32 of P.L.2020, c.156 (C.34:1B-300), and to otherwise provide mentorship, networking, and collaboration opportunities to qualified businesses that receive funding under the program; and

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

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

d. Except as provided in section 22 of P.L.2020, c.156 (C.34:1B-290), the authority shall hold one competitive auction per calendar year.

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

12. Section 29 of P.L.2020, c.156 (C.34:1B-297) is amended to read as follows:

C.34:1B-297 Criteria for qualified venture firm.

29. a. The authority shall certify or refuse to certify a venture firm as a qualified venture firm based on the criteria for certification set forth in section 28 of P.L.2020, c.156 (C.34:1B-296), and subsections b. and c. of this section.

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

c. Prior to certifying a venture firm as a qualified venture firm, the authority shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury whether the venture firm is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan for the venture firm. The authority may also contract with an independent third party to perform a background check on the venture firm.

d. The authority shall provide written notification to each venture firm that is certified as a qualified venture firm by the authority and shall provide written notification to each venture firm that the authority refuses to certify as a qualified venture firm, communicating in detail the grounds for the authority's refusal. The authority shall review each qualified venture firm annually for the disqualifying criteria set forth in subsection b. of this section or other reasonable industry-accepted standards as determined by the authority. The authority may decertify a qualified venture firm at any time pursuant to the disqualifying criteria set forth in subsection b. of this section. Decertification shall not affect any previously made qualified investment or the fund's commitment to make a follow-on investment in a qualified business.

13. Section 37 of P.L.2020, c.156 (C.34:1B-305) is amended to read as follows:

C.34:1B-305 Definitions.

37. As used in sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310):

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

"Department" means the Department of Agriculture.

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

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

"Food desert community" means a physically contiguous area in the State in which residents have limited access to nutritious foods, such as fresh fruits and vegetables, and which has been designated as a food desert community pursuant to subsection b. of section 38 of P.L.2020, c.156 (C.34:1B-306).

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

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

"Program" means the Food Desert Relief Program established in section 38 of P.L.2020, c.156 (C.34:1B-306).

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

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

"Small food retailer" means a small retail outlet, with less than 2,500 square feet, that sells a limited selection of foods and other products, such as a bodega, convenience store, corner store, neighborhood store, small grocery, mobile food vendor, farmers' market, food co-op, or small-scale store.

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

14. Section 38 of P.L.2020, c.156 (C.34:1B-306) is amended to read as follows:

C.34:1B-306 Food Desert Relief Program.

38. a. (1) There is established the Food Desert Relief Program to be administered by the New Jersey Economic Development Authority. The program shall include tax credit components, as provided in sections 39 and 40 of P.L.2020, c.156 (C.34:1B-307 and C.34:1B-308), in order to incentivize businesses to establish and retain new supermarkets and grocery stores in food desert communities.

(2) The total value of tax credits approved by the authority pursuant to sections 39 and 40 of P.L.2020, c.156 (C.34:1B-307 and C.34:1B-308) shall not exceed the limitations set forth in section 98 of P.L.2020, c.156 (C.34:1B-362).

b. The authority, in consultation with the Department of Agriculture and the Department of Community Affairs, shall initially designate not more than 50 separate geographic areas that have limited access to nutritious foods as food desert communities in this State. The authority, in consultation with the Department of Agriculture and the Department of Community Affairs, shall develop criteria for the designation of food desert communities, but each separate food desert community shall consist of a distinct geographic area with a single defined border. The criteria shall, at a minimum, incorporate analysis of municipal or census tract poverty statistics, food desert information from the Economic Research Service of the United States Department of Agriculture, healthier food retail tract information from the federal Centers for Disease Control and Prevention, and residents' access to nutritious foods, such as fresh fruits and vegetables, through supermarkets and grocery stores. The authority, in consultation with the departments, may also consider in making food desert community designations pursuant to this subsection, data related to municipal or census tract population size and population density, the number of residents who receive Supplemental Nutrition Assistance Program (SNAP) benefits within a municipality, the extent to which a municipality's residents have access to a personal vehicle, and a municipality's Municipal Revitalization Index distress score, obesity rate, and unemployment rate. The authority, in consultation with the departments, shall continuously evaluate areas previously designated as food desert communities and assess whether they still meet the criteria for designation as a food desert community and may designate additional food desert communities once every three years following the effective date of sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310).

c. To receive a tax credit under section 39 or 40 of P.L.2020, c.156 (C.34:1B-307 or C.34:1B-308), a taxpayer shall submit an application to the authority in the form and manner prescribed by the authority and in accordance with criteria established by the authority, which at minimum will include a commitment to accept benefits from federal nutrition assistance programs, such as the Supplemental Nutrition Assistance Program (SNAP) and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). Following the approval of an application, the authority may, pursuant to an award agreement, award tax credits to an eligible taxpayer that:

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

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

d. (1) The authority may sell all or a portion of the tax credits made available in a fiscal year pursuant to subsection a. of this section and dedicate the proceeds from such sale to provide grants and loans to qualifying supermarkets, grocery stores, mid-sized food retailers, small food retailers, and any other eligible entity. The amount of any grant or loan provided pursuant to this subsection shall be in accordance with the need of the supermarket, grocery

store, mid-sized food retailer, small food retailer, or any other eligible entity, as determined by the authority. The authority shall sell tax credits pursuant to this section in the manner determined by the authority; provided, however, the authority shall not sell tax credits for less than 85 percent of the tax credit amount. Grants and loans made available pursuant to this subsection shall be awarded to entities that:

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

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

(c) at the discretion of the authority, support initiatives to strengthen food security of residents in food desert communities.

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

(3) Prior to awarding a grant or loan to an applicant supermarket, grocery store, mid-sized food retailer, small food retailer, or other eligible entity pursuant to this subsection, the authority shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury whether the applicant is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan for the applicant. The applicant shall certify that any contractors or subcontractors that perform work at the qualifying supermarket or grocery store: (a) are registered as required by “The Public Works Contractor Registration Act,” P.L.1999, c.238 (C.34:11-56.48 et seq.); (b) have not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State; and (c) possess a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. The authority may also contract with an independent third party to perform a background check on the entity.

(4) An applicant supermarket, grocery store, mid-sized food retailer, small food retailer, or other eligible entity shall, as required at the discretion of the authority, submit to the authority satisfactory information pertaining to the eligible equipment costs and eligible technology costs, as certified by a certified public accountant, certifications that all information provided by the applicant to the authority is true, including information contained in the application, any agreement pertaining to the award of grants or loans under the program, any amendment to such an agreement, and any other information submitted by the applicant to the authority pursuant to sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310), and evidence of the eligible equipment costs and eligible technology costs of the applicant. The applicant, or an authorized agent of the applicant, shall certify under the penalty of perjury that the information provided pursuant to this subsection is true.

e. The authority may establish a technical assistance fund to assist any entity that is eligible for a tax credit, grant, or loan under this section. The authority, through the technical assistance fund, may make grants to entities to assist qualifying supermarkets,

grocery stores, mid-sized food retailers, small food retailers, or other eligible entities in implementation of best practices for increasing the accessibility of nutritious foods in food desert communities. Technical assistance shall be provided either directly by the authority or through a not-for-profit or for-profit entity and made available in English as well as the two most commonly spoken languages in New Jersey other than English. At the discretion of the authority, funds to support technical assistance may be provided in addition to, or in lieu of, any tax credit, grant, or loan awarded under sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310).

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

(a) to mitigate a project financing gap;

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

(c) to mitigate the eligible equipment costs or eligible technology costs of the supermarket, grocery store, mid-sized food retailer, small food retailer, or other eligible entity in order to make nutritious foods more accessible and affordable to residents within food deserts; or

(d) to support initiatives to ensure food security of residents in food desert communities.

(2) The value of tax credits, grants, or loans awarded to individual entities under the program shall not exceed:

(a) in the case of an entity eligible under paragraph (1) of subsection c. of this section, 40 percent of the total project cost for the first supermarket or grocery store in a designated food desert community, and 20 percent of the total project cost for the second supermarket or grocery store in the food desert community; and

(b) in the case of an entity eligible under paragraph (2) of subsection c. of this section, the initial operating costs of the first supermarket or grocery store in a designated food desert community, and one-half of the initial operating costs of the second supermarket or grocery store in the food desert community; and

(c) in the case of an entity eligible for a grant or loan under subparagraph (b) of paragraph (1) of subsection d. of this section, the eligible equipment costs and eligible technology costs of the supermarket, grocery store, mid-sized food retailer, small food retailer, or other eligible entity.

g. An entity that develops and opens a new supermarket or grocery store in a designated food desert community shall be eligible for a tax credit only if the entity demonstrates to the authority at the time of application that each worker employed to perform construction at the project shall be paid not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.).

h. (1) Except as provided in paragraph (2) of this subsection, a labor harmony agreement shall be required if the State has a proprietary interest in a supermarket or grocery store and the agreement shall remain in effect for as long as the State acts as a market participant in the project. The provisions of this paragraph shall apply to a supermarket or grocery store that will have more than 10 employees.

(2) A labor harmony agreement under paragraph (1) of this subsection shall not be required if the authority determines that the supermarket or grocery store would not be feasible if a labor harmony agreement is required. The authority shall support the determination by a written finding, which provides the specific basis for the determination.

(3) As used in this subsection, "labor harmony agreement" means an agreement between a business that serves as the owner or operator of a supermarket or grocery store and one or more labor organizations, which requires, for the duration of the agreement: that any participating labor organization and its members agree to refrain from picketing, work stoppages, boycotts, or other economic interference against the business; and that the business agrees to maintain a neutral posture with respect to efforts of any participating labor organization to represent employees at a supermarket or grocery store, agrees to permit the labor organization to have access to the employees, and agrees to guarantee to the labor organization the right to obtain recognition as the exclusive collective bargaining representatives of the employees at a supermarket or grocery store by demonstrating to the New Jersey State Board of Mediation, Division of Private Employment Dispute Settlement, or a mutually agreed-upon, neutral, third-party, that a majority of workers in the unit have shown their preference for the labor organization to be their representative by signing authorization cards indicating that preference. The labor organization or organizations shall be from a list of labor organizations that have requested to be on the list and that the Commissioner of Labor and Workforce Development has determined represent substantial numbers of supermarket or grocery store employees in the State.

i. A recipient shall certify that all factual representations made by the recipient in the application or award agreement are true under the penalty of perjury. A material misrepresentation of fact in either the application or award agreement may result in recession and recapture of any grants or tax credits awarded, or acceleration of any loans made, under sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310).

15. Section 39 of P.L.2020, c.156 (C.34:1B-307) is amended to read as follows:

C.34:1B-307 Award of credit against tax due.

39. a. For privilege periods beginning on or after January 1 next following the effective date of sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310), a taxpayer eligible under subsection c. of section 38 of P.L.2020, c.156 (C.34:1B-306) shall be awarded a credit against the tax due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. A taxpayer that qualifies for the award of a tax credit under this section may claim 25 percent of the total amount awarded in the privilege period in which the taxpayer establishes and opens the supermarket or grocery store for business, and an additional 25 percent of the total amount awarded in each of the three privilege periods next following the initial opening, provided that the supermarket or grocery store remains in business and open to the public. For a taxpayer to be allowed a tax credit pursuant to this section, the taxpayer shall meet the requirements of this section, and the rules and regulations adopted pursuant to section 41 of P.L.2020, c.156 (C.34:1B-309).

b. The order of priority of the application of the credit allowed pursuant to this section and any other credits allowed against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for a privilege period shall be as prescribed by the Director of the Division of Taxation in the Department of the Treasury. The amount of the credit applied pursuant to this section against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), shall not reduce a taxpayer's tax liability for a privilege period to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5). Any credit shall be valid in the privilege period in which the certification is

approved and any unused portion thereof may be carried forward into the next 10 privilege periods or until exhausted, whichever is earlier.

c. The authority shall award tax credits to taxpayers until either the available tax credits are exhausted or all projects that are eligible for a tax credit pursuant to the provisions of sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310) receive a tax credit, whichever occurs first. If insufficient funding exists to allow a tax credit to a taxpayer in accordance with the provisions of subsection a. of section 38 of P.L.2020, c.156 (C.34:1B-306), the authority may offer the taxpayer a tax credit in an amount less than that provided in subsection a. of this section.

d. Prior to awarding a tax credit to a supermarket or grocery store, the authority shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury that the qualifying supermarket or grocery store is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan for the supermarket or grocery store, and the qualifying supermarket or grocery store shall certify that any contractors or subcontractors performing work at the qualifying supermarket or grocery store: (1) are registered as required by "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State; and (3) possess a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. The authority may also contract with an independent third party to perform a background check on the developer.

e. A supermarket or grocery store shall, as required at the discretion of the authority, submit to the authority satisfactory information pertaining to the project cost, project financing gap, and the initial operating costs, as certified by a certified public accountant, certifications that all information provided by the supermarket or grocery store to the authority is true, including information contained in the application, any agreement pertaining to the award of tax credits under the program, any amendment to such an agreement, and any other information submitted by the supermarket or grocery store to the authority pursuant to sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310), and evidence of the initial opening and continued operation of the supermarket or grocery store. The supermarket or grocery store, or an authorized agent of the supermarket or grocery store, shall certify under the penalty of perjury that the information provided pursuant to this subsection is true.

16. Section 40 of P.L.2020, c.156 (C.34:1B-308) is amended to read as follows:

C.34:1B-308 Credit against tax due.

40. a. For taxable years beginning on or after January 1 next following the effective date of sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310), a taxpayer eligible under subsection c. of section 38 of P.L.2020, c.156 (C.34:1B-306) shall be awarded a credit against the tax due pursuant to N.J.S.54A:1-1 et seq. A taxpayer that qualifies for the award of a tax credit under this section may claim 25 percent of the total amount awarded in the taxable year in which the taxpayer establishes and opens the supermarket or grocery store for business, and may claim 25 percent of the total amount awarded in each of the three taxable years next following the initial opening, provided that the supermarket or grocery store remains in business and open to the public. For a taxpayer to be awarded a tax credit

pursuant to this section, the taxpayer shall meet the requirements of this section, and the rules and regulations adopted pursuant to section 41 of P.L.2020, c.156 (C.34:1B-309).

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

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

A taxpayer that is a New Jersey S corporation shall not be allowed the credit directly under N.J.S.54A:1-1 et seq., but the amount of credit of a taxpayer in respect of a pro rata share of S corporation income shall be determined by allocating to the taxpayer that proportion of the credit acquired by the New Jersey S corporation that is equal to the taxpayer's share, whether or not distributed, of the total pro rata share of S corporation income of the New Jersey S corporation for its taxable year ending within or with the taxpayer's taxable year.

d. The authority shall award tax credits to taxpayers until either the available tax credits are exhausted or all projects that are eligible for a tax credit pursuant to the provisions of sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310) receive a tax credit, whichever occurs first. If insufficient funding exists to allow a tax credit to a taxpayer in accordance with the provisions of subsection a. of section 38 of P.L.2020, c.156 (C.34:1B-306), the authority may offer the taxpayer a tax credit in an amount less than that provided in subsection a. of this section.

e. Prior to awarding a tax credit to a supermarket or grocery store, the authority shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury that the qualifying supermarket or grocery store is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan, and the qualifying supermarket or grocery store shall confirm that any contractors and subcontractors performing construction work at the qualifying supermarket or grocery store: (1) are registered as required by "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State; and (3) possesses a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. The authority may also contract with an independent third party to perform a background check on the qualifying supermarket or grocery store.

f. A supermarket or grocery store shall, as required at the discretion of the authority, submit to the authority satisfactory information pertaining to the project cost, project financing gap, and the initial operating costs, as certified by a certified public accountant,

certifications that all information provided by the supermarket or grocery store to the authority is true, including information contained in the application, any agreement pertaining to the award of tax credits under the program, any amendment to such an agreement, and any other information submitted by the supermarket or grocery store to the authority pursuant to sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310), and evidence of the initial opening and continued operation of the supermarket or grocery store. The supermarket or grocery store, or an authorized agent of the supermarket or grocery store, shall certify under the penalty of perjury that the information provided pursuant to this subsection is true.

17. Section 41 of P.L.2020, c.156 (C.34:1B-309) is amended to read as follows:

C.34:1B-309 Rules, regulations.

41. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the chief executive officer of the authority, in consultation with the department and the Director of the Division of Taxation in the Department of the Treasury, may adopt, immediately upon filing with the Office of Administrative Law, rules and regulations necessary to carry out the provisions of sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310), which rules and regulations shall be effective for a period not to exceed 360 days from the date of the filing. The chief executive officer shall thereafter amend, adopt, or readopt the rules and regulations in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

18. Section 45 of P.L.2020, c.156 (C.34:1B-313) is amended to read as follows:

C.34:1B-313 Definitions.

45. As used in sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321):

"Affiliate" means an entity that directly or indirectly controls, is under common control with, or is controlled by an anchor institution partner anchor institution, or a partner business. Control exists in all cases in which the entity is a member of a controlled group of corporations as defined pursuant to section 1563 of the federal Internal Revenue Code (26 U.S.C. s.1563) or the entity is an organization in a group of organizations under common control that is subject to the regulations applicable to organizations pursuant to subsection (b) or (c) of section 414 of the federal Internal Revenue Code (26 U.S.C. s.414). A taxpayer may establish by clear and convincing evidence, as determined by the Director of the Division of Taxation in the Department of the Treasury, that control exists in situations involving lesser percentages of ownership than required by the above referenced federal statutes.

"Anchor institution" means a governmental entity or nonprofit entity incorporated pursuant to Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes having a primary mission and specific policy goals that align with those of the authority under the program and that is a comprehensive health care system, a public research university, a private research university, a major cultural scientific, research, or philanthropic institution, or a public college which is separate from public research universities, or an experienced nonprofit or governmental economic or community development entity certified as an anchor institution by the board pursuant to subsection a. of section 46 of P.L.2020, c.156 (C.34:1B-314).

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

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

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

"Community-anchored project" means a capital project that is located in an area that is designated as a New Jersey State opportunity zone, an area of the State designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan), or a municipality with a Municipal Revitalization Index distress score of at least 50 and for which an anchor institution and, if applicable, any partner anchor institution is to be awarded tax credits by the authority pursuant to a tax credit agreement which establishes the award of tax credits as an investment by the authority in the project, provided that the project will result in a capital investment of at least \$10,000,000 in a New Jersey State opportunity zone or in any other area of the State, but a project that is not located in a New Jersey State opportunity zone is to be primarily designed to result in the economic expansion of a targeted industry in this State.

"Comprehensive health care system" means an entity in this State with the primary purpose of offering comprehensive health care services.

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

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

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

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

"Experienced nonprofit or governmental economic or community development entity" means a nonprofit entity incorporated pursuant to Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes with a substantial number of years of experience that has a

core mission and a community track record of advancing economic or community development in at least one area of the State, that the senior management has undertaken multiple successful partnerships with government entities, educational institutions, and the private sector in carrying out development projects, that has successfully developed multiple types of mixed-use projects, and that has appropriate prior experience in successfully developing mixed-use projects of comparable or greater size, value and complexity to that being proposed, structuring, securing, and utilizing complex financing in the development of projects of comparable or greater size, value, and complexity to that being proposed, as determined by the board. An experienced nonprofit or governmental economic or community development entity shall not be eligible to participate in the program in connection with a project that is primarily residential or retail.

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

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

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

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

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

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

"Program" means the New Jersey Community-Anchored Development Program established pursuant to section 46 of P.L.2020, c.156 (C.34:1B-314).

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

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

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

"Tax credit agreement" means a tax credit agreement entered into pursuant to section 50 of P.L.2020, c.156 (C.34:1B-318) between the authority and an anchor institution or, if applicable, a partner anchor institution.

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

19. Section 47 of P.L.2020, c.156 (C.34:1B-315) is amended to read as follows:

C.34:1B-315 Eligibility to receive tax credit.

47. a. An anchor institution and, if applicable, each partner anchor institution shall be eligible to receive a tax credit under the program only if the anchor institution and, if applicable, each partner anchor institution submits a program application to the authority that results in completion of a community-anchored project through a capital investment in a New Jersey State opportunity zone or, if the community-anchored project is primarily designed to result in the economic expansion of a targeted industry in this State, in an area of the State designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan) or in a municipality with a Municipal Revitalization Index distress score of at least 50.

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

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

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

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

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

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

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

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

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

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

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

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

(12) the extent to which the community-anchored development will result in the expansion of a targeted industry in this State;

(13) that the timing of the award and investment of tax credits under the program shall allow for the successful completion and operation of the community-anchored project; and

(14) that the community-anchored project is viable and that the anchor institution and, if applicable, each partner anchor institution is a credible partner for completing the community-anchored project and providing the agreed-upon potential returns to the authority, as detailed in the tax credit agreement entered into pursuant to section 50 of P.L.2020, c.156 (C.34:1B-318).

c. Prior to the board considering an application submitted by an anchor institution and, if applicable, each partner anchor institution, the authority shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury whether the anchor institution and, if applicable, each partner anchor institution and any partner business is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a

practical corrective action plan. The anchor institution shall certify that any contractors or subcontractors that will perform work at the community-anchored project: (1) are registered as required by "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State; and (3) possess a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. The authority may also contract with an independent third party to perform a background check on an anchor institution and, if applicable, each partner anchor institution and any partner business.

d. In order to facilitate the creation of new partnerships with anchor institutions and, if applicable, partner anchor institutions, the authority shall publish on the authority's website a list of names and contact information for each anchor institution that has submitted an application pursuant to this section.

20. Section 49 of P.L.2020, c.156 (C.34:1B-317) is amended to read as follows:

C.34:1B-317 Awarding of tax credits.

49. a. The authority shall award tax credits under the program through a competitive application process consisting of up to two award rounds each year. The authority shall provide notice to the public of the opening and closing dates for submission of program applications on the authority's Internet website.

b. (1) The authority shall review applications for tax credits submitted to the authority by the deadline date of the award round and shall evaluate each application as if it were received on the deadline date, without providing any preference for early submissions. To determine priority for an award of a tax credit, all applications for community-anchored projects that satisfy the criteria set forth in sections 47 and 48 of P.L.2020, c.156 (C.34:1B-315 and C.34:1B-316) in a given award round shall be ranked on the basis of a scoring system developed by the authority through regulations adopted pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Prior to the commencement of an award round, the authority shall determine the minimum score for the award round that an anchor institution or, if applicable, each partner anchor institution is required to attain to be eligible for a tax credit.

(2) The authority may establish different criteria for community-anchored projects that are located in a New Jersey State opportunity zone and community-anchored projects that are primarily designed to result in the economic expansion of a targeted industry in this State.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

e. Prior to the award of a tax credit to an anchor institution or, if applicable, each partner anchor institution, to be converted into an authority investment in a community-anchored project, the authority shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury that the anchor institution and, if applicable, each partner anchor institution, along with any partner business identified in a program application, is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan for the anchor institution and, if applicable, each partner anchor institution and any partner business, and the anchor

institution shall confirm that any contractors and subcontractors performing work at the community-anchored project: (1) are registered as required by “The Public Works Contractor Registration Act,” P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State; and (3) possess a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. Provided that all parties are in compliance with this subsection, the authority shall allocate tax credits to community-anchored projects according to the community-anchored project's score and until either the available tax credits are exhausted or all community-anchored projects obtaining the minimum score receive a tax credit, whichever occurs first. If insufficient funding exists to fully fund all eligible community-anchored projects, a community-anchored project may be offered partial funding.

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

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

21. Section 50 of P.L.2020, c.156 (C.34:1B-318) is amended to read as follows:

C.34:1B-318 Tax credit agreement with anchor institution.

50. a. Following approval and selection of an application pursuant to sections 48 and 49 of P.L.2020, c.156 (C.34:1B-316 and C.34:1B-317), the authority shall enter into a tax credit agreement with the anchor institution and, if applicable, each partner anchor institution. The chief executive officer of the authority shall negotiate the terms and conditions of the tax credit agreement on behalf of the State.

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

(2) If, as a result of a default under the tax credit agreement, the authority rescinds a tax credit in the same calendar year in which the authority approved the tax credit, then the authority may assign the tax credit to another applicant that attained the minimum score determined pursuant to section 49 of P.L.2020, c.156 (C.34:1B-317).

c. The terms of the tax credit agreement shall:

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

(2) specify the length of the commitment period for the community-anchored project and the terms by which the anchor institution and, if applicable, each partner anchor institution

shall provide to the authority current or deferred returns on investment generated by the community-anchored project and commit to a structure for returns on investment;

(3) allow the anchor institution and, if applicable, each partner anchor institution to distribute returns on investment to the authority for the tax credits in the amount specified in the tax credit agreement at any time within the commitment period, but require such distribution to occur if the community-anchored project is sold before the end of the commitment period;

(4) specify amounts of returns to be retained by the anchor institution and, if applicable, each partner anchor institution for capital reserves, programming, or other purposes;

(5) identify the value of any monetary or financial benefit offered or provided by the anchor institution and, if applicable, each partner anchor institution to any partner business that works with the anchor institution and, if applicable, each partner anchor institution to complete and operate the community-anchored project;

(6) identify any benefits created by the anchor institution and, if applicable, each partner anchor institution for a partner business through equity investment in or debt-financing of a community-anchored project and specify the formula by which such benefits are passed through to a partner business;

(7) specify that the authority or the State may purchase tax credits offered for sale by an anchor institution and, if applicable, each partner anchor institution for 90 percent of the stated value of the tax credit before considering any further discounting to present value which shall be permitted;

(8) at a minimum, require an anchor institution and, if applicable, each partner anchor institution to provide oversight of the community-anchored project through ongoing reporting by a partner business to the anchor institution and, if applicable, each partner anchor institution, and subsequent ongoing reporting by the anchor institution and, if applicable, each partner anchor institution to the authority;

(9) specify other measures through which the authority shall ensure oversight of outstanding tax credit investments, and, in the event that an anchor institution or partner anchor institution fails to meet its obligations under the tax credit agreement or any program requirement, establish the right of the authority to assume direct oversight of any or all projects for which the anchor institution or partner anchor institution has entered into investment agreements and require the anchor institution or partner anchor institution to pursue any remedies it may have against a partner business; and

(10) at a minimum, require that the anchor institution, each partner anchor institution, and any partner businesses, adopt specific nondiscrimination policies for the operation of a community-anchored project.

d. The tax credit agreement shall include a requirement that the chief executive officer of the authority receive annual reports from the anchor institution and, if applicable, each partner institution and any partner business. As part of the authority's review of the annual reports required from each anchor institution and, if applicable, each partner institution, the authority shall confirm with the Department of Environmental Protection, the Department of Labor and Workforce Development, and the Department of the Treasury that: the anchor institution and, if applicable, each partner institution and any partner business is in substantial good standing with the respective department, or has entered into an agreement with such department that includes a practical corrective action plan for the anchor institution and, if applicable, each partner anchor institution and any partner business, and the anchor institution shall confirm that any contractors and subcontractors performing work at the community-anchored project: (1) are registered as required by "The Public Works

Contractor Registration Act,” P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State; and (3) possess a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. The tax credit agreement shall include a provision that the anchor institution and, if applicable, each partner institution shall forfeit the tax credit in any year in which an uncured default exists under the tax credit agreement or the anchor institution and, if applicable, each partner institution is neither in substantial good standing with the Department of Environmental Protection, the Department of Labor and Workforce Development, or the Department of the Treasury nor has entered into a practical corrective action plan. The tax credit agreement shall, however, allow the authority to extend, in individual cases, the deadline for any annual reporting requirement.

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

22. Section 55 of P.L.2020, c.156 (C.34:1B-323) is amended to read as follows:

C.34:1B-323 Definitions.

55. As used in sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335):

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

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

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

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

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

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

"Collaborative workspace" means coworking, accelerator, incubator, or other shared working environments that promote collaboration, interaction, socialization, and

coordination among tenants through the clustering of multiple businesses or individuals. For this purpose, the collaborative workspace shall be the greater of: 2,500 of dedicated square feet or 10 percent of the total property on which the redevelopment project is situated. The collaborative workspace shall include a community manager, be focused on collaboration among the community members, and include regularly scheduled education events for the community members. The collaborative workspace shall also include a physical open space that supports the engagement of its community members.

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

"Developer" means a person who enters or proposes to enter into an incentive award agreement pursuant to the provisions of section 60 of P.L.2020, c.156 (C.34:1B-328), including, but not limited, to a lender that completes a redevelopment project, operates a redevelopment project, or completes and operates a redevelopment project.

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

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

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

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

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

"Food delivery source" means access to nutritious foods, such as fresh fruits and vegetables, through grocery operators, including, but not limited to a full-service supermarket or grocery store, and other healthy food retailers of at least 16,000 square feet, including, but not limited to, a prepared food establishment selling primarily nutritious ready-to-serve meals.

"Food desert community" means a physically contiguous area in the State in which residents have limited access to nutritious foods, such as fresh fruits and vegetables, and that has been designated as a food desert community pursuant to subsection b. of section 38 of P.L.2020, c.156 (C.34:1B-306).

"Government-restricted municipality" means a municipality in this State with a municipal revitalization index distress score of at least 75, that met the criteria for designation as an urban aid municipality in the 2019 State fiscal year, and that, on the effective date of P.L.2020, c.156 (C.34:1B-269 et al.), is subject to financial restrictions imposed pursuant to the "Municipal Stabilization and Recovery Act," P.L.2016, c.4 (C.52:27BBBB-1 et seq.), or is restricted in its ability to levy property taxes on property in that municipality as a result of the State of New Jersey owning or controlling property representing at least 25 percent of the total land area of the municipality or as a result of the federal government of the United States owning or controlling at least 50 acres of the total land area of the municipality, which is dedicated as a national natural landmark.

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

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

"Incentive award" means an award of tax credits to reimburse a developer for all or a portion of the project financing gap of a redevelopment project pursuant to the provisions of sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335).

"Incentive award agreement" means the contract executed between a developer and the authority pursuant to section 60 of P.L.2020, c.156 (C.34:1B-328), which sets forth the terms and conditions under which the developer may receive the incentive awards authorized pursuant to the provisions of sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335).

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

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

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

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

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

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

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

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

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

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

"Program" means the New Jersey Aspire Program established by section 56 of P.L.2020, c.156 (C.34:1B-324).

"Project cost" means the costs incurred in connection with a redevelopment project by a developer until the issuance of a permanent certificate of occupancy, or until such other time specified by the authority, for a specific investment or improvement, including the costs relating to lands, except the cost of acquiring such lands, buildings, improvements, real or personal property, or any interest therein, including leases discounted to present value, including lands under water, riparian rights, space rights, and air rights acquired, owned, developed or redeveloped, constructed, reconstructed, rehabilitated, or improved, any environmental remediation costs, plus costs not directly related to construction, including capitalized interest paid to third parties, of an amount not to exceed 20 percent of the total costs and the cost of infrastructure improvements, including ancillary infrastructure projects. The fees associated with the application or administration of a grant under sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335) shall not constitute a project cost.

"Project financing gap" means the part of the total project cost, including reasonable and appropriate return on investment, that remains to be financed after all other sources of capital have been accounted for, including, but not limited to developer contributed capital, which shall not be less than 20 percent of the total project cost, and investor or financial entity capital or loans for which the developer, after making all good faith efforts to raise additional capital, certifies that additional capital cannot be raised from other sources on a non-recourse basis; provided, however, that for a redevelopment project located in a government-restricted municipality, the developer contributed capital shall not be less than 10 percent of the total project cost. Developer contributed capital may consist of cash, deferred development fees, costs for project feasibility incurred within the 12 months prior to application, property value less any mortgages when the developer owns the project site, and any other investment by

the developer in the project deemed acceptable by the authority, as provided by regulations promulgated by the authority. Property value shall be valued at the lesser of: (i) the purchase price, provided the property was purchased pursuant to an arm's length transaction within 12 months of application; or (ii) the value as determined by a current appraisal.

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

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

"Quality childcare facility" is a child care center licensed by the Department of Children and Families or a registered family child care home with the Department of Human Services, operating continuously, which has not been subject to an enforcement action, and which has and maintains a licensed capacity for children age 13 years or younger who attend for less than 24 hours a day.

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

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

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

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

"Technology startup company" means a for-profit business that has been in operation fewer than seven years at the time that it initially occupies or expands in a qualified business facility and is developing or possesses a proprietary technology or business method of a high technology or life science-related product, process, or service, which proprietary technology or business method the business intends to move to commercialization. The business shall be deemed to have begun operation on the date that the business first hired at least one employee in a full-time position.

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

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

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

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

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

23. Section 57 of P.L.2020, c.156 (C.34:1B-325) is amended to read as follows:

C.34:1B-325 Eligibility for incentive award for redevelopment project.

57. a. Prior to March 1, 2027, a developer shall be eligible to receive an incentive award for a redevelopment project only if the developer demonstrates to the authority at the time of application that:

- (1) without the incentive award, the redevelopment project is not economically feasible;
- (2) a project financing gap exists, or the authority determines that the redevelopment project will generate a below market rate of return;
- (3) the redevelopment project, except a film studio, professional stage, television studio, recording studio, screening room, or other infrastructure used for film production, is located in the incentive area;
- (4) except for demolition and site remediation activities, the developer has not commenced any construction at the site of the redevelopment project prior to submitting an application, unless the authority determines that the redevelopment project would not be completed otherwise or, in the event the redevelopment project is to be undertaken in phases, the requested incentive award is limited to only phases for which construction has not yet commenced;
- (5) the redevelopment project shall comply with minimum environmental and sustainability standards;
- (6) the redevelopment project shall comply with the authority's affirmative action requirements, adopted pursuant to section 4 of P.L.1979, c.303 (C.34:1B-5.4);
- (7) during the eligibility period, each worker employed to perform construction work or building services work at the redevelopment project shall be paid not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.). In the event a redevelopment project is undertaken by a tenant and the tenant has a leasehold of more than 55 percent of space in the building owned or controlled by the developer, the requirement that each worker employed to perform building service work at the building be paid not less than the prevailing wage shall apply to the entire building;
- (8) (a) the redevelopment project shall be completed, and the developer shall be issued a certificate of occupancy for the redevelopment project facilities by the applicable enforcing agency within four years of executing the incentive award agreement, or in the case of a

redevelopment project with a project cost in excess of \$50,000,000, the incentive phase agreement corresponding to the redevelopment project; or

(b) in the discretion of the authority, a redevelopment project with a project cost in excess of \$50,000,000, and that is authorized to be completed in phases, may be allowed no more than six years from the date on which the incentive award agreement is executed to be issued a certificate of occupancy by the applicable enforcement agency;

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

(10) the developer is not more than 24 months in arrears at the time of application.

b. In addition to the requirements set forth in subsection a. of this section, for a commercial project to qualify for an incentive award the developer shall demonstrate that the developer shall contribute capital of at least 20 percent of the total project cost, except that if a redevelopment project is located in a government-restricted municipality, the developer shall contribute capital of at least 10 percent of the total project cost.

c. In addition to the requirements set forth in subsection a. of this section, for a residential project to qualify for an incentive award, the residential project shall:

(1) have a total project cost of at least \$17,500,000, if the project is located in a municipality with a population greater than 200,000 according to the latest federal decennial census;

(2) have a total project cost of at least \$10,000,000 if the project is located in a municipality with a population less than 200,000 according to the latest federal decennial census; or

(3) have a total project cost of at least \$5,000,000 if the project is in a qualified incentive tract or government-restricted municipality.

d. In addition to the requirements set forth in subsections a. and c. of this section, for a residential project consisting of newly-constructed residential units to qualify for an incentive award, the developer shall reserve at least 20 percent of the residential units constructed for occupancy by low- and moderate-income households with affordability controls as required under the "Fair Housing Act," P.L.1985, c. 222 (C.52:27D-301 et al.).

e. Prior to the board considering an application submitted by a developer, the authority shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury whether the developer is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan for the developer. The developer shall certify that any contractors or subcontractors that will perform work at the redevelopment project: (1) are registered as required by "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State; and (3) possess a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. The authority may also contract with an independent third party to perform a background check on the developer.

24. Section 58 of P.L.2020, c.156 (C.34:1B-326) is amended to read as follows:

C.34:1B-326 Application for incentive award.

58. a. Prior to March 1, 2027, for redevelopment projects eligible pursuant to section 57 of P.L.2020, c.156 (C.34:1B-325) for which a developer is seeking an incentive award for the redevelopment project, the developer shall submit an application to the authority and, in the case of a residential project, shall submit an application to the authority and the agency, in a form and manner prescribed in regulations adopted by the authority, in consultation with the agency, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The authority shall accept applications for incentive awards during the grant periods established pursuant to section 59 of P.L.2020, c.156 (C.34:1B-327).

b. The authority shall not consider an application for a commercial project unless the developer submits a letter evidencing support for the commercial project from the governing body of the municipality in which the commercial project is located with the application.

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

d. For a redevelopment project subject to the requirement of subsection c. of this section to be eligible for any tax credits under the program, a developer shall demonstrate to the authority that the award of tax credits will yield a net positive benefit to the State equaling an amount determined by the authority through regulation that exceeds the requested tax credit amount. The developer shall certify, under the penalty of perjury, that all documents submitted, and factual assertions made, to the authority to demonstrate that the award of tax credits will yield a net positive benefit to the State in accordance with this subsection are true and accurate at the time of submission. A redevelopment project located in a government-restricted municipality shall yield a net positive benefit to the State that exceeds the requested tax credit amount, but the net benefit requirement set by the authority for such redevelopment projects may be up to 35 percentage points lower than the net benefit requirement set by the authority for all other eligible redevelopment projects.

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

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

25. Section 59 of P.L.2020, c.156 (C.34:1B-327) is amended to read as follows:

C.34:1B-327 Awarding of incentive awards.

59. a. Prior to March 1, 2027, for redevelopment projects eligible pursuant to section 57 of P.L.2020, c.156 (C.34:1B-325), the authority shall award incentive awards based on the order in which complete, qualifying applications were received by the authority. If a developer intends to apply to both the authority and the agency for subsidies, the developer shall notify the agency simultaneously with any application made to the authority. The authority shall transmit its grant determination for such residential projects to the agency along with any information developed by the authority and confirmation of the authority's intent to provide an incentive award or award to the project. Approval of an application by the agency shall be the final determination required for an incentive award for a residential project under this section.

b. Prior to allocating an incentive award to a redevelopment project, the authority shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury that the developer is in substantial good standing with the respective department, or a developer not in substantial good standing with each department has entered into an agreement with the respective department that includes a practical corrective action plan for the developer, and that the developer shall confirm that each contractor or subcontractor performing work at the redevelopment project: (1) is registered as required by "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State; and (3) possesses a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. The authority may also contract with an independent third party to perform a background check on the developer. Provided that the developer, and all contractors and subcontractors, are in compliance with this subsection, the authority shall allocate incentive awards to redevelopment projects according to the redevelopment project's score and until either the available incentive awards are exhausted or all redevelopment projects obtaining the minimum score receive an incentive award, whichever occurs first. If insufficient funding exists to fully fund all eligible projects, a project may be offered partial funding.

26. Section 60 of P.L.2020, c.156 (C.34:1B-328) is amended to read as follows:

C.34:1B-328 Incentive award agreement.

60. a. (1) Following approval and selection of an application pursuant to sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and C.34:1B-327), the authority shall enter into an incentive award agreement with the developer. The chief executive officer of the authority shall negotiate the terms and conditions of the incentive award agreement on behalf of the State.

(2) For a phased project, the incentive phase agreement shall set forth, for each phase of the project and for the total project, the capital investment requirements and the time periods in which each phase of the project shall be commenced and completed. The awarding of tax credits shall be conditioned on the developer's compliance with the requirements of the agreement. A redevelopment project may be completed in phases in accordance with rules adopted by the authority if the redevelopment project has a total project cost in excess of \$50,000,000.

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

c. To ensure the protection of taxpayer money, if the authority determines at project certification that the actual capital financing approach utilized by the project has resulted in a financing gap that is smaller than the financing gap determined at board approval, the authority shall reduce the amount of the tax credit or accept payment from the developer on a pro rata basis. If there is no project financing gap due to the actual capital financing approach utilized by the project, then the developer shall forfeit the incentive award. At the end of the seventh year of the eligibility period, the authority shall evaluate the developer's rate of return on investment and compare that rate of return on investment to the reasonable and appropriate rate of return at the time of board approval. If the actual rate of return on investment exceeds the reasonable and appropriate rate of return on investment at the time of board approval by more than 15 percent, the authority shall require the developer to pay up to 20 percent of the amount in excess of the reasonable and appropriate rate of return on investment. The authority shall require an escrow account to be held by the authority until the end of the eligibility period. Following the final year of the eligibility period, the authority shall determine if the developer's rate of return exceeded the reasonable and appropriate rate of return determined at board approval. If the final rate of return does not exceed the reasonable and appropriate rate of return determined at board approval, the authority shall release to the developer the escrowed funds. If the project final rate of return exceeds the reasonable and appropriate rate of return determined at board approval, the authority shall require the developer to pay up to 20 percent of the amount of the excess, which shall include the funds held in escrow, and such funds shall be deposited in the State General Fund.

d. The incentive award agreement shall include a requirement that the authority confirm with the Department of Environmental Protection, the Department of Labor and Workforce Development, and the Department of the Treasury that the developer is in substantial good standing with the respective department, or the developer has entered into an agreement with the respective department that includes a practical corrective action for the developer, and

the developer shall confirm that each contractor or subcontractor performing work at the redevelopment project: (1) is registered as required by “The Public Works Contractor Registration Act,” P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State; and (3) possesses a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. The incentive award agreement shall also include a provision that the developer shall forfeit the incentive award in any year in which the developer is neither in substantial good standing with each department nor has entered into a practical corrective action. The incentive award agreement shall also require a developer to engage in on-site consultations with the Division of Workplace Safety and Health in the Department of Health.

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

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

(3) As used in this subsection:

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

"Labor harmony agreement" means an agreement between a business that serves as the owner or operator of a retail establishment or distribution center and one or more labor organizations, which requires, for the duration of the agreement: that any participating labor organization and its members agree to refrain from picketing, work stoppages, boycotts, or other economic interference against the business; and that the business agrees to maintain a neutral posture with respect to efforts of any participating labor organization to represent employees at an establishment or other unit in the retail establishment or distribution center, agrees to permit the labor organization to have access to the employees, and agrees to guarantee to the labor organization the right to obtain recognition as the exclusive collective bargaining representatives of the employees in an establishment or unit at the retail establishment or distribution center by demonstrating to the New Jersey State Board of Mediation, Division of Private Employment Dispute Settlement, or a mutually agreed-upon, neutral, third-party, that a majority of workers in the unit have shown their preference for the labor organization to be their representative by signing authorization cards indicating that preference. The labor organization or organizations shall be from a list of labor organizations which have requested to be on the list and which the Commissioner of Labor

and Workforce Development has determined represent substantial numbers of retail or distribution center employees in the State.

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

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

(3) At the time the developer submits the annual report required pursuant to section 62 of P.L.2020, c.156 (C.34:1B-330) to the authority, the developer shall certify, under the penalty of perjury, that it is in compliance with the terms of the community benefits agreement. If the developer fails to provide the certification required pursuant to this paragraph or the authority determines that the developer is not in compliance with the terms of the community benefits agreement based on the reports submitted by the community advisory committee pursuant to paragraph (2) of this subsection, then the authority may rescind an award or recapture all or part of any tax credits awarded.

(4) A developer shall not be required to enter into a community benefits agreement pursuant to this subsection if the developer submits to the authority a copy of either the developer's approval letter from the authority or a redevelopment agreement applicable to the qualified business facility, provided that the approval letter or redevelopment agreement is certified by the municipality in which the redevelopment project is located, and includes provisions that meet or exceed the standards required for a community benefits agreement in this subsection, as determined by the chief executive officer pursuant to rules adopted by the authority.

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

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

27. Section 61 of P.L.2020, c.156 (C.34:1B-329) is amended to read as follows:

C.34:1B-329 Total tax credit.

61. a. Up to the limits established in subsection b. of this section and in accordance with an incentive award agreement, beginning upon the receipt of occupancy permits for any portion of the redevelopment project, or upon any other event evidencing project completion as set forth in the incentive award agreement, a developer shall be allowed a total tax credit that shall not exceed:

(1) 60 percent of the total project cost for the new construction of a residential project that receives a four-percent allocation from the federal Low Income Housing Tax Credit Program administered by the agency;

(2) 50 percent of the total project cost for a commercial project that is located in a government-restricted municipality; or

(3) 45 percent of the total project cost for any other redevelopment project.

b. The value of all tax credits approved by the authority under the program for a redevelopment project phase shall not exceed:

(1) \$60,000,000 per redevelopment project or phase for a residential project that is allowed a tax credit under paragraph (1) of subsection a. of this section, or a redevelopment project or phase that is located in a qualified incentive tract, government-restricted municipality, or municipality with a Municipal Revitalization Index distress score of at least 50; and

(2) \$42,000,000 for any other redevelopment project or phase.

28. Section 63 of P.L.2020, c.156 (C.34:1B-331) is amended to read as follows:

C.34:1B-331 Tax credit transfer certificate.

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

b. The developer shall not sell or assign, including a collateral assignment, a tax credit transfer certificate allowed under this section for consideration received by the developer of less than 85 percent of the transferred credit amount before considering any further discounting to present value which shall be permitted, except a developer of a residential project consisting of newly-constructed residential units may assign a tax credit transfer certificate for consideration of less than 85 percent subject to the submission of a plan to the authority and the agency to use the proceeds derived from the assignment of tax credits to complete the residential project, except a developer of a residential project consisting of newly-constructed residential units that has received federal low income housing tax credits under 26 U.S.C. s.42(b)(1)(B)(i) may assign a tax credit transfer certificate for consideration

of no less than 65 percent subject to the submission of a plan to the authority and the New Jersey Housing and Mortgage Finance Agency to use the proceeds derived from the assignment of tax credits to complete the residential project. The tax credit transfer certificate issued to a developer by the director shall be subject to any limitations and conditions imposed on the application of State tax credits pursuant to sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335) and any other terms and conditions that the director may prescribe.

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

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

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

29. Section 65 of P.L.2020, c.156 (C.34:1B-333) is amended to read as follows:

C.34:1B-333 "Transformative project."

65. a. As used in this section, "transformative project" means a redevelopment project that has a project financing gap, that has a total project cost of at least \$100,000,000, and that includes 500,000 or more square feet of new or substantially renovated industrial, commercial, or residential space or that includes 250,000 or more square feet of film studios, professional stages, television studios, recording studios, screening rooms, or other infrastructure for film production and which is of special economic importance as measured by the level of new jobs, new capital investment, opportunities to leverage leadership in a high-priority targeted industry, or other state priorities as determined by the authority pursuant to rules and regulations promulgated to implement this section. A transformative project may be completed in phases, which phases may be determined by the authority based on factors such as written architectural plans and specifications completed before or during the physical work, certificates of occupancy, or financial and operational plans. The criteria developed by the authority shall include, but shall not be limited to:

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

(2) (a) for a residential project, the construction of 1,000 or more new residential units;

(b) for a residential project containing less than 1,000 new residential units, the construction of 250 or more new residential units if the project is located in a government-restricted municipality, 350 or more residential units if the project is located in an enhanced area, or 600 or more residential units for all other mixed-use projects;

(c) for a residential project containing less than 1,000 new residential units, the construction of 100,000 square feet or more of retail or commercial space, with the majority being commercial; and

(d) for a residential project, 20 percent of the new residential units shall be constructed for occupancy by low- and moderate-income households with affordability controls as required under the "Fair Housing Act," P.L.1985, c. 222 (C.52:27D-301 et al.); and

(3) the extent to which the proposed project would leverage the competitive economic development advantages of the State's mass transit assets, higher education assets, and other economic development assets in attracting or retaining both employers and skilled workers generally or in targeted industries.

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

b. (1) The authority may award incentive awards to transformative projects in accordance with the provisions of sections 55 through 67 of P.L.2020, c.156 (C.34:1B-323 through C.34:1B-335).

(2) (a) For transformative projects completed in phases, the developer shall enter into a transformative phase agreement with the authority.

(b) As used in this subsection, "transformative phase agreement" shall mean a sub-agreement of the incentive award agreement that governs the timing, capital investment, and other applicable details of the respective phase of a phased project.

(3) Notwithstanding the provisions of section 57 of P.L.2020, c.156 (C.34:1B-325), or any other section of P.L.2020, c.156 (C.34:1B-269 et al.), to the contrary, for transformative projects completed in phases, the transformative project shall be completed, and the developer shall be issued certificates of occupancy for all phases of the transformative project facilities by the applicable enforcing agency, within eight years of executing either the incentive award agreement or the first transformative phase agreement corresponding to the transformative project.

(4) Notwithstanding the provisions of sections 55 and 60 of P.L.2020, c.156 (C.34:1B-323 and C.34:1B-328), or any other section of P.L.2020, c.156 (C.34:1B-269 et al.), to the contrary, each phase of a transformative project completed in phases shall have a separate eligibility period. After completing each phase, the developer shall submit a certification that the phase is completed. If the authority approves the certification, the tax credit allowed to the developer shall be increased by the tax credit amount corresponding to that phase. Notwithstanding the different eligibility periods for each phase, all conditions and requirements applicable during an eligibility period pursuant to sections 55 through 67 of P.L.2020, c.156 (C.34:1B-323 through C.34:1B-335) shall apply to the entire transformative project until the end of the eligibility period for the last phase.

(5) Notwithstanding the provisions of section 60 of P.L.2020, c.156 (C.34:1B-328), or any other section of P.L.2020, c.156 (C.34:1B-269 et al.), to the contrary, for a transformative project completed in phases, a review of the project financing gap shall be performed at the certification of completion of each phase, and the authority shall re-evaluate the developer's rate of return in the seventh year and at the end of the eligibility period for the last phase, provided that the authority may also re-evaluate the developer's rate of return during the fifth year of any earlier phase.

(6) A transformative project receiving an incentive award pursuant to this section, other than a project that includes 250,000 or more square feet of film studios, professional stages, television studios, recording studios, screening rooms or other infrastructure for film production, shall be located in an incentive area, a distressed municipality, a government-restricted municipality, or an enhanced area. A transformative project receiving an incentive award pursuant to this section that includes 250,000 or more square feet of film studios, professional stages, television studios, recording studios, screening rooms or other infrastructure for film production may be located anywhere in the State. No more than two transformative projects receiving an incentive award pursuant to this section shall be located

in the same municipality. The authority shall not consider an application for a transformative project unless the applicant submits with its application a letter evidencing support for the transformative project from the governing body of the municipality in which the transformative project is located.

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

d. In determining net benefits for any business or person considering locating in a transformative project and applying to receive from the authority any other economic development incentive subsequent to the award of transformative project tax credits pursuant to section 65 of P.L.2020, c.156 (C.34:1B-333), the authority shall not credit the business or person with any benefit that was previously credited to the transformative project pursuant to section 65 of P.L.2020, c.156 (C.34:1B-333).

e. The authority shall administer the credits awarded pursuant to this section in accordance with the provisions of sections 62 and 63 of P.L.2020, c.156 (C.34:1B-330 and C.34:1B-331).

f. Prior to allocating an incentive award to a developer, the authority shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury that the developer is in substantial good standing with the respective department, or the developer has entered into an agreement with the respective department that includes a practical corrective action plan, and the developer shall certify that each contractor or subcontractor performing work at the transformative project: (1) is registered as required by "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State; and (3) possesses a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. The authority may also contract with an independent third party to perform a background check on the developer.

g. Notwithstanding the limitation on incentive awards set forth in subsection b. of section 61 and section 98 of P.L.2020, c.156 (C.34:1B-329 and C.34:1B-362) to the contrary,

the authority may allow a developer of a transformative project a tax credit, as reimbursement for certain project financing gap costs, in an amount not to exceed 40 percent of the total project cost, the total value of the project financing gap, or \$350,000,000 whichever is less; provided, however, that for a transformative project that is developed in phases, the \$350,000,000 limitation on incentive awards set forth in this subsection shall apply to the total aggregate award for all phases of the transformative project.

30. Section 69 of P.L.2020, c.156 (C.34:1B-337) is amended to read as follows:

C.34:1B-337 Definitions.

69. As used in sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.):

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

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

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

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

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

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

is a cooperative that leases to its member organizations, the lease shall be treated as a lease to an affiliate or affiliates.

"Capital investment" means expenses that a business or an affiliate of the business incurs, or is incurred on behalf of the business or affiliate by its landlord, following its submission of an application to the authority pursuant to section 72 of P.L.2020, c.156 (C.34:1B-340), but prior to the project completion date, as shall be defined in the project agreement, for: a. site preparation and construction, repair, renovation, improvement, equipping, or furnishing on real property or of a building, structure, facility, or improvement to real property; b. obtaining and installing furnishings and machinery, apparatus, or equipment, including but not limited to material goods subject to bonus depreciation under sections 168 and 179 of the federal Internal Revenue Code (26 U.S.C. ss.168 and 179), for the operation of a business on real property or in a building, structure, facility, or improvement to real property; or any combination of the foregoing.

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

"Commitment period" means a period that is 1.5 times the eligibility period specified in the project agreement entered into pursuant to section 73 of P.L.2020, c.156 (C.34:1B-341), rounded up, for each applicable phase agreement.

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

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

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

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

"Eligibility period" means the period in which an eligible business may claim a tax credit under the program for a given project phase, beginning with the tax period in which the authority accepts certification of the eligible business that it has met the capital investment and employment requirements of the program for the respective project phase, and extending thereafter for a term of not more than seven years, with the term to be determined at the discretion of the applicant, provided that the term of the eligibility period may consist of nonconsecutive tax years if the applicant elects at any time after the end of the first tax period of the eligibility period to defer the continuation of the eligibility period to a subsequent tax period. The authority may extend the eligibility period one additional tax period to accommodate a prorated payment pursuant to paragraph (2) of subsection a. of section 77 of P.L.2020, c.156 (C.34:1B-345).

"Eligible business" means any business that satisfies the criteria set forth in section 71 of P.L.2020, c.156 (C.34:1B-339) at the time of application for tax credits under the program.

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

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

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

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

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

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

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

"Full-time employee" means a person:

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

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

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

With respect to a logistics, manufacturing, energy, defense, aviation, or maritime business, excluding primarily warehouse or distribution operations, located in a port district having a container terminal, the requirement that employee health benefits are to be provided shall be deemed to be satisfied if the benefits are provided in accordance with industry practice by a third party obligated to provide such benefits pursuant to a collective bargaining agreement.

A "full-time employee" shall include, but shall not be limited to, an employee that has been hired by way of a labor union hiring hall or its equivalent. 35 hours of employment per week in the State shall constitute one "full-time employee," regardless of whether or not the hours of work were performed by one or more persons.

"Full-time employee" shall not include any person who works as an independent contractor or on a consulting basis for the business or a contract worker whose income is subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., except that any person working as an independent contractor or contract worker whose income is subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., for the business shall be deemed a full-time employee if the business demonstrates to the authority that: (a) the person working as an independent contractor for the business works at least 35 hours per week or renders any other standard service generally accepted by custom or practice as full-time employment, and the person is provided with employee health benefits under a health benefits plan authorized pursuant to State or federal law; and (b) the business provides documentation to the authority to permit the authority to verify the compensation paid to, and the time worked by, the person working as an independent contractor. The business shall provide to the authority an annual report that identifies the number of persons working as independent contractors for the business and their contractual or partnering relationship with the business.

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

"Government-restricted municipality" means a municipality in this State with a municipal revitalization index distress score of at least 75, that met the criteria for designation as an urban aid municipality in the 2019 State fiscal year, and that, on the effective date of P.L.2020, c.156 (C.34:1B-269 et al.), is subject to financial restrictions imposed pursuant to the "Municipal Stabilization and Recovery Act," P.L.2016, c.4 (C.52:27BBBB-1 et seq.), or is restricted in its ability to levy property taxes on property in that municipality as a result of the State of New Jersey owning or controlling property representing at least 25 percent of the total land area of the municipality or as a result of the federal government of the United States owning or controlling at least 50 acres of the total land area of the municipality, which is dedicated as a national natural landmark.

"Incentive area" means:

- a. an aviation district;
- b. a port district;
- c. a distressed municipality or enhanced area;
- d. an area designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), Planning Area 3 (Fringe Planning Area); or a Designated Center under the State Development and Redevelopment Plan;
- e. an area located within a smart growth area and planning area designated in a master plan adopted by the New Jersey Meadowlands Commission pursuant to subsection (i) of section 6 of P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan adopted by the New Jersey Meadowlands Commission pursuant to section 20 of P.L.1968, c.404 (C.13:17-21);

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

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

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

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

j. an area located within an area designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 4A (Rural Planning Area), Planning Area 4B (Rural/Environmentally Sensitive), or Planning Area 5 (Environmentally Sensitive), so long as that area designated as Planning Area 4A (Rural Planning Area), Planning Area 4B (Rural/Environmentally Sensitive), or Planning Area 5 (Environmentally Sensitive) is located within: (1) a designated center under the State Development and Redevelopment Plan; (2) a designated growth center in an endorsed plan until the State Planning Commission revises and readopts New Jersey's State Development and Redevelopment Plan and adopts regulations to revise this definition as it pertains to Statewide planning areas; (3) any area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and C.40A:12A-6) or in need of rehabilitation pursuant to section 14 of P.L.1992, c.79 (C.40A:12A-14); (4) any area on which a structure exists or previously existed including any desired expansion of the footprint of the existing or previously existing structure provided the expansion otherwise complies with all applicable federal, State, county, and local permits and approvals; or (5) any area on which an existing tourism destination project is located; or

k. an area located in a qualified opportunity zone.

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

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

"Industrial use" means assembling, processing, manufacturing, or any combination thereof, of finished or partially finished products from materials or fabricated parts; the breaking or demolishing of finished or partially finished products; or the production of oil or gas or the generation or transformation of electricity. "Industrial use" includes farming purposes as that term is defined under 26 U.S.C. s.6420(c)(3)(A), undertaken in an industrial space.

"Infrastructure Fund" means the Recovery Infrastructure Fund established pursuant to section 79 of P.L.2020, c.156 (C.52:27D-520) to fund local infrastructure improvements.

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

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

"Mega project" means a project of special economic importance, as determined pursuant to regulations adopted by the board, as measured by the level of new jobs, new capital investment, and opportunities to leverage leadership in a high-priority targeted industry, as determined by the authority pursuant to rules and regulations promulgated to implement sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.).

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

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

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

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

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

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

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

"Program" means the Emerge Program established by section 70 of P.L.2020, c.156 (C.34:1B-338).

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

"Project agreement" means the contract executed between an eligible business and the authority pursuant to section 73 of P.L.2020, c.156 (C.34:1B-341), which sets forth the terms and conditions under which the eligible business may receive the incentives authorized pursuant to the program.

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

"Project phase agreement" means a sub-agreement of the project agreement that governs the timing, capital investment, employment levels, and other applicable details of the respective phase.

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

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

"Qualified incentive tract" means: a. a population census tract having a poverty rate of 20 percent or more; or b. a census tract in which the median family income for the census tract does not exceed 80 percent of the greater of the Statewide median family income or the median family income of the metropolitan statistical area in which the census tract is situated.

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

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

"Quality child care facility" is a child care center licensed by the Department of Children and Families or a registered family child care home with the Department of Human Services,

operating continuously, which has not been subject to an enforcement action, and which has and maintains a licensed capacity for children age 13 years or younger who attend for less than 24 hours a day.

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

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

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

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

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

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

"Technology startup company" means a for-profit business that has been in operation fewer than seven years at the time that it initially occupies or expands in a qualified business facility and is developing or possesses a proprietary technology or business method of a high technology or life science-related product, process, or service, which proprietary technology or business method the business intends to move to commercialization. The business shall be deemed to have begun operation on the date that the business first hired at least one employee in a full-time position.

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

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

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

"Transit hub municipality" means a Transit Village or a municipality: a. which qualifies for State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.), or which has continued to be a qualified municipality thereunder pursuant to P.L.2007, c.111; and b. in which 30 percent or more of the value of real property was exempt from local property taxation during tax year

2006. The percentage of exempt property shall be calculated by dividing the total exempt value by the sum of the net valuation which is taxable and that which is tax exempt.

"Transit Village" means a municipality that has been designated as a transit village by the Commissioner of Transportation and the Transit Village Task Force.

31. Section 71 of P.L.2020, c.156 (C.34:1B-339) is amended to read as follows:

C.34:1B-339 Application for tax credits.

71. a. Beginning on the effective date of P.L.2020, c.156 (C.34:1B-269 et al.), but prior to March 1, 2027, to be eligible for tax credits under the program, a business's chief executive officer, or equivalent officer, shall demonstrate to the authority at the time of application that:

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

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

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

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

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

(a) an award of tax credits to a business for a qualified business facility located in a distressed municipality or an enhanced area shall yield a net positive benefit to the State, based on the benefits generated during the period of time from approval through the end of the commitment period, that equals at least 300 percent of the requested tax credit amount;

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

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

(d) a business may elect a period of extended commitment beyond the commitment period for which time the economic benefits shall be creditable to the determination of the net economic benefit of the project, and a business electing a period of extended commitment

and failing to maintain the project through the expiration of that extended commitment period shall be obligated to repay a proportion of the incremental benefits received on account of having extended the commitment period, taking into consideration the number of years of extended commitment during which the business maintained the project;

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

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

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

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

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

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

(ii) the landlord is a party to the construction contract, building services contract, or both; and

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

(b) In accordance with section 1 of P.L.1979, c.303 (C.34:1B-5.1), nothing in this paragraph shall be construed as requiring the payment of prevailing wage for construction commencing more than two years after the authority has issued the first certificate of compliance pursuant to paragraph (2) of subsection a. of section 77 of P.L.2020, c.156 (C.34:1B-345).

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

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

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

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

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

(e) for a small business, no new minimum capital investment shall be required, provided the applicant has demonstrated evidence satisfactory to the authority of its intent to remain in the State for the commitment period.

(2) In the event the business invests less than that amount set forth in paragraph (1) of this subsection in the qualified business facility, the business shall donate the uninvested balance to the infrastructure fund established pursuant to section 79 of P.L.2020, c.156 (C.52:27D-520).

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

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

(a) for a small business, 25 percent growth of its workforce with new full-time jobs within the eligibility period in accordance with subsection e. of section 76 of P.L.2020, c.156 (C.34:1B-344);

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

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

(d) for a business eligible for new full-time jobs under subparagraphs (b) or (c) of this paragraph, the business shall also be eligible for retained full-time jobs in addition to the new full-time jobs if the business will retain 150 retained full-time jobs when locating in a government-restricted municipality, 250 retained full-time jobs when locating in a qualified incentive tract or enhanced area municipality, or 500 retained full-time jobs when locating anywhere else in the State;

(e) for a business not eligible under subparagraphs (b), (c), or (d) of this paragraph and locating in a qualified incentive tract, enhanced area, or government-restricted municipality that will retain 500 or more retained full-time jobs, a minimum of the business's retained full-time jobs at the time of application;

(f) for a business not eligible under subparagraphs (b), (c), (d), or (e) of this paragraph and located in the State that will retain 1,000 or more retained full-time jobs, a minimum of the business's retained full-time jobs at the time of application.

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

d. A business that provides and adheres to a plan that demonstrates that the qualified business facility is capable of accommodating more than half of the business's new and retained full-time employees as approved and that certifies, under the penalty of perjury, that not less than 80 percent of the withholdings of new and retained full-time jobs are subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. shall be eligible. The requirements set forth in this subsection may be modified by the authority to respond to an emergency, disaster, or other factors that result in employees of an eligible business having to work from a location other than the qualified business facility.

e. The chief executive officer of the business, or an equivalent officer, shall certify that all factual representations made by the business to the authority pursuant to subsection a. of this section are true under the penalty of perjury.

f. A business eligible pursuant to this section may submit an application to the authority in accordance with the provisions of section 72 of P.L.2020, c.156 (C.34:1B-340) on or after the effective date of P.L.2020, c.156 (C.34:1B-269 et al.) but prior to March 1, 2027.

32. Section 72 of P.L.2020, c.156 (C.34:1B-340) is amended to read as follows:

C.34:1B-340 Application for approval of project.

72. a. A business that meets the eligibility criteria in section 71 of P.L.2020, c.156 (C.34:1B-339) and is seeking a grant of tax credits for a project under the program shall submit an application for approval of the project to the authority in a form and manner prescribed in regulations adopted by the authority pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

b. (1) Before the board may consider an eligible business's application for tax credits, the authority shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury whether the eligible business is in substantial good standing with the respective department, or, if necessary, has entered into an agreement with the respective department that includes a practical corrective action plan for the eligible business. The business entity shall certify that contractors or subcontractors that will perform work at the qualified business facility: (a) are registered as required by "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (b) have not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State; and (c) possess a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. The authority may also contract with an independent third party to perform a background check on the eligible business. Provided that the eligible business is in substantial good standing, or has entered into such an agreement, and each contractor and subcontractor is in compliance with this paragraph, before the board may approve an eligible business's application for tax credits, the eligible business shall execute a non-binding letter of intent with the chief executive officer of the authority, specifying the amount and terms and conditions of tax credits that the authority is prepared to propose for board approval and that are intended to be a material factor in the decision by the eligible business to create or retain the proposed number of new and retained full-time jobs, and in which the eligible business certifies such tax credits are a material factor in its decision.

(2) To assist the authority in determining whether the award of tax credits is a material factor in the eligible business's decision to create or retain the minimum number of new and retained full-time jobs for eligibility under the program, the chief executive officer of the authority shall require the eligible business to submit, as part of its application, a full

economic analysis of all locations under consideration by the eligible business; all lease agreements, ownership documents, or substantially similar documentation for the eligible business's proposed in-State locations; and all lease agreements, ownership documents, or substantially similar documentation for potential out-of-State location alternatives, to the extent they exist. The chief executive officer of the authority may further consider the costs associated with opening and maintaining a business in New Jersey, competitive proposals that the eligible business has received from other states, the prevailing economic conditions, and any other factors that the chief executive officer of the authority deems relevant to assist the authority in determining whether an award of tax credits is a material factor in the eligible business's decision. Based on this information, the authority shall independently verify and confirm the eligible business's assertion that the award of tax credits under the program is a material factor in the eligible business's decision to create or retain the minimum number of new and retained full-time jobs for eligibility under the program and, in the case of retained full-time jobs, the jobs are actually at risk of leaving the State, before the authority may award the eligible business any tax credits under the "Emerge Program Act," sections 70 through 81 of P.L.2020, c.156 (C.34:1B-338 et al.). The chief executive officer of the eligible business, or an equivalent officer, shall certify that all factual representations made by the business to the authority pursuant to this paragraph are true under the penalty of perjury.

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

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

e. If circumstances require an eligible business to amend its application to the authority, then the chief executive officer of the eligible business, or an equivalent officer, shall certify to the authority that the information provided in its amended application is true under the penalty of perjury.

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

33. Section 73 of P.L.2020, c.156 (C.34:1B-341) is amended to read as follows:

C.34:1B-341 Project agreement.

73. a. Following approval by the board, but before the issuance of tax credits, the authority shall require an eligible business to enter into a project agreement. The terms of the project agreement shall be consistent with the eligibility requirements of section 71 of P.L.2020, c.156 (C.34:1B-339), as applicable, and shall include, but shall not be limited to, the following:

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

(b) for a phased project, a project phase agreement for which each phase identifies a description of the phase, the expected capital investment and number of new full-time jobs, and the time following acceptance of the project agreement when each phase is to begin and

be completed, with the awarding of tax credits under the project agreement to be predicated on the number of full-time jobs created through the fulfillment of each project phase agreement;

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

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

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

(5) a method for the eligible business to certify that it has met the capital investment and employment requirements of the program set forth in subsections b. and c. of section 71 of P.L.2020, c.156 (C.34:1B-339) and to report annually to the authority the number of new and retained full-time employees, and the salaries thereof, for which the tax credits are to be allowed;

(6) representations that the eligible business is in substantial good standing with the Department of Environmental Protection, the Department of Labor and Workforce Development, and the Department of the Treasury or has entered into an agreement with the departments that includes a practical corrective action plan, and the project complies with all applicable laws, and specifically, that the project does not violate any environmental law;

(7) a provision permitting an audit of the payroll records of the business from time to time, as the authority deems necessary;

(8) a provision that the chief executive officer of the authority receives annual reports from the eligible business and that allows the authority to confirm that the eligible business is in substantial good standing with the Department of Environmental Protection, the Department of Labor and Workforce Development, and the Department of the Treasury, or has entered into an agreement with the respective department that includes a practical corrective action plan. As part of the annual reports required by this paragraph, the eligible business shall confirm that each contractor or subcontractor performing work at the qualified business facility: (a) is registered as required by "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (b) has not been debarred by the Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in the State; and (c) possesses a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury. If the eligible business does not submit the report required under this paragraph, if the Department of Environmental Protection, the Department of Labor and Workforce Development, and the Department of the Treasury advises that the eligible business is neither in substantial good standing nor has entered into a practical corrective action plan, or if the eligible business fails to confirm that each contractor or subcontractor is in compliance with this paragraph, then the eligible business may forfeit the issuance of tax credits, pending resolution of the underlying violations or other issues;

(9) a requirement for the eligible business to engage in on-site consultations with the Division of Workplace Safety and Health in the Department of Health;

(10) a provision permitting the authority to amend the agreement;

and

(11) a provision establishing the conditions under which the authority, the eligible business, or both, may terminate the agreement.

b. (1) For a project whose total project cost equals or exceeds \$10 million, in addition to the project agreement, an eligible business shall enter into a community benefits agreement with the authority and the county or municipality in which the qualified business facility is located. The agreement may include, but shall not be limited to, requirements for training, employment, and youth development and free services to underserved communities in and around the community in which the qualified business facility is located. Prior to entering a community benefits agreement, the governing body of the county or municipality in which the qualified business facility is located shall hold at least one public hearing at which the governing body shall hear testimony from residents, community groups, and other stakeholders on the needs of the community that the agreement should address.

(2) The community benefits agreement shall provide for the creation of a community advisory committee to oversee the implementation of the agreement, monitor successes, ensure compliance with the terms of the agreement, and produce an annual public report. The community advisory committee created pursuant to this paragraph shall be comprised of representatives from community groups and residents of the county or municipality in which the qualified business facility is located.

(3) At the time the eligible business submits the annual report required pursuant to section 77 of P.L.2020, c.156 (C.34:1B-345) to the authority, the eligible business shall certify, under the penalty of perjury, that it is in compliance with the terms of the community benefits agreement. If the eligible business fails to provide the certification required pursuant to this paragraph or the authority determines that the eligible business is not in compliance with the terms of the community benefits agreement based on the reports submitted by the community advisory committee pursuant to paragraph (2) of this subsection, then the authority may rescind the award or recapture all or part of any tax credits awarded.

(4) An eligible business shall not be required to enter into a community benefits agreement pursuant to this subsection if the eligible business submits to the authority a copy of the either eligible business's approval letter from the authority or a redevelopment agreement applicable to the qualified business facility, provided that the approval letter or redevelopment agreement is certified by the municipality in which the project is located and includes provisions that meet or exceed the standards required for a community benefits agreement in this subsection, as determined by the chief executive officer pursuant to rules adopted by the authority.

34. Section 74 of P.L.2020, c.156 (C.34:1B-342) is amended to read as follows:

C.34:1B-342 Site plan approval, financing, site control for qualified business facility.

74. a. Following board approval within a time established by the authority and prior to the authority and an eligible business executing a project agreement, the eligible business shall demonstrate that it has obtained site plan approval and has committed financing for, and site control of, the qualified business facility. If the eligible business obtained site control of the qualified business facility prior to the execution of the letter of intent pursuant to section 72 of P.L.2020, c.156 (C.34:1B-340), then the authority may rescind approval of the award of tax credits, unless the eligible business disclosed the fact that the eligible business had obtained the site prior to executing the letter of intent and the authority determines that the award of tax credits was still a material factor in the eligible business's decision to create or

retain the minimum number of new and retained full-time jobs for eligibility under the program. The eligible business shall provide an estimated date of completion and shall submit periodic progress reports. The authority may rescind an award of tax credits if an eligible business fails to provide the information required under this section within the period indicated in the approval of the tax credits by the board. The authority may rescind an award of tax credits under the program if a project fails to advance in accordance with the project agreement.

b. Upon completion of the capital investment and employment requirements of the program, an eligible business shall submit to the authority certifications evidencing that the eligible business has satisfied the conditions relating to the capital investment and employment requirements of the project agreement with supporting evidence satisfactory to the authority. Absent extenuating circumstances and the written approval of the authority, the eligible business shall submit the certification within three years following the date of approval of the application. The authority may grant two six-month extensions of the deadline; provided that the date of certification shall not occur later than four years following the date of approval of the application by the authority; provided further that the authority may grant one additional extension not to exceed one year upon a finding by the authority that: (1) the project is delayed due to unforeseeable acts related to the project beyond the eligible business's control and without its fault or negligence; (2) the eligible business is using best efforts, with all due diligence, to proceed with the completion of the project and the submission of the certification; and (3) the eligible business has made, and continues to make, all reasonable efforts to prevent, avoid, mitigate, and overcome the delay. To qualify for the one-year extension, the eligible business shall provide timely notice to the authority of the delay within 30 days after the eligible business has actual or constructive knowledge of the delay, and shall provide periodic reports, not less than every 30 days, of the status of the delay and the steps the eligible business is taking to mitigate or overcome the delay.

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

d. The chief executive officer of the eligible business, or an equivalent officer, shall certify that the information provided pursuant to this section is true under the penalty of perjury.

35. Section 75 of P.L.2020, c.156 (C.34:1B-343) is amended to read as follows:

C.34:1B-343 Total amount of tax credit.

75. a. The total amount of the tax credit for an eligible business for each new or retained full-time job shall be as set forth in subsections b. through g. of this section. The total tax credit amount shall be calculated and credited to the business annually for each year of the eligibility period, notwithstanding any other provisions of P.L.2020, c.156 (C.34:1B-269 et al.) to the contrary.

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

(1) for a qualified business facility located within a government-restricted municipality, or which is a mega project, \$4,000 per year;

(2) for a qualified business facility located within an enhanced area, \$3,500 per year;

(3) for a qualified business facility located within a distressed municipality, \$3,000 per year;

(4) for a project in a qualified opportunity zone or an employment and investment corridor, \$2,500 per year; and

(5) for a project in other eligible areas, \$500 per year.

c. (1) In addition to the base amount of the tax credit, the amount of the tax credit to be awarded for each new or retained full-time job shall be increased with the following bonuses:

(a) for an eligible business with a qualified business facility located in a municipality with a Municipal Revitalization Index distress score greater than 50, an increase of \$1,000 per year;

(b) for an eligible business with a qualified business facility at which the capital investment in industrial or research and development premises for industrial or research and development use by the business is in excess of the minimum capital investment required for eligibility pursuant to subsection b. of section 71 of P.L.2020, c.156 (C.34:1B-339), an increase of \$500 per year for each additional amount of investment that exceeds the minimum amount required for eligibility by 40 percent, with a maximum increase of \$1,500 per year, unless the project qualifies as a mega project or the qualified business facility is located in a government-restricted municipality, in which case the maximum increase is \$5,000 per year;

(c) for an eligible business with large numbers of new full-time jobs during the eligibility period, the increases shall be in accordance with the following schedule:

(i) if the number of new full-time jobs is between 251 and 400, \$500 per year;

(ii) if the number of new full-time jobs is between 401 and 600, \$750 per year;

(iii) if the number of new full-time jobs is between 601 and 800, \$1,000 per year;

(iv) if the number of new full-time jobs is between 801 and 1,000, \$1,250 per year;

(v) if the number of new full-time jobs is in excess of 1,000, \$1,500 per year;

(d) for an eligible business that annually funds an industry-specific training program, which has the capacity to enroll 10 percent or more of the eligible business's full-time workforce, or pays a State educational institution to provide to the public an industry-specific training program, an increase of \$500 per year; provided, however, that if the training program is provided by a State educational institution that is within 10 miles of the qualified business facility, then the increase shall be \$1,000 per year;

(e) for an eligible business that qualifies as a small business, an increase of \$500 per year;

(f) for an eligible business with new full-time jobs and retained full-time jobs at the qualified business facility with a median salary in excess of the existing median salary for the county in which the project is located, or, in the case of a project in a government-restricted municipality, a business with employees in full-time positions at the project with a median salary in excess of the median salary for the government-restricted municipality, an increase of \$200 per year during the eligibility period for each 35 percent by which the project's median salary levels exceeds the county or government-restricted municipality median salary, with a maximum increase of \$1,000 per year;

(g) (Deleted by amendment, P.L.2021, c.160);

(h) for an eligible business engaged primarily in a targeted industry, an increase of \$500 per year;

(i) for an eligible business with a qualified business facility located in a qualified incubator facility, an increase of \$500 per year;

(j) for an eligible business that enters into a labor harmony agreement in accordance with section 69 of P.L.2020, c.156 (C.34:1B-337), an increase of \$2,000 per year for the portion of the project subject to that labor harmony agreement; provided further that an eligible business receiving a bonus under this subparagraph may exceed the limitation applicable to the eligible business pursuant to subsection d. of this section by an amount not to exceed \$1,000;

(k) for an eligible business that provides its employees access to child care either through an on-site quality child care facility free of charge to its employees or through reimbursements paid by the eligible business to its employees for the cost of child care in accordance with standards adopted by the authority, an increase of \$1,000 per year;

(l) for an eligible business that enters, or has previously entered, into an active partnership with a re-entry program for the purpose of identifying and promoting employment opportunities at the eligible business for former inmates and current inmates leaving the corrections system, and that hires at least one active participant in the re-entry program as a full-time employee, an increase of \$500 per year;

(m) for an eligible business with a qualified business facility that exceeds the Leadership in Energy and Environmental Design's "Silver" rating standards but does not exceed "Gold" rating standards or completes substantial environmental remediation, an additional increase of \$250 per year, or for an eligible business with a qualified business facility that exceeds the Leadership in Energy and Environmental Design's "Gold" rating standards, an additional increase of \$500 per year;

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

(o) for an eligible business with a project that generates solar, geo-thermal, wind, or any other renewable or distributed energy on site for use within the qualified business facility of an amount that equals at least 50 percent of the qualified business facility electric supply service needs, an increase of \$500 per year;

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

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

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

(2) The authority shall not award a bonus to an eligible business with full-time jobs at the qualified business facility that pay less than \$15 per hour or 120 percent of the minimum

wage fixed under subsection a. of section 5 of P.L.1966, c.113 (C.34:11-56a4), whichever is higher.

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

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

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

(2) for a qualified business facility located within an enhanced area, the gross amount for each new or retained full-time job shall not exceed \$6,000 per year;

(3) for a qualified business facility within a distressed municipality, the gross amount for each new or retained full-time job shall not exceed \$5,000 per year;

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

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

e. The authority shall reduce the gross amount of tax credits per full-time job: (1) if the median salary of new full-time jobs and retained full-time jobs subject to the project agreement is less than the existing median salary for the county in which the qualified business facility is located; or (2) for a project located in a government-restricted municipality, if the median salary of new full-time jobs and retained full-time jobs subject to the project agreement is less than the existing median salary for the municipality in which the qualified business facility is located. The authority shall reduce the gross amount of tax credits per full-time job by an amount, in percentage points, equal to the percentage the median salary of new full-time jobs and retained full-time jobs subject to the project agreement is below the existing median salary for the county or government-restricted municipality in which the qualified business facility is located. The authority shall not award a tax credit to an eligible business if the median salary of new full-time jobs and retained full-time jobs that would otherwise be subject to the project agreement is 30 percent or more below the relevant existing median salary for the county or government-restricted municipality in which the qualified business facility is located.

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

g. Notwithstanding the provisions of subsections a. through f. of this section to the contrary, for each application approved by the board, the amount of tax credits available to be applied by the business annually shall not exceed an amount determined by the authority to be necessary to induce the project to be sited in New Jersey as determined by the board. The authority shall determine the amount necessary to complete the project through staff

analysis of all locations under consideration by the eligible business and all lease agreements, ownership documents, or substantially similar documentation for the eligible business's proposed in-State locations and potential out-of-State location alternatives, competitive proposals from other states, the prevailing economic conditions, and any other information that the authority deems relevant.

36. Section 76 of P.L.2020, c.156 (C.34:1B-344) is amended to read as follows:

C.34:1B-344 Forfeit of credit.

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

(2) If the annual report filed by an eligible business pursuant to section 77 of P.L.2020, c.156 (C.34:1B-345) provides that the number of new full-time employees employed by the eligible business subject to the project agreement, or the salaries thereof, was reduced by more than 10 percent of the number of new full-time employees, or salaries thereof, in the annual report of the prior year, or the project agreement if the annual report is the first such report filed, then the authority may reevaluate the net positive economic benefit of the project and reduce the size of the award accordingly. This reduction shall not affect any recapture under subsection f. of this section.

b. If, in any tax period, the number of full-time employees employed by the eligible business subject to the project agreement, or the salaries thereof, drops below 80 percent of the number of new and retained full-time jobs, and the salaries thereof, specified in the project agreement or the project phase agreement, then the eligible business shall forfeit its tax credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the number of full-time employees employed by the eligible business subject to the project agreement to 80 percent of the number of jobs specified in the project agreement or project phase agreement or the restoration of 80 percent of the salaries specified in the project agreement is reviewed and approved by the authority.

c. Except for an eligible business that is a small business engaged primarily in a targeted industry:

(1) If the qualified business facility is sold in whole or in part during the eligibility period, the new owner shall not acquire the capital investment of the seller, provided, however, that any tax credits of tenants shall remain unaffected. The seller shall forfeit all tax credits for the tax period in which the sale occurs and all subsequent tax periods, provided, however, that an eligible business may change the location of the qualified business facility if

the new facility:

(a) meets all applicable location qualifying criteria and has gross leasable area not less than the gross leasable area of the qualified business facility initially approved by the

authority and the alternate qualified business facility meets the minimum capital investment and sustainability requirements of the program; or

(b) does not meet all applicable location qualifying criteria or has less gross leasable area than the gross leasable area of the qualified business facility initially approved by the authority, if the alternate qualified business facility meets the minimum capital investment and sustainability requirements of the program, provided that the authority shall require a cost comparison of the originally approved location and the alternate qualified business facility illustrating the respective economics of the project which reflect occupancy at the alternate proposed qualified business facility location for the remaining duration of the commitment period and shall re-calculate the net economic benefit of the project to reflect the economics of occupancy at the alternate proposed location for the remaining duration of the net benefit test period in lieu of the economics of continuing occupancy at the qualified business facility proposed to be vacated, and provided further that the award of tax credits shall be reduced consistent with the variations in qualifying criteria for the alternate qualified business facility location as well as in a manner consistent with the revised net economic benefit calculation.

In the event that the modified project economics materially deviate from the economics of the initial approval in a manner that undermines the recommendation of approval made by the staff of the authority at the time of the initial approval, then the business requesting to relocate a qualified business facility shall be required to obtain the approval of the members of the authority.

(2) If a tenant subleases its tenancy in whole or in part during the eligibility period, the new tenant shall not acquire the tax credits of the sublessor, and the sublessor shall forfeit all tax credits for any tax period of its sublease in which the sublessor, in continued occupation of a portion of the qualified business facility, fails to maintain the number of jobs required for the sublessor to earn tax credits for the tax period or fails to independently satisfy the minimum capital investment or sustainability requirements for the program as set forth in section 71 of P.L.2020, c.156 (C.34:1B-339). Provided, however, if the capital investment of the sublessor in the occupied portion of the qualified business facility is below the project minimum capital investment as set forth in section 71 of P.L.2020, c.156 (C.34:1B-339), the sublessor may include capital investment made by or on behalf of the new tenant in the subleased portion of the qualified business facility, so long as that capital investment is not the subject of an independent application under an incentive program with the authority.

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

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

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

(2) If all or part of a tax credit sold or assigned pursuant to section 78 of P.L.2020, c.156 (C.34:1B-346) is subject to recapture, then the authority shall pursue recapture from the eligible business and not from the purchaser or assignee of the tax credit transfer certificate. The purchaser or assignee of a tax credit transfer certificate shall be subject to any limitations and conditions that apply to the use of the tax credits by the eligible business.

(3) Any funds, net of costs incurred by the authority, recaptured pursuant to this subsection, including penalties and interest, shall be deposited into the General Fund of the State.

g. A business may include an affiliate for any period, provided that the business provides a valid tax clearance certificate for the affiliate and a verification of the nature of the affiliate relationship during the relevant period, and provided further that the affiliate provides acceptable responses to the authority's legal disclosures inquiries, as determined by the authority. A formal modification of the authority's approval of the project agreement shall not be necessary to add or remove an affiliate after approval or execution of the project agreement.

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

37. Section 77 of P.L.2020, c.156 (C.34:1B-345) is amended to read as follows:

C.34:1B-345 Annual report.

77. a. (1) An eligible business which is awarded tax credits under the program shall submit annually, no later than the date indicated in the project agreement, commencing in the year in which the grant of tax credits is issued and for the remainder of the commitment period, a report that indicates that the eligible business continues to maintain the number of new and retained full-time jobs, and the salaries thereof, specified in the project agreement. As part of the annual report required pursuant to this subsection, an eligible business shall provide to the authority a copy of its applicable New Jersey tax return showing business income and withholdings as a condition of its continuation in the program, and the quarterly wage report required under R.S.43:21-14 submitted to the Department of Labor and Workforce Development together with an annual payroll report showing: (a) the new full-time jobs which were created in accordance with the project agreement, and (b) the new full-time jobs created during each subsequent year of the commitment period. The failure of an eligible business to submit to the authority a copy of its annual payroll report or submit the quarterly wage report in accordance with the provisions of this subsection during the eligibility period shall result in the forfeiture of the award for that year. An eligible business

shall explain, in the reports required by this subsection, the reason for any discrepancies between the annual payroll report submitted by the eligible business and the quarterly wage report. The chief executive officer of the eligible business, or an equivalent officer, shall certify that the information provided pursuant to this paragraph is true under the penalty of perjury. Claims, records, or statements submitted by an eligible business to the authority in order to receive tax credits shall not be considered claims, records, or statements made in connection with State tax laws.

(2) Upon receipt and review of each report submitted during the eligibility period, the authority shall provide to the eligible business and the director a certificate of compliance indicating the amount of tax credits that the eligible business may apply against its tax liability. The authority shall pro rate the tax credit for the first and last years of the eligibility period based on the number of full months the project was certified in the year the eligible business first certifies.

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

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

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

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

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

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

(3) The director shall prescribe the order of priority of the application of the credit allowed under this section and any other credits allowed by law against the tax imposed under section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of a credit applied under this section against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with any other credits allowed by law, shall not reduce the tax

liability to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

(4) In lieu of applying any credit certificate or credit transfer certificate against tax liability otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5, the credit certificate or credit transfer certificate may be surrendered to the Division of Taxation in the Department of the Treasury for a cash payment equal to 90 percent of the amount of tax credits evidenced by the certificate, provided that the issuance date of the credit certificate or credit transfer certificate to the taxpayer surrendering such certificate occurred at least two years prior to the date of surrender and the credit certificate or credit transfer certificate has not been sold or assigned previously.

38. Section 79 of P.L.2020, c.156 (C.52:27D-520) is amended to read as follows:

C.52:27D-520 "Recovery Infrastructure Fund."

79. a. The authority shall establish a dedicated fund to be known as the "Recovery Infrastructure Fund." Money in the fund shall be dedicated to the purpose of funding local infrastructure, which shall include:

- (1) buildings and structures, such as schools, fire houses, police stations, recreation centers, public works garages, and water and sewer treatment and pumping facilities;
- (2) sidewalks, streets, roads, ramps, and jug handles;
- (3) open space with improvements such as athletic fields, playgrounds, and planned parks;
- (4) open space without improvements;
- (5) public transportation facilities such as train stations and public parking facilities; and
- (6) the purchase of equipment considered vital to public safety.

b. The fund shall be credited with money remitted by eligible businesses pursuant to paragraph (2) of subsection b. of section 71 of P.L.2020, c.156 (C.34:1B-339).

c. Money remitted to the fund by an eligible business pursuant to paragraph (2) of subsection b. of section 71 of P.L.2020, c.156 (C.34:1B-339) shall be earmarked for use on local infrastructure projects in the municipality in which the eligible business's project is located.

d. A municipality shall apply to the authority, in a form and manner prescribed by the authority, for disbursements from the Recovery Infrastructure Fund. The authority, in consultation with the Department of Community Affairs, shall review and approve applications for disbursements of money from the fund pursuant to the provisions of this section and the rules and regulations promulgated by the authority pursuant to paragraph (1) of subsection f. of this section.

e. The Department of Community Affairs shall coordinate with the authority and other boards, commissions, institutions, departments, agencies, State officers, and employees to carry out the local infrastructure projects funded through the Recovery Infrastructure Fund.

f. (1) Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the chief executive officer of the authority may adopt, immediately upon filing with the Office of Administrative Law, rules and regulations that the chief executive officer deems necessary to effectuate the purposes of subsections a. through d. of this section, which rules and regulations shall be effective for a period not to exceed 360 days from the date of the filing. The chief executive officer shall thereafter

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

(2) Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the Commissioner of the Department of Community Affairs may adopt, immediately upon filing with the Office of Administrative Law, rules and regulations that the commissioner deems necessary to effectuate the purposes of subsection e. of this section, which rules and regulations shall be effective for a period not to exceed 360 days from the date of the filing. The commissioner shall thereafter amend, adopt, or readopt the rules and regulations in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

39. Section 83 of P.L.2020, c.156 (C.34:1B-350) is amended to read as follows:

C.34:1B-350 Definitions.

83. As used in sections 82 through 88 of P.L.2020, c.156 (C.34:1B-349 et al.):

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

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

"Eligible microbusiness" means a business enterprise located in the State that produces goods or provides services and has fewer than 10 full-time employees and annual gross revenue of less than \$1,500,000 at the time of application for a loan under the program.

"Eligible small business" means any business that satisfies the criteria set forth in subsection b. of section 85 of P.L.2020, c.156 (C.34:1B-352) at the time of application for a grant under the program.

"Program" means the Main Street Recovery Finance Program established pursuant to section 84 of P.L.2020, c.156 (C.34:1B-351).

"Small business" means a business engaged in the conduct of a trade or business in this State that qualifies as a "small business concern" within the meaning of the federal "Small Business Act," Pub.L.85-536 (15 U.S.C. § 631 et seq.) for the purpose of the small business's eligibility assistance from the United States Small Business Administration.

40. Section 84 of P.L.2020, c.156 (C.34:1B-351) is amended to read as follows:

C.34:1B-351 Main Street Recovery Finance Program.

84. The Main Street Recovery Finance Program is hereby established as a program under the jurisdiction of the New Jersey Economic Development Authority. The authority shall administer the program for the purpose of providing grants, loans, and loan guarantees to eligible small businesses in accordance with the provisions of sections 82 through 88 of P.L.2020, c.156 (C.34:1B-349 et al.). A business seeking a grant, loan, or loan guarantee under the program shall submit an application to the authority. The authority shall adopt eligibility criteria for the program and may consider a business's benefit to the community in which it is situated and the degree to which the business enhances economic development in communities that have been severely impacted by the COVID-19 pandemic when making awards under the program.

41. Section 85 of P.L.2020, c.156 (C.34:1B-352) is amended to read as follows:

C.34:1B-352 Grants to eligible small businesses.

85. a. As part of the Main Street Recovery Finance Program, the authority shall provide grants to eligible small businesses from the Main Street Recovery Fund, subject to appropriation or the availability of federal funds, provided that the authority shall undertake a disparity study of the relative availability of capital and related banking resources for small businesses and microbusiness that are women- and minority-owned business enterprises in this State and the authority's historic support of such businesses, and, as recommended by the study, shall establish policies, practices, protocols, and, if appropriate, minimum percentages of the fund to be set aside for eligible small businesses and microbusinesses that are minority-owned business enterprises or women-owned business enterprises. Grants awarded pursuant to the program may be used by an eligible small business for capital improvements or to cover operating expenses. The authority may dedicate up to 10 percent of the amount appropriated for the purposes of this section to provide technical assistance grants to for-profit or non-profit entities that are experienced in providing technical assistance services or to eligible microbusinesses to help such eligible microbusinesses in applying for the grants authorized under this section.

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

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

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

(2) In addition to the requirements of paragraph (1) of this subsection, a small business shall be eligible to receive a grant pursuant to this subsection for capital improvements only if the small business demonstrates to the authority at the time of application that:

(a) any capital improvement in excess of \$50,000 and undertaken with grant funds shall comply with standards established by the authority in accordance with the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding the use of renewable energy, energy-efficient technology, and non-renewable resources to reduce environmental degradation and encourage long-term cost reduction; and

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

c. An eligible small business seeking a grant pursuant to this section shall submit an application for approval to the authority in the form and manner prescribed in regulations adopted by the authority pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Before the board may consider an eligible small business's application for grants, the authority shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury whether the eligible small business is in substantial good standing with the respective department, or has entered into an agreement with the respective

department that includes a practical corrective action plan for the eligible small business. The authority may also contract with an independent third party to perform a background check on the eligible small business. The eligible small business, or an authorized agent thereof, shall certify under the penalty of perjury that any information provided in the application required pursuant to this subsection is true.

d. Following approval of an application, but before the disbursement of grant funds, the authority shall require an eligible small business to enter into a grant agreement. The grant agreement shall specify the amount of the grant to be awarded the eligible small business and the frequency of payments. If the authority determines that an eligible small business made a material misrepresentation on the eligible small business's grant application or the eligible small business has failed to comply with any requirement set forth in subsection b. of this section, then the small business shall return to the authority any grant awarded pursuant to this section.

42. Section 86 of P.L.2020, c.156 (C.34:1B-353) is amended to read as follows:

C.34:1B-353 Moneys available to eligible lenders.

86. a. As part of the Main Street Recovery Finance Program, the authority shall make loans and grants available from the Main Street Recovery Fund, subject to annual appropriation and the availability of funds, to eligible community development finance institutions, minority depository institutions, and other eligible lenders pursuant to subsection b. of this section and to eligible microbusinesses pursuant to subsection c. of this section, provided that funds shall be made available to eligible microbusinesses certified by the State as a "minority business" or a "women's business" pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.) in a manner consistent with authority requirements within paragraph a. of section 85 of P.L.2020, c.156 (C.34:1B-352). The authority may dedicate up to 10 percent of the amount appropriated for the purposes of this section to provide technical assistance grants to for-profit or non-profit entities that are experienced in providing technical assistance services or to eligible microbusinesses to help such eligible microbusinesses in applying for loan packaging services under the programs authorized to receive grants and loans pursuant to this section.

b. The authority shall provide loans and grants to eligible community development finance institutions, minority depository institutions, and other eligible lenders in accordance with this subsection. Loans and grants made available to eligible community development finance institutions, minority depository institutions, and other eligible lenders pursuant to this paragraph shall be used to strengthen capital structures, leverage additional debt capital, and increase lending and investing in economically disadvantaged communities. The authority shall require an eligible community development finance institution, minority depository institution, or other eligible lender that receives a grant or loan pursuant to this subsection to enter into an agreement with the authority.

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

c. The authority shall provide loans to eligible microbusinesses in accordance with this subsection. Loans made available to eligible microbusinesses pursuant to this subsection may be used for capital improvements, employee training, salaries for new positions, and to pay for day-to-day operating expenditures, including payroll, rent, utilities, insurance, and

purchases of goods and services. The authority shall require an eligible microbusiness to enter into a loan agreement. Loans made pursuant to this subsection shall have a term and an interest rate determined by the authority based on conditions currently prevailing in the market. The authority may forgive loans provided to eligible microbusinesses pursuant to this subsection at the authority's discretion. The authority may, through the terms of the loan agreement, establish terms governing the incidence of default by an eligible microbusiness.

d. Prior to March 1, 2025, an eligible community development finance institution, minority depository institution, or other eligible lender seeking a loan or a grant pursuant to subsection b. of this section or an eligible microbusiness seeking a loan pursuant to subsection c. of this section shall submit an application for approval to the authority in the form and manner prescribed in regulations adopted by the authority pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Before the authority may approve an application, the authority shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury whether the applicant is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan for the applicant. The authority may also contract with an independent third party to perform a background check on the applicant. The applicant, or an authorized agent thereof, shall certify under the penalty of perjury that any information provided in the application required pursuant to this subsection is true.

43. Section 87 of P.L.2020, c.156 (C.52:18A-262) is amended to read as follows:

C.52:18A-262 "Main Street Recovery Fund".

87. a. To aid in the economic recovery of those communities most impacted by the COVID-19 pandemic and to better ensure their long-term economic growth, there is created the "Main Street Recovery Fund" to be held by the State Treasurer and administered by the authority. All moneys deposited in the fund shall be held and disbursed in the amounts necessary to fulfill the purposes of providing grants and loans related to an identified program that is administered by the authority pursuant to sections 85 and 86 of P.L.2020, c.156 (C.34:1B-352 and C.34:1B-353), for the purposes enumerated in subsection b. of this section, and for reasonable administrative costs of implementing sections 82 through 88 of P.L.2020, c.156 (C.34:1B-349 et al.). The fund may be credited with pay backs; bonuses; entitlements; money received from the federal government; transfers; grants; gifts; bequests; moneys appropriated by the Legislature; or any other money made available from any source. The State Treasurer, in consultation with the authority, may invest and reinvest any moneys in the fund in the State Treasurer's discretion. Any income from, interest on, or increment to moneys so invested or reinvested shall be included in the fund.

b. Upon application to the Chief Executive Officer of the New Jersey Economic Development Authority, the authority may make loan guarantees from the fund to leverage private and public lending to help finance small businesses, real estate developments, and manufacturers that are creditworthy but not receiving the financing needed to expand and create jobs. In making loan guarantees under this section, the chief executive officer of the authority shall give due consideration to small businesses and real estate developments in underserved communities throughout the State that have been deeply impacted by the COVID-19 pandemic.

c. (1) The chief executive officer of the authority shall monitor the activities of the beneficiaries of the loan guarantees issued pursuant to this section on an annual basis to ensure compliance with the terms and conditions imposed on the recipient by the chief executive officer.

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

(3) The authority, at the time the annual accounting required under paragraph (2) of this subsection is provided, shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury that the entity and the beneficiaries are in substantial good standing with the respective departments, or have entered into an agreement with the respective department that includes a practical corrective action plan.

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

44. Section 90 of P.L.2020, c.156 (C.34:1B-355) is amended to read as follows:

C.34:1B-355 Working Group on Entrepreneur Zones.

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

b. The working group shall consist of 14 members appointed by the chief executive officer of the New Jersey Economic Development Authority.

c. Appointments to the working group shall be made within 30 days after the effective date of P.L.2021, c.160. Vacancies in the membership of the working group shall be filled in the same manner as the original appointments were made.

d. Members of the working group shall serve without compensation, but the authority shall reimburse such members for actual expenses necessarily incurred in the discharge of their duties.

e. Members of the working group shall be subject to the provisions of subsection 1. of section 4 of P.L.1974, c.80 (C.34:1B-4).

45. Section 93 of P.L.2020, c.156 (C.34:1B-357) is amended to read as follows:

C.34:1B-357 Definitions.

93. As used in sections 92 through 97 of P.L.2020, c.156 (C.34:1B-356 through C.34:1B-361):

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

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

"Collaborative workspace" means a business facility certified pursuant to section 95 of P.L.2020, c.156 (C.34:1B-359), located in this State, developed to provide flexible

workspaces for early stage innovation economy businesses, and designed to encourage community and collaboration within an inter-connected environment in which multiple start-up businesses have access to shared community events and shared workplace accommodations including, but not limited to, kitchens and makerspaces.

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

"Community event" means an event hosted by a collaborative workspace and accessible to start-up tenant or member businesses, without charge or with nominal charge, organized to support an innovation ecosystem, as defined in section 21 of P.L.2020, c.156 (C.34:1B-289), at the collaborative workspace, including, but not limited to, events such as meet-ups, speaker series, and office hours for lawyers, accountants, consultants, or investors.

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

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

"Grant agreement" means an agreement between the authority and the owner and operator of a collaborative workspace which memorializes the terms and conditions of the collaborative workspace's participation in the program.

"Program" means the New Jersey Ignite Program established pursuant to section 94 of P.L.2020, c.156 (C.34:1B-358).

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

"Start-up rent grant" means a grant provided by the authority to a collaborative workspace for the rent that would otherwise be due to the collaborative workspace from a start-up tenant or member business for the period of the authority commitment period.

"Start-up tenant or member business" means an early stage innovation economy business that is registered to do business in New Jersey, rents space in, or access to, a collaborative workspace under the program, and enters into an agreement with the owner and operator of the collaborative workspace to rent space in, or access to, the collaborative workspace for an agreed upon period, which shall include the authority commitment period, collaborative workspace commitment period, and start-up tenant or member business commitment period.

"Start-up tenant or member business commitment period" means a period of months equal to the sum of the authority commitment period and the collaborative workspace commitment period.

46. Section 96 of P.L.2020, c.156 (C.34:1B-360) is amended to read as follows:

C.34:1B-360 Start-up rent grants.

96. a. Up to the limits established in this subsection and in accordance with the grant agreement, the authority shall provide start-up rent grants to the owner and operator of a collaborative workspace through a series of scheduled payments as set forth in the grant agreement. The owner and operator of the collaborative workspace shall utilize the grant funding to provide rent-free space to a start-up tenant or member business that agrees to continue renting space in, or access to, the collaborative workspace for the start-up tenant or member business commitment period. The maximum start-up rent grant that the authority may provide to a collaborative workspace for the tenancy of a single start-up tenant or member business shall not exceed \$25,000, including bonus months. The maximum aggregate amount of start-up rent grants that the authority may provide to an approved collaborative workspace in a calendar year shall not exceed \$100,000.

b. The authority may provide a start-up rent grant for the payment of rent for space in, or access to, a collaborative workspace for up to six months; provided, however, if a collaborative workspace or start-up tenant or member business satisfies any of the bonuses set forth in paragraphs (1) through (5) of this subsection, then the authority may provide an additional month of rent for each bonus satisfied by the collaborative workspace or start-up tenant or member business. Additional months of rent provided by the authority for bonus criteria satisfied by a collaborative workspace or start-up tenant or member business shall first be applied to the start-up tenant or member business commitment period, followed by the collaborative workspace commitment period. Any bonus months provided in excess of the combined commitment periods shall be forfeited. The authority may award a bonus month if:

(1) the collaborative workspace is located in a qualified opportunity zone designated pursuant to 26 U.S.C. s.1400Z-1;

(2) the collaborative workspace is affiliated with a hospital system or a New Jersey university;

(3) the collaborative workspace has been open less than 90 days from the date on which the owner and operator of the collaborative workspace applied to the authority to participate in the program and the collaborative workspace is not in the same location as an existing facility;

(4) the start-up tenant or member business for which the start-up rent grant is paid is certified by the State as a "minority business" or a "women's business" pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.); or

(5) the start-up tenant or member business for which the start-up rent grant is paid is the first presence of a foreign company entering into the United States.

c. (1) The owner and operator of a collaborative workspace shall annually certify to the authority, under the penalty of perjury, that it is in compliance with the grant agreement.

(2) In addition to the certification required pursuant to paragraph (1) of this subsection, the authority shall conduct an annual inspection and review of the collaborative workspace and may request documentation evidencing that the collaborative workspace utilized the

start-up rent grant it received from the authority in accordance with the requirements of the program and the grant agreement.

d. (1) If a start-up tenant or member business stops occupying or accessing a collaborative workspace before the end of the start-up tenant or member business commitment period, then the collaborative workspace shall refund to the authority that portion of the start-up rent grant covering any period in which the start-up tenant or member business did not have space in, or access to, the collaborative workspace.

(2) If the authority determines that a collaborative workspace is not in compliance with the requirements of the program or of the grant agreement, then the authority may rescind the business facility's certification as a collaborative workspace and bar the business facility from further participation in the program.

47. Section 98 of P.L.2020, c.156 (C.34:1B-362) is amended to read as follows:

C.34:1B-362 Combined value of all tax credits.

98. a. The combined value of all tax credits awarded under the "Historic Property Reinvestment Act," sections 1 through 8 of P.L.2020, c.156 (C.34:1B-269 through C.34:1B-276); the "Brownfield Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287); the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through C.34:1B-302); the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310); the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321); the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335); the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.); and section 6 of P.L.2010, c.57 (C.34:1B-209.4) shall not exceed an overall cap of \$11.5 billion over a seven-year period, subject to the conditions and limitations set forth in this section. Of this \$11.5 billion, \$2.5 billion shall be reserved for transformative projects approved under the Aspire Program.

b. (1) The total value of tax credits awarded under any constituent program of the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.) shall be subject to the following annual limitations, except as otherwise provided in subsection c. of this section:

(a) for tax credits awarded under the "Historic Property Reinvestment Act," sections 1 through 8 of P.L.2020, c.156 (C.34:1B-269 through C.34:1B-276), the total value of tax credits annually awarded during each of the first six years of the seven-year period shall not exceed \$50 million;

(b) for tax credits awarded under the "Brownfield Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287), the total value of tax credits annually awarded during each of the first six years of the seven-year period shall not exceed \$50 million;

(c) for tax credits awarded under the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through C.34:1B-302), the total value of tax credits annually awarded during each of the first six years of the seven-year period shall not exceed \$60 million and the total value of tax credits awarded over the entirety of the seven-year program shall not exceed \$300,000,000;

(d) for tax credits awarded under the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310), the total value of tax credits annually

awarded during each of the first six years of the seven-year period shall not exceed \$40 million;

(e) for tax credits awarded under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), the total value of tax credits annually awarded during each of the first six years of the seven-year period shall not exceed \$200 million, except that during each of the first six years of the seven-year period, the authority shall annually award tax credits valuing no greater than \$130 million for projects located in the 13 northern counties of the State, and the authority shall annually award tax credits valuing no greater than \$70 million for projects located in the eight southern counties of the State. If during any of the first six years of the seven-year period, the authority awards tax credits in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be available to be deployed by the authority in a subsequent year, provided that the uncommitted portion of tax credits shall be awarded for projects located in the applicable geographic area, except that (i) after the completion of the third year of the seven-year period, the authority may deploy 50 percent of the uncommitted portion of tax credits from any previous year without consideration to the county in which a project is located; and (ii) after the completion of the sixth year of the seven-year period, the authority may deploy all available tax credits, including the uncommitted portion of the annual limitation for any previous year, without consideration to the county in which a project is located;

(f) for tax credits awarded under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, the total value of tax credits annually awarded during each of the first six years of the seven-year period shall not exceed \$1.1 billion. If the authority awards tax credits in an amount less than the annual limitation, then the uncommitted portion of the annual limitation shall be made available for qualified offshore wind projects awarded under section 6 of P.L.2010, c.57 (C.34:1B-209.4), pursuant to subparagraph (h) of this paragraph, or New Jersey studio partners awarded under sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b), pursuant to subparagraph (i) of this paragraph. During each of the first six years of the seven-year period, the authority shall annually award tax credits valuing no greater than \$715 million for projects located in the northern counties of the State, and the authority shall annually award tax credits valuing no greater than \$385 million for projects located in the southern counties of the State under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). If during any of the first six years of the seven-year period, the authority awards tax credits under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be available to be deployed by the authority in a subsequent year, provided that the uncommitted portion of tax credits shall be awarded for projects located in the applicable geographic area, except that (i) after the completion of the third year of the seven-year period, the authority may deploy 50 percent of the uncommitted portion of tax credits for any previous year without consideration to the county in which a project is located; and (ii) after the completion of the sixth year of

the seven-year period, the authority may deploy all available tax credits, including the uncommitted portion of the annual limitation for any previous year, without consideration to the county in which a project is located;

(g) for tax credits awarded for transformative projects under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), the total value of tax credits awarded during the seven-year period shall not exceed \$2.5 billion. The total value of tax credits awarded for transformative projects in a given year shall not be subject to an annual limitation, except that the total value of tax credits awarded to any transformative project shall not exceed \$350 million;

(h) from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, an amount not to exceed \$350,000,000 shall be made available for qualified offshore wind projects awarded a credit pursuant to section 6 of P.L.2010, c.57 (C.34:1B-209.4) during the first three years of the seven-year period; and

(i) beginning in fiscal year 2025, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, additional amounts shall be made available for New Jersey studio partners pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b).

(2) The authority may in any given year determine that it is in the State's interest to approve an amount of tax credits in excess of the annual limitations set forth in paragraph (1) of this subsection, but in no event more than \$200,000,000 in excess of the annual limitation, upon a determination by the authority board that such increase is warranted based on specific criteria that may include:

(i) the increased demand for opportunities to create or retain employment and investment in the State as indicated by the volume of project applications and the amount of tax credits being sought by those applications;

(ii) the need to protect the State's economic position in the event of an economic downturn;

(iii) the quality of project applications and the net economic benefit to the State and municipalities associated with those applications;

(iv) opportunities for project applications to strengthen or protect the competitiveness of the state under the prevailing market conditions;

(v) enhanced access to employment and investment for underserved populations in distressed municipalities and qualified incentives tracts;

(vi) increased investment and employment in high-growth technology sectors and in projects that entail collaboration with education institutions in the State;

(vii) increased development proximate to mass transit facilities;

(viii) any other factor deemed relevant by the authority.

c. In the event that the authority in any year approves projects for tax credits in an amount less than the annual limitations set forth in paragraph (1) of subsection b. of this section, then the uncommitted portion of the annual limitation shall be available to be deployed by the authority in future years for projects under the same program; provided however, that in no event shall the aggregate amount of tax credits approved be in excess of

the overall cap of \$11.5 billion, and in no event shall the uncommitted portion of the annual limitation for any previous year be deployed after the conclusion of the seven-year period.

48. Section 101 of P.L.2020, c.156 (C.34:1B-365) is amended to read as follows:

C.34:1B-365 Chief Compliance Officer.

101. a. The New Jersey Economic Development Authority shall employ a Chief Compliance Officer, who shall be appointed by the Chief Executive Officer of the authority.

b. The Chief Compliance Officer shall:

(1) create, maintain, monitor, and coordinate procedures to ensure that all economic development incentive programs, authority employees, and economic development incentive program applicants and recipients comply fully with the requirements of the corresponding economic development incentive program;

(2) on such periodic basis as determined by the authority, arrange for systematic audits of economic development incentive programs for compliance with the laws, regulations, codes, orders, procedures, advisory opinions and rulings concerning those programs;

(3) maintain a central database of information concerning the management of all economic development incentive programs and information on economic development incentive program applicants and recipients to provide for the regular and ongoing reporting, verification, and monitoring of the State's economic development incentive programs;

(4) prior to the adoption of any rule or regulation by the authority or the board related to the general administration of the programs administered by the authority pursuant to section 6 of P.L.2020, c.156 (C.34:1B-274), section 19 of P.L.2020, c.156 (C.34:1B-287), section 29 of P.L.2020, c.156 (C.34:1B-297), section 34 of P.L.2020, c.156 (C.34:1B-302), section 41 of P.L.2020, c.156 (C.34:1B-309), section 52 of P.L.2020, c.156 (C.34:1B-320), section 67 of P.L.2020, c.156 (C.34:1B-335), section 79 of P.L.2020, c.156 (C.52:27D-520), section 88 of P.L.2020, c.156 (C.34:1B-354), and section 97 of P.L.2020, c.156 (C.34:1B-361), or any other regulation specifically related to the recapture of economic development incentive award values, review and certify that the provisions of program rules or regulations provide the authority with adequate procedures to pursue the recapture of the value of an economic development incentive in the case of substantial noncompliance, fraud, or abuse by the economic development incentive recipient, and that program rules and regulations are sufficient to ensure against economic development incentive fraud, waste, and abuse; and

(5) refer, to the Economic Development Inspector General and to the Attorney General, information on suspected fraud or abuse identified by the Division of Portfolio Management and Compliance.

c. The Chief Compliance Officer, in consultation with the Department of Labor and Workforce Development and the Department of the Treasury, shall:

Develop, adopt, and implement a corrective action plan within six months of receiving notice of any program deficiency issued by the Economic Development Inspector General, that is designed to enable the authority to properly manage the economic development incentive programs administered by the authority.

d. To ensure against economic development incentive fraud, waste, and abuse, the authority may recapture all or any portion of the value of an economic development incentive awarded pursuant to any of the authority's economic development incentive programs in the case of substantial noncompliance, fraud, or abuse by the economic development incentive recipient. The authority may incorporate provisions in the regulations for each economic

development incentive program that the authority deems necessary to implement this subsection.

49. Section 102 of P.L.2020, c.156 (C.34:1B-366) is amended to read as follows:

C.34:1B-366 Office of the Economic Development Inspector General.

102. a. There is established, in but not of the Department of the Treasury, the Office of the Economic Development Inspector General, which shall operate independent of the oversight or management of the Chief Executive Officer and the authority. The Office of the Economic Development Inspector General shall operate under the Economic Development Inspector General, who shall be a retired member of the Judicial Branch of the State, to be appointed by the Governor with the advice and consent of the Senate for a term of four years. The Economic Development Inspector General shall direct the work of the Office of the Economic Development Inspector General and have the following general functions, duties, powers, and responsibilities:

(1) to appoint such deputies, directors, assistants, and other officers and employees as may be needed for the Office of the Economic Development Inspector General to meet its responsibilities, and to prescribe their duties and fix their compensation within the amounts appropriated therefor;

(2) to conduct and supervise State government activities relating to State economic development incentive integrity, fraud, and abuse;

(3) to call upon any department, office, division, or agency of State government to provide such information, resources, or other assistance as the Economic Development Inspector General deems necessary to discharge the duties and functions and to fulfill the responsibilities of the Economic Development Inspector General under sections 99 through 105 of P.L.2020, c.156 (C.34:1B-363 through C.34:1B-369). Each department, office, division, and agency of this State shall cooperate with the Economic Development Inspector General and furnish the Office of the Economic Development Inspector General with the assistance necessary to accomplish the purposes of sections 99 through 105 of P.L.2020, c.156 (C.34:1B-363 through C.34:1B-369);

(4) to coordinate activities to prevent, detect, and investigate economic development incentive fraud and abuse among the following: the authority, State and local government officials, and all economic development incentive applicants and recipients;

(5) to recommend and implement policies relating to economic development incentive integrity, fraud, and abuse, and monitor the implementation of any recommendations made by the Office of the Economic Development Inspector General to the authority for the administration of economic development incentives;

(6) to perform any other functions that are necessary or appropriate in furtherance of the mission of the Office of the Economic Development Inspector General; and

(7) to direct an economic development incentive applicant or recipient to cooperate with the Office of the Economic Development Inspector General and provide such information or assistance as shall be reasonably required by the Office of the Economic Development Inspector General.

b. As it relates to ensuring compliance with applicable economic development incentive standards and requirements, identifying and reducing fraud and abuse, and improving the efficiency and effectiveness of economic development incentives, the functions, duties, powers, and responsibilities of the Economic Development Inspector General shall include, but not be limited to, the following:

(1) to establish, in consultation with the authority and the Attorney General, guidelines under which the withholding of payments or exclusion from economic development incentive programs shall be imposed on an economic development incentive applicant or recipient;

(2) to review the utilization of economic development incentives to ensure that economic development incentive funds are appropriately spent to meet the goals and purposes of an individual economic development incentive program;

(3) to review and audit contracts, reports, documentation, claims, and all awards of economic development incentives to determine compliance with applicable laws, regulations, guidelines, and standards, and enhance program integrity;

(4) to consult with the authority to optimize the economic development incentive management information system in furtherance of the mission of the Office of the Economic Development Inspector General. The authority shall consult with the Economic Development Inspector General on matters that concern the operation, upgrade, and implementation of the economic development incentive management information system;

(5) to coordinate the implementation of information technology relating to economic development incentive integrity, fraud, and abuse;

(6) to conduct educational programs for economic development incentive for State and local government officials and economic development incentive recipients designed to limit economic development incentive fraud and abuse; and

(7) to provide notice to the Chief Compliance Officer, appointed pursuant to section 101 of P.L.2020, c.156 (C.34:1B-365) if the Economic Development Inspector General determines that a program deficiency exists in an economic development incentive program administered by the authority and to provide notice to the Chief Executive Officer of the Authority of pending investigations if the Economic Development Inspector General determines that such disclosure is consistent with the public interest in maintaining the integrity of an economic development incentive program administered by the authority or to abate the continuation of fraud or abuse.

c. As it relates to investigating allegations of economic development incentive fraud and abuse and enforcing applicable laws, rules, regulations, and standards, the functions, duties, powers, and responsibilities of the Economic Development Inspector General shall include, but not be limited to, the following:

(1) to conduct economic development investigations concerning any acts of misconduct within economic development incentive programs;

(2) to provide information concerning the economic development investigations of the Office of the Economic Development Inspector General to the Attorney General, law enforcement authorities, and any prosecutor of competent jurisdiction, and endeavor to develop these economic development investigations in a manner that expedites and facilitates criminal prosecutions and the recovery of improperly expended economic development incentives, including the maintenance of detailed records for cases processed by the Economic Development Inspector General. The records shall include: information on the total number of cases processed and, for each case, the agency and division to which the case is referred for an economic development investigation; the date on which the case is referred; and the nature of the suspected fraud or abuse.

(3) to provide information and evidence relating to suspected criminal acts that the Economic Development Inspector General may obtain in carrying out its duties to law enforcement officials when appropriate, and to provide such information to the Attorney General and county prosecutors in order to facilitate criminal economic development investigations and prosecutions;

(4) to refer complaints alleging criminal conduct to the Attorney General or other appropriate prosecutorial authority. The Economic Development Inspector General shall maintain a record of all matters referred to the Attorney General and shall be authorized to disclose information received, as appropriate and as may be necessary to resolve the matter referred, to the extent consistent with the public interest in disclosure, the need for protecting the confidentiality of complainants and informants, and preserving the confidentiality of ongoing criminal economic development investigations. Notwithstanding any referral made pursuant to this subsection, the Economic Development Inspector General may pursue any administrative or civil remedy under the law. A referral by the inspector general to the Attorney General or a prosecutorial authority shall in no way preclude the inspector general from performing its own separate, independent investigation; and

(5) in furtherance of an economic development investigation, to compel at a specific time and place, by subpoena, the appearance and sworn testimony of any person whom the Economic Development Inspector General reasonably believes may be able to give information relating to a matter subject to an economic development investigation:

(a) for this purpose, the Economic Development Inspector General is empowered to administer oaths and examine witnesses under oath, and compel any person to produce at a specific time and place, by subpoena, any documents, books, records, papers, objects, or other evidence that the Economic Development Inspector General reasonably believes may relate to a matter subject to an economic development investigation; and

(b) if any person to whom a subpoena is issued fails to appear or, having appeared, refuses to give testimony, or fails to produce the books, papers, or other documents required, the Economic Development Inspector General may apply to the Superior Court and the court may order the person to appear and give testimony or produce the books, papers, or other documents, as applicable. Any person failing to obey that order may be held by the court in contempt;

(6) subject to applicable State law, to have full and unrestricted access to all records, reports, audits, reviews, documents, papers, data, recommendations, tax information provided to the authority pursuant to subsection r. of R.S.54:50-9, or other material available to the authority and other State and local government agencies with respect to which the Office of the Economic Development Inspector General has responsibilities under sections 102 through 105 of P.L.2020, c.156 (C.34:1B-366 through C.34:1B-369);

(7) to solicit, receive, and investigate complaints related to economic development incentive integrity, fraud, and abuse; and

(8) to prepare cases, provide expert testimony, and support administrative hearings and other legal proceedings.

d. As it relates to recovering improperly obtained economic development incentives, imposing administrative sanctions, damages, or penalties, and negotiating settlements to assure that all governmental resources have been properly expended, the functions, duties, powers, and responsibilities of the Economic Development Inspector General shall include, but not be limited to, the following:

(1) to pursue civil and administrative enforcement actions against those who engage in fraud, abuse, or illegal acts perpetrated under economic development incentive programs. These civil and administrative enforcement actions shall include the imposition of administrative sanctions, penalties, suspension of fraudulent or illegal awards, and actions for civil recovery and seizure of property or other assets connected with such economic incentive awards;

(2) to initiate civil suits consistent with the provisions of sections 99 through 105 of P.L.2020, c.156 (C.34:1B-363 through C.34:1B-369), maintain actions for civil recovery on behalf of the State, and enter into civil settlements;

(3) to require that the authority withhold payments to an economic development incentive applicant or recipient if the applicant or recipient unreasonably fails to produce complete and accurate records related to an economic development investigation that is initiated by the Office of the Economic Development Inspector General with reasonable cause; and

(4) to monitor and pursue the recoupment of economic development incentive awards or portions thereof, damages, penalties, and sanctions.

50. Section 106 of P.L.2020, c.156 (C.54:10A-5.47) is amended to read as follows:

C.54:10A-5.47 Credit against tax; definitions.

106. a. For privilege periods ending in 2020, 2021, and 2022, a taxpayer, upon approval of an application to the authority, shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in the amount of \$10,000 for each qualifying full-time job involved in the manufacture of personal protective equipment in a qualified facility in which the taxpayer made a capital investment during the privilege period.

b. The minimum capital investment in a qualified facility required to be eligible for a credit under this section shall be as follows:

(1) for the rehabilitation, improvement, fit-out, or retrofit of an existing premises in Atlantic County, Burlington County, Cape May County, Cumberland County, Gloucester County, Ocean County, or Salem County, a minimum investment of \$10 per square foot of gross leasable area;

(2) for the rehabilitation, improvement, fit-out, or retrofit of an existing premises in counties in the State not listed in paragraph (1) of this subsection, a minimum investment of \$20 per square foot of gross leasable area;

(3) for the new construction of a premises in Atlantic County, Burlington County, Cape May County, Cumberland County, Gloucester County, Ocean County, or Salem County, a minimum investment of \$100 per square foot of gross leasable area; or

(4) for the new construction of a premises in counties in the State not listed in paragraph (3) of this subsection, a minimum investment of \$120 per square foot of gross leasable area.

c. The minimum number of new or retained qualifying full-time jobs required to be eligible for a credit under this section shall be as follows:

(1) for a qualified facility in Atlantic County, Burlington County, Cape May County, Cumberland County, Gloucester County, Ocean County, or Salem County, a minimum of five new or 15 retained qualifying full-time jobs; or

(2) for a qualified facility in counties in the State not listed in paragraph (1) of this subsection, a minimum of ten new or 25 retained qualifying full-time jobs.

d. In addition to the amount of credit allowed pursuant to subsection a. of this section, a taxpayer shall be allowed the following tax credits for privilege periods ending in 2020, 2021, and 2022:

(1) \$1,000 per qualifying full-time job in the privilege period at a qualified facility that is a building vacant for not less than seven years in need of rehabilitation with a minimum of 250,000 square feet;

(2) \$1,500 per qualifying full-time job in the privilege period at a qualified facility in which the manufacturing of personal protective equipment is part of a research collaboration between the taxpayer and a college or university located within the State; and

(3) \$1,000 per qualifying full-time job in the privilege period at a qualified facility in which the taxpayer has established an apprenticeship program or pre-apprenticeship program with a technical school or county college located within the State.

e. The total credit allowed to a taxpayer pursuant to this section during the privilege period shall not exceed \$500,000. A taxpayer shall not be eligible for a tax credit under this section for the same qualifying full-time job for which the taxpayer is receiving a tax credit incentive award under the Emerge Program established by sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.).

f. Notwithstanding the minimum tax schedule imposed pursuant to subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5), if the amount of the tax credit allowed exceeds the amount of corporation business tax otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), the amount of excess shall be treated as a refundable overpayment except that interest shall not be paid pursuant to section 7 of P.L.1992, c.175 (C.54:49-15.1) on the amount of overpayment attributable to this credit amount. The director shall determine the order of priority of the application of the credit allowed pursuant to this section and any other credits allowed by law.

g. The combined value of all tax credits approved by the authority and the director pursuant to this section and pursuant to section 2 of P.L.2020, c.156 (C.34:1B-270) shall not exceed \$10,000,000 in any State fiscal year to apply against the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).

h. An application for the tax credit shall be submitted to the authority in a form and manner prescribed by the chief executive officer of the authority. As a condition of receiving tax credits under this section, an applicant shall be required to commit to employing qualifying full-time jobs for which tax credits are awarded under this section for a period of five years.

i. Notwithstanding any provision of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the chief executive officer of the authority is authorized to adopt immediately upon filing with the Office of Administrative Law such rules and regulations which shall be effective for a period not to exceed 360 days following the date of filing and may thereafter be amended, adopted, or readopted by the chief executive officer of the authority in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.). The chief executive officer of the authority shall consult with the Commissioner of Health related to any specification requirements for what manufactured products are to qualify as personal protective equipment pursuant to this section.

j. As used in this section:

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

"Director" means Director of the Division of Taxation in the Department of the Treasury;

"Personal protective equipment" means coveralls, face shields, gloves, gowns, masks, respirators, safeguard equipment, and other equipment designed to protect the wearer from the spread of infection or illness as may be modified from time to time by the board of the authority.

"Qualified facility" means a facility that is:

(1) located in a redevelopment area or rehabilitation area as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3);

(2) located in a Smart Growth Area as identified by the Office of Planning Advocacy;

(3) a facility in which the manufacturing of personal protective equipment is part of a research collaboration between the taxpayer and a college or university located within the State;

(4) a facility in which the taxpayer has established an apprenticeship program or pre-apprenticeship program with a technical school or community located within the State; or

(5) a building vacant for not less than seven years in need of rehabilitation with a minimum of 250,000 square feet.

"Qualifying full-time job" means a full-time position in a business in this State which the business has filled with a full-time employee for the manufacturing of personal protective equipment in this State. The employee shall be employed for at least 35 hours a week and shall be paid employee wages at a rate of not less than \$15 per hour, or render any other standard of service generally accepted by custom or practice as full-time employment, whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. and is paid employee wages at a rate of not less than \$15 per hour. "Qualifying full-time job" shall not include any person who works as an independent contractor or on a consulting basis for the business. "Qualifying full-time job" includes only a position for which the taxpayer provides employee health benefits under a health benefits plan authorized pursuant to State or federal law.

51. Section 6 of P.L.2010, c.57 (C.34:1B-209.4) is amended to read as follows:

C.34:1B-209.4 Credit to business for wind energy facility; eligibility.

6. a. (1) A business, upon application to and approval from the authority, shall be awarded a credit of 100 percent of its capital investment, made after the effective date of P.L.2010, c.57 (C.48:3-87.1 et al.) but prior to its submission of documentation pursuant to subsection c. of this section, in a qualified wind energy facility located in the State, pursuant to the restrictions and requirements of this section. The award of a tax credit pursuant to this section shall be structured so that the award shall consist of up to five compliance years, each equaling 20 percent of the total value of the tax credit, to a qualified business over four privilege periods or taxable years in which the business meets the requirements for the minimum number of new, full-time employees. Otherwise eligible businesses with between 150 and 300 new, full-time jobs may receive an award based on a prorated formula developed by the authority, provided that the prorated minimum number of new, full-time jobs required in the fifth year shall be the same as the fourth year. To be eligible for any tax credits authorized under this section, a business shall demonstrate to the authority, at the time of application, that the State's financial support of the proposed capital investment in a qualified wind energy facility will yield a net positive benefit to the State. The value of all credits approved by the authority pursuant to this section shall not exceed the \$350,000,000 made available under section 98 of P.L.2020, c.156 (C.34:1B-362). Credits provided pursuant to this section shall not be applicable to the cap on the credits provided in section 3 of P.L.2007, c.346 (C.34:1B-209).

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

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

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

For the purposes of this paragraph, "full time employee" shall not include an employee who is a resident of another state and whose income is not subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., unless that state has entered into a reciprocity agreement with the State of New Jersey.

(3) A business shall not be awarded a tax credit pursuant to this section if the business receives a business employment incentive grant pursuant to the "Business Employment Incentive Program Act," P.L.1996, c.26 (C.34:1B-124 et al.), relating to the same capital and employees that qualify the business for this credit, or if the business receives assistance pursuant to the "Business Retention and Relocation Assistance Act," P.L.1996, c.25 (C.34:1B-112 et seq.). A business that is awarded a tax credit under this section shall not be eligible for incentives authorized pursuant to the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.).

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

b. A business shall apply for the credit by July 1, 2025, and a business shall submit its documentation for approval of its credit amount by July 1, 2028.

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

d. The amount of the credit awarded pursuant to this section shall, except as otherwise provided, be equal to the capital investment made by the business, or the capital investment represented by the business's leased area, and shall be taken over a five-year period, at the rate of one-fifth of the total amount of the business's credit for each tax accounting or privilege period of the business, beginning with the privilege period or taxable year in which the business is first approved by the authority as having met the investment capital and employment qualifications, subject to any disqualification as determined by annual review by the authority. In conducting its annual review, the authority may require a business to submit

any information determined by the authority to be necessary and relevant to its review. The credit amount for any privilege period or taxable year ending after the date 18 years after the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.) during which the documentation of a business's credit amount remains unapproved shall be forfeited, although credit amounts for the remainder of the years of the five-year credit period shall remain available. The amount of the credit awarded for a privilege period or taxable year to a business that is a tenant in a qualified wind energy facility shall not exceed the business's total lease payments for occupancy of the qualified wind energy facility for the privilege period or taxable year.

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

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

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

In addition, as used in this section:

"Equipment supply coordination agreement" means an agreement between a business and equipment manufacturer, supplier, installer, and operator that supports a qualified offshore wind project, or other wind energy project as determined by the authority, and that indicates the number of new, full-time jobs to be created by the agreement participants towards the employment requirement as set forth in paragraph (2) of subsection a. of this section.

"Minimum number of new, full-time employees" means:

(1) for the first year, at least a cumulative 100 new, full-time employees compared to the number of full-time employees at the time of application;

(2) for a privilege period or taxable year following the first year, at least a cumulative 150 new, full-time employees compared to the number of full-time employees at the time of application;

(3) for a privilege period or taxable year following the second year, at least a cumulative 200 new, full-time employees compared to the number of full-time employees at the time of application; and

(4) for a privilege period or taxable year following the third year and fourth year, at least a cumulative 300 new, full-time employees compared to the number of full-time employees at the time of application.

"Qualified offshore wind project" shall have the same meaning as provided in section 3 of P.L.1999, c.23 (C.48:3-51).

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

52. Section 1 of P.L.1997, c.334 (C.34:1B-7.42a) is amended to read as follows:

C.34:1B-7.42a Corporation business tax benefit certificate transfer program.

1. a. The New Jersey Economic Development Authority shall establish within the New Jersey Emerging Technology and Biotechnology Financial Assistance Program established pursuant to P.L.1995, c.137 (C.34:1B-7.37 et seq.), a corporation business tax benefit certificate transfer program to allow new or expanding emerging technology and biotechnology companies in this State with unused amounts of research and development tax credits otherwise allowable which cannot be applied for the credit's tax year due to the limitations of subsection b. of section 1 of P.L.1993, c.175 (C.54:10A-5.24) and unused prior net operating loss conversion carryover or net operating loss carryover pursuant to section 4 of P.L.1945, c.162 (C.54:10A-4), to surrender those tax benefits for use by other corporation business taxpayers in this State, provided that the taxpayer receiving the surrendered tax benefits is not affiliated with a corporation that is surrendering its tax benefits under the program established under P.L.1997, c.334. For the purposes of this section, the test of affiliation is whether the same entity directly or indirectly owns or controls five percent or more of the voting rights or five percent or more of the value of all classes of stock of both the taxpayer receiving the benefits and a corporation that is surrendering the benefits. The tax benefits may be used on the corporation business tax returns to be filed by those taxpayers in exchange for private financial assistance to be provided by the corporation business taxpayer that is the recipient of the corporation business tax benefit certificate to assist in the funding of costs incurred by the new or expanding emerging technology and biotechnology company. For purposes of this subsection, a member of a combined group may sell prior net operating loss conversion carryover to other members of the combined group, if otherwise applicable and allowable under section 2 of P.L.1997, c.334 (C.54:10A-4.2) and this section; provided, however, such sale of prior net operating loss conversion carryover shall be made at arm's length price at the same rate as though the sale was to an unrelated taxpayer.

b. The authority, in cooperation with the Division of Taxation in the Department of the Treasury, shall review and approve applications by new or expanding emerging technology and biotechnology companies in this State with unused but otherwise allowable carryover of research and development tax credits pursuant to section 1 of P.L.1993, c.175 (C.54:10A-5.24), and unused but otherwise allowable prior net operating loss conversion carryover or net operating loss carryover pursuant to section 4 of P.L.1945, c.162 (C.54:10A-4), to surrender those tax benefits in exchange for private financial assistance to be made by the corporation business taxpayer that is the recipient of the corporation business tax benefit certificate in an amount equal to at least 80 percent of the amount of the surrendered tax benefit. Provided that the amount of the surrendered tax benefit for a surrendered research and development tax credit carryover is the amount of the credit, and provided that the amount of the surrendered tax benefit for a surrendered prior net operating loss conversion carryover or net operating loss carryover is that amount for the tax year in which the benefit is transferred and subsequently multiplied by the corporation business tax rate provided

pursuant to subsection (c) of section 5 of P.L.1945, c.162 (C.54:10A-5). The authority shall be authorized to approve the transfer of no more than \$75,000,000 of tax benefits in a State fiscal year. If the total amount of transferable tax benefits requested to be surrendered by approved applicants exceeds \$75,000,000 for a State fiscal year, the authority, in cooperation with the Division of Taxation in the Department of the Treasury, shall not be authorized to approve the transfer of more than \$75,000,000 for that State fiscal year and shall allocate the transfer of tax benefits by approved companies using the following method:

(1) an eligible applicant with \$250,000 or less of transferable tax benefits shall be authorized to surrender the entire amount of its transferable tax benefits;

(2) an eligible applicant with more than \$250,000 of transferable tax benefits shall be authorized to surrender a minimum of \$250,000 of its transferable tax benefits;

(3) (Deleted by amendment, P.L.2009, c.90.)

(4) an eligible applicant with more than \$250,000 shall also be authorized to surrender additional transferable tax benefits determined by multiplying the applicant's transferable tax benefits less the minimum transferable tax benefits that company is authorized to surrender under paragraph (2) of this subsection by a fraction, the numerator of which is the total amount of transferable tax benefits that the authority is authorized to approve less the total amount of transferable tax benefits approved under paragraphs (1), (2), and (5) of this subsection and the denominator of which is the total amount of transferable tax benefits requested to be surrendered by all eligible applicants less the total amount of transferable tax benefits approved under paragraphs (1), (2), and (5) of this subsection;

(5) The authority shall establish the boundaries for three innovation zones to be geographically distributed in the northern, central, and southern portions of this State. Of the \$75,000,000 of transferable tax benefits authorized for each State fiscal year, \$15,000,000 shall be allocated for the surrender of transferable tax benefits exclusively by new and expanding emerging technology and biotechnology companies that operate within the boundaries of the innovation zones or opportunity zones, or for new and expanding emerging technology and biotechnology companies that are certified as a woman- or minority-owned business at the time of program application, except that any portion of the \$15,000,000 that is not so approved shall be available for that State fiscal year for the surrender of transferable tax benefits by new and expanding emerging technology and biotechnology companies that do not operate within the boundaries of an innovation zone or opportunity zone, or for a new and expanding emerging technology and biotechnology company that is certified as a woman- or minority-owned business at the time of program application.

If the total amount of transferable tax benefits that would be authorized using the above method exceeds \$75,000,000 for a State fiscal year, then the authority, in cooperation with the Division of Taxation in the Department of the Treasury, shall limit the total amount of tax benefits authorized to be transferred to \$75,000,000 by applying the above method on an apportioned basis.

For purposes of this section transferable tax benefits include an eligible applicant's unused but otherwise allowable prior net operating loss conversion carryover or net operating loss carryover determined pursuant to section 4 of P.L.1945, c.162 (C.54:10A-4) for the tax year in which the benefit is transferred and subsequently multiplied by the corporation business tax rate as provided in subsection (c) of section 5 of P.L.1945, c.162 (C.54:10A-5) plus the total amount of the applicant's unused but otherwise allowable carryover of research and development tax credits. An eligible applicant's transferable tax benefits shall be limited to net operating losses and research and development tax credits that the applicant requests to

surrender in its application to the authority and shall not, in total, exceed the maximum amount of tax benefits that the applicant is eligible to surrender.

No application for a corporation business tax benefit transfer certificate shall be approved in which the new or expanding emerging technology or biotechnology company (1) has demonstrated positive net operating income in any of the two previous full years of ongoing operations as determined on its financial statements issued according to generally accepted accounting standards endorsed by the Financial Accounting Standards Board; or (2) is directly or indirectly at least 50 percent owned or controlled by another corporation that has demonstrated positive net operating income in any of the two previous full years of ongoing operations as determined on its financial statements issued according to generally accepted accounting standards endorsed by the Financial Accounting Standards Board or is part of a consolidated group of affiliated corporations, as filed for federal income tax purposes, that in the aggregate has demonstrated positive net operating income in any of the two previous full years of ongoing operations as determined on its combined financial statements issued according to generally accepted accounting standards endorsed by the Financial Accounting Standards Board.

For purposes of this subsection, a member of a combined group may sell prior net operating loss conversion carryover to other members of the combined group, if otherwise applicable and allowable under section 2 of P.L.1997, c.334 (C.54:10A-4.2) and this section; provided, however, such sale of prior net operating loss conversion carryover shall be made at arm's length price at the same rate as though the sale was to an unrelated taxpayer.

The maximum lifetime value of surrendered tax benefits that a corporation shall be permitted to surrender pursuant to the program is \$20,000,000. Applications must be received on or before June 30 of each State fiscal year.

The authority, in consultation with the Division of Taxation, shall establish rules for the recapture of all, or a portion of, the amount of a grant of a corporation business tax benefit certificate from the new or expanding emerging technology and biotechnology company having surrendered tax benefits pursuant to this section in the event the taxpayer fails to use the private financial assistance received for the surrender of tax benefits as required by this section or fails to maintain a headquarters or a base of operation in this State during the five years following receipt of the private financial assistance; except if the failure to maintain a headquarters or a base of operation in this State is due to the liquidation of the new or expanding emerging technology and biotechnology company.

c. The authority, in cooperation with the Division of Taxation in the Department of the Treasury, shall review and approve applications by taxpayers under the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), to acquire surrendered tax benefits approved pursuant to subsection b. of this section which shall be issued in the form of corporation business tax benefit transfer certificates, in exchange for private financial assistance to be made by the taxpayer in an amount equal to at least 80 percent of the amount of the surrendered tax benefit of an emerging technology or biotechnology company in the State. A corporation business tax benefit transfer certificate shall not be issued unless the applicant certifies that as of the date of the exchange of the corporation business tax benefit certificate it is operating as a new or expanding emerging technology or biotechnology company and has no current intention to cease operating as a new or expanding emerging technology or biotechnology company.

The managerial member of a combined group shall be the member that acquires a corporation business tax benefit certificate on behalf of the combined group for use on the combined return.

The private financial assistance shall assist in funding expenses incurred in connection with the operation of the new or expanding emerging technology or biotechnology company in the State, including but not limited to the expenses of fixed assets, such as the construction and acquisition and development of real estate, materials, start-up, tenant fit-out, working capital, salaries, research and development expenditures and any other expenses determined by the authority to be necessary to carry out the purposes of the New Jersey Emerging Technology and Biotechnology Financial Assistance Program.

The authority shall require a corporation business taxpayer that acquires a corporation business tax benefit certificate to enter into a written agreement with the new or expanding emerging technology or biotechnology company concerning the terms and conditions of the private financial assistance made in exchange for the certificate. The written agreement may contain terms concerning the maintenance by the new or expanding emerging technology or biotechnology company of a headquarters or a base of operation in this State.

d. (Deleted by amendment, P.L.2009, c.90.)

53. Section 1 of P.L.1999, c.140 (C.34:1B-7.42b) is amended to read as follows:

C.34:1B-7.42b Definitions relative to certain corporation tax benefit programs.

1. As used in P.L.1997, c.334 (C.34:1B-7.42a et al.):

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

"Biotechnology" means the continually expanding body of fundamental knowledge about the functioning of biological systems from the macro level to the molecular and sub-atomic levels, as well as novel products, services, technologies and sub-technologies developed as a result of insights gained from research advances that add to that body of fundamental knowledge. This definition may be modified by regulation to conform to definitions in other programs administered by the authority.

"Biotechnology company" means an emerging corporation that has its headquarters or base of operations in this State; that owns, has filed for, or has a valid license to use protected, proprietary intellectual property; and that is engaged in the research, development, production, or provision of biotechnology for the purpose of developing or providing products or processes for specific commercial or public purposes, including but not limited to, medical, pharmaceutical, nutritional, and other health-related purposes, agricultural purposes, and environmental purposes. This definition may be modified by regulation to conform to definitions in other programs administered by the authority.

"Full-time employee" means a person employed by a new or expanding emerging technology or biotechnology company for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment and whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or who is a partner of a new or expanding emerging technology or biotechnology company who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. To qualify as a "full-time employee," an employee shall also receive from the new or expanding emerging technology or biotechnology company health benefits under a health benefits plan authorized pursuant to State or federal law. "Full-time

employee" shall not include any person who works as an independent contractor or on a consulting basis for the new or expanding emerging technology or biotechnology company.

"New or expanding" means a technology or biotechnology company that (1) on June 30 of the year in which the company files an application for surrender of unused but otherwise allowable tax benefits under P.L.1997, c.334 (C.34:1B-7.42a et al.) and on the date of the exchange of the corporation business tax benefit certificate, has fewer than 225 employees in the United States of America; (2) on June 30 of the year in which the company files such an application, has at least one full-time employee working in this State if the company has been incorporated for less than three years, has at least five full-time employees working in this State if the company has been incorporated for more than three years but less than five years, and has at least 10 full-time employees working in this State if the company has been incorporated for more than five years; and (3) on the date of the exchange of the corporation business tax benefit certificate, the company has the requisite number of full-time employees in New Jersey that were required on June 30 as set forth in part (2) of this definition.

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

"Technology company" means an emerging corporation that has its headquarters or base of operations in this State; that owns, has filed for, or has a valid license to use protected, proprietary intellectual property; and that employs some combination of the following: highly educated or trained managers and workers, or both, employed in this State who use sophisticated scientific research service or production equipment, processes or knowledge to discover, develop, test, transfer or manufacture a product or service. This definition may be modified by regulation to conform to definitions in other programs administered by the authority.

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

C.52:27D-489e Economic Redevelopment and Growth Grant Program.

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

b. (1) A developer shall submit an application for a State incentive grant prior to July 1, 2019, except: (a) a developer of a qualified residential project or a mixed use parking project seeking an award of credits toward the funding of its incentive grant for a project restricted under category (viii) of subparagraph (b) of paragraph (3) of subsection b. of section 6 of P.L.2009, c.90 (C.52:27D-489f) shall submit an incentive grant application prior to December 31, 2021; (b) a developer of a qualified residential project seeking an award of credits toward the funding of its incentive grant under subparagraph (g) of paragraph (3) of subsection b. of section 6 of P.L.2009, c.90 (C.52:27D-489f) shall submit an incentive grant application prior to December 31, 2021; and (c) a developer of a commercial project seeking a State incentive grant under subparagraph (b) of paragraph (1) of subsection b. of section 6 of P.L.2009, c.90 (C.52:27D-489f) shall submit an incentive grant application prior to December 31, 2021. A developer that submits an application for a State incentive grant shall indicate on the application whether it is also applying for a local incentive grant. Tax credits awarded to developers who apply after the effective date of P.L.2020, c.156 (C.34:1B-269 et

al.) under subparagraph (g) of paragraph (3) of subsection b. of section 6 of P.L.2009, c.90 (C.52:27D-489f) shall not exceed \$125,000,000. Incentive grants awarded to developers who apply after the effective date of P.L.2020, c.156 under subparagraph (b) of paragraph (1) of subsection b. of section 6 of P.L.2009, c.90 (C.52:27D-489f) shall not exceed \$75,000,000.

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

c. An application for a State incentive grant shall be reviewed and approved by the authority. The authority shall not approve an application for a State incentive grant unless the application was submitted prior to July 1, 2019, except: (1) the authority shall not approve an application for a State incentive grant by a developer of a qualified residential project or a mixed use parking project seeking an award of credits toward the funding of its incentive grant for a project restricted under category (viii) of subparagraph (b) of paragraph (3) of subsection b. of section 6 of P.L.2009, c.90 (C.52:27D-489f) unless the application was submitted prior to December 31, 2021 and (2) the authority shall not approve an application for a State incentive grant by a developer under subparagraph (g) of paragraph (3) and subparagraph (b) of paragraph (1) of subsection b. of section 6 of P.L.2009, c.90 (C.52:27D-489f) unless the application was submitted prior to December 31, 2021.

d. A developer shall not be required to purchase pinelands development credits under the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), the pinelands comprehensive management plan, or any other rule or regulation adopted pursuant to that act in connection with any approval or relief obtained related to a redevelopment project located in an aviation district on or after the effective date of P.L.2018, c.120, except if seeking to develop in permanently protected open space pursuant to the Pinelands Protection Act. The provisions of this subsection shall not apply to a developer of a qualified residential project.

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

C.52:27D-489f Payment to developer from State.

6. a. Up to the limits established in subsection b. of this section and in accordance with a redevelopment incentive grant agreement, beginning upon the receipt of occupancy permits for any portion of the redevelopment project, or upon any other event evidencing project completion as set forth in the incentive grant agreement, the State Treasurer shall pay to the developer incremental State revenues directly realized from businesses operating at the site of the redevelopment project from the following taxes: the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), the tax imposed on marine insurance companies pursuant to R.S.54:16-1 et seq., the tax imposed on insurers generally, pursuant to P.L.1945, c.132 (C.54:18A-1 et seq.), the public utility franchise tax, public utilities gross receipts tax and public utility excise tax imposed on sewerage and water corporations pursuant to P.L.1940, c.5 (C.54:30A-49 et seq.), those tariffs and charges imposed by electric, natural gas, telecommunications, water and sewage utilities, and cable television companies under the jurisdiction of the New Jersey Board of Public Utilities, or comparable entity, except for those tariffs, fees, or taxes related to societal benefits charges assessed pursuant to section 12 of P.L.1999, c.23 (C.48:3-60), any charges paid for compliance with the "Global Warming Response Act," P.L.2007, c.112 (C.26:2C-37 et seq.), transitional energy facility assessment unit taxes paid pursuant to section 67 of P.L.1997, c.162 (C.48:2-21.34), and the sales and use taxes on public utility and cable television services and

commodities, the tax derived from net profits from business, a distributive share of partnership income, or a pro rata share of S corporation income under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., the tax derived from a business at the site of a redevelopment project that is required to collect the tax pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), the tax imposed pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.) from the purchase of furniture, fixtures and equipment, or materials for the remediation, the construction of new structures at the site of a redevelopment project, the hotel and motel occupancy fee imposed pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1), or the portion of the fee imposed pursuant to section 3 of P.L.1968, c.49 (C.46:15-7) derived from the sale of real property at the site of the redevelopment project and paid to the State Treasurer for use by the State, that is not credited to the "Shore Protection Fund" or the "Neighborhood Preservation Nonlapsing Revolving Fund" ("New Jersey Affordable Housing Trust Fund") pursuant to section 4 of P.L.1968, c.49 (C.46:15-8). Any developer shall be allowed to assign their ability to apply for the tax credit under this subsection to a non-profit organization with a mission dedicated to attracting investment and completing development and redevelopment projects in a Garden State Growth Zone. The non-profit organization may make an application on behalf of a developer which meets the requirements for the tax credit, or a group of non-qualifying developers, such that these will be considered a unified project for the purposes of the incentives provided under this section.

b. (1) (a) Up to an average of 75 percent of the projected annual incremental revenues or 85 percent of the projected annual incremental revenues in a Garden State Growth Zone may be pledged towards the State portion of an incentive grant.

(b) State incentive grants not to exceed an aggregate total value of \$75,000,000 shall be made available by the authority for applications submitted after the effective date of P.L.2020, c.156, but prior to December 31, 2021, for projects that are predominantly commercial and contain 100,000 or more square feet of office and retail space, or industrial space for purchase or lease, and may include a parking component. The developer of a project seeking an award of credits for a project restricted under this subparagraph shall submit an incentive grant application prior to December 31, 2021, and if approved after the effective date of P.L.2020, c.156, shall submit a temporary certificate of occupancy for the project no later than December 31, 2024. In addition to the requirements for an incentive award set forth in P.L.2009, c.90 (C.52:27D-489a et al.), a developer shall be eligible to receive an award of credits for a project restricted under this subparagraph only if the developer demonstrates to the authority at that time of application that: (i) the project shall comply with minimum environmental and sustainability standards; (ii) the project shall comply with the authority's affirmative action requirements, adopted pursuant to section 4 of P.L.1979, c.303 (C.34:1B-5.4); (iii) each worker employed by the developer, or subcontractor of a developer working at the project, shall be paid not less than \$15 per hour or 120 percent of the minimum wage fixed under subsection a. of section 5 of P.L.1966, c.113 (C.34:11-56a4), whichever is higher; and (iv) during the eligibility period, each worker employed to perform construction work or building services work at the project shall be paid not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.).

(2) In the case of a qualified residential project or a project involving university infrastructure, if the authority determines that the estimated amount of incremental revenues pledged towards the State portion of an incentive grant is inadequate to fully fund the amount of the State portion of the incentive grant, then in lieu of an incentive grant based on the

incremental revenues, the developer shall be awarded tax credits equal to the full amount of the incentive grant.

(3) In the case of a mixed use parking project, if the authority determines that the estimated amount of incremental revenues pledged towards the State portion of an incentive grant is inadequate to fully fund the amount of the State portion of the incentive grant, then, in lieu of an incentive grant based on the incremental revenues, the developer shall be awarded tax credits equal to the full amount of the incentive grant.

The value of all credits approved by the authority pursuant to paragraphs (2) and (3) of this subsection shall not exceed \$968,000,000, of which:

(a) \$250,000,000 shall be restricted to qualified residential projects within Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, and Salem counties, of which \$175,000,000 of the credits shall be restricted to the following categories of projects: (i) qualified residential projects located in a Garden State Growth Zone located within the aforementioned counties; and (ii) mixed use parking projects located in a Garden State Growth Zone or urban transit hub located within the aforementioned counties; (iii) and \$75,000,000 of the credits shall be restricted to qualified residential projects in municipalities with a 2007 Municipal Revitalization Index of 400 or higher as of the date of enactment of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.) and located within the aforementioned counties;

(b) \$415,000,000 shall be restricted to the following categories of projects: (i) qualified residential projects located in urban transit hubs that are commuter rail in nature that otherwise do not qualify under subparagraph (a) of this paragraph; (ii) qualified residential projects located in Garden State Growth Zones that do not qualify under subparagraph (a) of this paragraph; (iii) mixed use parking projects located in urban transit hubs or Garden State Growth Zones that do not qualify under subparagraph (a) of this paragraph, provided however, an urban transit hub shall be allocated no more than \$25,000,000 for mixed use parking projects; (iv) qualified residential projects which are disaster recovery projects that otherwise do not qualify under subparagraph (a) of this paragraph; (v) qualified residential projects in SDA municipalities located in Hudson County that were awarded State Aid in State Fiscal Year 2013 through the Transitional Aid to Localities program and otherwise do not qualify under subparagraph (a) of this paragraph; (vi) \$25,000,000 of credits shall be restricted to mixed use parking projects in Garden State Growth Zones which have a population in excess of 125,000 and do not qualify under subparagraph (a) of this paragraph; (vii) \$40,000,000 of credits shall be restricted to qualified residential projects that include a theater venue for the performing arts and do not qualify under subparagraph (a) of this paragraph, which projects are located in a municipality with a population of less than 100,000 according to the latest federal decennial census, and within which municipality is located an urban transit hub and a campus of a public research university, as defined in section 1 of P.L.2009, c.308 (C.18A:3B-46); and (viii) \$125,000,000 of credits shall be restricted to qualified residential projects and mixed use parking projects in Garden State Growth Zones having a population in excess of 125,000 and do not qualify under subparagraph (a) of this paragraph;

(c) \$87,000,000 shall be restricted to the following categories of projects: (i) qualified residential projects located in distressed municipalities, deep poverty pockets, highlands development credit receiving areas or redevelopment areas, otherwise not qualifying pursuant to subparagraph (a) or (b) of this paragraph; and (ii) mixed use parking projects that do not qualify under subparagraph (a) or (b) of this paragraph, and which are used by an independent institution of higher education, a school of medicine, a nonprofit hospital

system, or any combination thereof; provided, however, that \$20,000,000 of the \$87,000,000 shall be allocated to mixed use parking projects that do not qualify under subparagraph (a) or (b) of this paragraph;

(d) (i) \$16,000,000 shall be restricted to qualified residential projects that are located within a qualifying economic redevelopment and growth grant incentive area otherwise not qualifying under subparagraph (a), (b), or (c) of this paragraph; and

(ii) an additional \$50,000,000 shall be restricted to qualified residential projects which, as of the effective date of P.L.2016, c.51, are located in a city of the first class with a population in excess of 270,000, are subject to a Renewal Contract for a Section 8 Mark-Up-To-Market Project from the United States Department of Housing and Urban Development, and for which an application for the award of tax credits under this subsection was submitted prior to January 1, 2016;

(e) \$25,000,000 shall be restricted to projects involving university infrastructure; and

(f) (Deleted by amendment, P.L.2021, c.160)

(g) \$125,000,000 shall be restricted to applications submitted after the effective date of P.L.2020, c.156 (C.34:1B-269 et al.) for residential projects in any county of the State.

(h) For subparagraphs (a) through (d) of this paragraph, not more than \$40,000,000 of credits shall be awarded to any qualified residential project in a deep poverty pocket or distressed municipality and not more than \$20,000,000 of credits shall be awarded to any other qualified residential project. The developer of a qualified residential project seeking an award of credits towards the funding of its incentive grant shall submit an incentive grant application prior to July 1, 2016 and if approved after September 18, 2013, the effective date of P.L.2013, c.161 (C.52:27D-489p et al.) shall submit a temporary certificate of occupancy for the project no later than December 31, 2023. The developer of a mixed use parking project seeking an award of credits towards the funding of its incentive grant pursuant to subparagraph (c) of this paragraph and if approved after the effective date of P.L.2015, c.217, shall submit a temporary certificate of occupancy for the project no later than December 31, 2023. The developer of a qualified residential project or a mixed use parking project seeking an award of credits toward the funding of its incentive grant for a project restricted under categories (vi) and (viii) of subparagraph (b) of this paragraph shall submit an incentive grant application prior to July 1, 2019 or, in the case of a project restricted under category (viii) of subparagraph (b) of this paragraph, December 31, 2021, and if approved after the effective date of P.L.2017, c.59, shall submit a temporary certificate of occupancy for the project no later than December 31, 2023 provided that the municipality in which the project is located shall have submitted to the chief executive officer of the authority a letter of support identifying up to six projects prior to July 1, 2018. The letter of support is to contain a project scope for each of the projects and may be supplemented or amended from time to time until July 1, 2019 or, in the case of a project restricted under category (viii) of subparagraph (b) of this paragraph, December 31, 2021. Applications for tax credits pursuant to this subsection relating to an ancillary infrastructure project or infrastructure improvement in the public right-of-way, or both, shall be accompanied with a letter of support relating to the project or improvement by the governing body or agency in which the project is located. Credits awarded to a developer pursuant to this subsection shall be subject to the same financial and related analysis by the authority, the same term of the grant, and the same mechanism for administering the credits, and shall be utilized or transferred by the developer as if the credits had been awarded to the developer pursuant to section 35 of P.L.2009, c.90 (C.34:1B-209.3) for qualified residential projects thereunder. No portion of the revenues pledged pursuant to the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161

(C.52:27D-489p et al.) shall be subject to withholding or retainage for adjustment, in the event the developer or taxpayer waives its rights to claim a refund thereof.

(i) The developer of a project seeking an award of credits for a project restricted under subparagraph (g) of this paragraph shall submit an incentive grant application prior to December 31, 2021, and if approved after the effective date of P.L.2020, c.156 (C.34:1B-269 et al.), shall submit a temporary certificate of occupancy for the project no later than December 31, 2024. In addition to the requirements for an award of credits set forth in P.L.2009, c.90 (C.52:27D-489a et al.), a developer shall be eligible to receive an award of credits for a project restricted under subparagraph (g) of this paragraph only if the developer demonstrates to the authority at that time of application that: (i) the project shall comply with minimum environmental and sustainability standards; (ii) the project shall comply with the authority's affirmative action requirements, adopted pursuant to section 4 of P.L.1979, c.303 (C.34:1B-5.4); (iii) each worker employed by the developer or subcontractor of a developer working at the project shall be paid not less than \$15 per hour or 120 percent of the minimum wage fixed under subsection a. of section 5 of P.L.1966, c.113 (C.34:11-56a4), whichever is higher; and (iv) during the eligibility period, each worker employed to perform construction work or building services work at the project shall be paid not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.).

Prior to the board considering an application submitted by a developer for a project restricted under subparagraph (g) of this paragraph, the authority shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury whether the developer is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan for the developer. The developer, or an authorized agent of the developer, shall certify to the authority that all factual assertions made in the developer's application are true under the penalty of perjury. If at any time the authority determines that the developer made a material misrepresentation on the developer's application, the developer shall forfeit the award of credits and the authority shall recapture any tax credits awarded to the developer.

(4) A developer may apply to the Director of the Division of Taxation in the Department of the Treasury and the chief executive officer of the authority for a tax credit transfer certificate, if the developer is awarded a tax credit pursuant to paragraph (2) or paragraph (3) of this subsection, covering one or more years, in lieu of the developer being allowed any amount of the credit against the tax liability of the developer. The tax credit transfer certificate, upon receipt thereof by the developer from the director and the chief executive officer of the authority, may be sold or assigned, in full or in part, to any other person who may have a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The certificate provided to the developer shall include a statement waiving the developer's right to claim that amount of the credit against the taxes that the developer has elected to sell or assign. The sale or assignment of any amount of a tax credit transfer certificate allowed under this paragraph shall not be exchanged for consideration received by the developer of less than 75 percent of the transferred credit amount before considering any further discounting to present value that may be permitted. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax

liability shall be subject to the same limitations and conditions that apply to the use of the credit by the developer who originally applied for and was allowed the credit.

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

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

e. The municipality is authorized to collect any information necessary to facilitate grants under this program and remit that information in order to assist in the calculation of incremental revenue.

56. Section 8 of P.L.2009, c.90 (C.52:27D-489h) is amended to read as follows:

C.52:27D-489h Incentive grant application form, procedures.

8. a. (1) The authority, in consultation with the State Treasurer, shall promulgate an incentive grant application form and procedure for the Economic Redevelopment and Growth Grant program.

(2) (a) The Local Finance Board, in consultation with the authority, shall develop a minimum standard incentive grant application form for municipal Economic Redevelopment and Growth Grant programs.

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

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

(1) the status of control of the entire redevelopment project site;

(2) all required State and federal government permits that have been issued for the redevelopment project, or will be issued pending resolution of financing issues;

(3) local planning and zoning board approvals, as required, for the redevelopment project;

(4) estimates of the revenue increment base, the eligible revenues for the project, and the assumptions upon which those estimates are made.

c. (1) With regard to State tax revenues proposed to be pledged for an incentive grant the authority and the State Treasurer shall review the project costs, evaluate and validate the project financing gap estimated by the developer, and conduct a State fiscal impact analysis to ensure that the overall public assistance provided to the project, except with regards to a qualified residential project, a mixed use parking project, or a project involving university infrastructure, will result in net benefits to the State including, without limitation, both direct and indirect economic benefits and non-financial community revitalization objectives, including but not limited to, the promotion of the use of public transportation in the case of the ancillary infrastructure project portion of any transit project.

(2) With regard to local incremental revenues proposed to be pledged for an incentive grant the authority and the Local Finance Board shall review the project costs, and except with respect to an application by a municipal redeveloper, evaluate and validate the project

financing gap projected by the developer, and conduct a local fiscal impact analysis to ensure that the overall public assistance provided to the project, except with regards to a qualified residential project, a mixed use parking project, or a project involving university infrastructure, will result in net benefits to the municipality wherein the redevelopment project is located including, without limitation, both direct and indirect economic benefits and non-financial community revitalization objectives, including but not limited to, the promotion of the use of public transportation in the case of the ancillary infrastructure project portion of any transit project.

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

(4) The costs of the aforementioned reviews shall be assessed to the applicant as an application fee, except for applications submitted on or after January 1, 2018, but before June 30, 2019, which are amended after the effective date of P.L.2020, c.156 (C.34:1B-269 et al.), the authority may waive fees.

(5) A developer who has already applied for an incentive grant award prior to the effective date of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), but who has not yet been approved for the grant, or has not executed an agreement with the authority, may proceed under that application or seek to amend the application or reapply for an incentive grant award for the same project or any part thereof for the purpose of availing himself or herself of any more favorable provisions of the Economic Redevelopment and Growth Grant program established pursuant to the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), except that projects with costs exceeding \$200,000,000 shall not be eligible for revised percentage caps under subsection d. of section 19 of P.L.2013, c.161 (C.52:27D-489i).

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

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

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

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

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

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

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

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

(2) (a) A business shall submit its documentation indicating that it has met the capital investment and employment requirements and all conditions of approvals specified in the incentive agreement for certification of its tax credit amount, to the authority's satisfaction, within three years following the date of approval of its application by the authority. The

authority shall have the discretion to grant two six-month extensions of this deadline. If the authority accepts the documentation, the authority shall request that the Division of Taxation in the Department of the Treasury issue a tax credit based on the approved documentation to be used by the business during the eligibility period. Except as provided in subparagraphs (b) and (c) of this paragraph, in no event shall the incentive effective date occur later than four years following the date of approval of an application by the authority.

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

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

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

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

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

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

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

A business may elect to suspend its obligations for the 2020 tax period and, if the public health emergency or state of emergency declared due to the COVID-19 pandemic extends past March 2021, the 2021 tax period, provided that the business shall make such election in writing to the authority before the date the annual report is due and such suspension shall extend the term of the eligibility period by a corresponding amount of time. The authority shall amend the incentive agreement, and the business shall execute the amended incentive agreement within the time period provided by the authority. The amended incentive

agreement shall provide that the failure to submit the annual report due to the suspension shall not be a forfeiture or an uncertified tax period.

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

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

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

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

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

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

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

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

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

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

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

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

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

f. A business which has already applied for a tax credit incentive award prior to the effective date of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161

(C.52:27D-489p et al.), but who has not yet been approved for the tax credits, or has not executed an agreement with the authority, may proceed under that application or seek to amend the application or reapply for a tax credit incentive award for the same project or any part thereof for the purpose of availing itself of any more favorable provisions of the program.

g. A business that has entered into an incentive agreement may request before December 31, 2022 to terminate the incentive agreement due to the COVID-19 public health emergency; provided that the business shall submit a certification from the business's chief executive officer or equivalent officer stating that the termination is due to the public health emergency and describing the impact of the public health emergency on the business. All credits for the tax period in which the termination occurs and all subsequent tax periods shall be forfeited, provided however that any credits of the business shall remain unaffected.

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

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

58. Section 1 of P.L.2018, c.56 (C.54:10A-5.39b) is amended to read as follows:

C.54:10A-5.39b Credit against tax imposed for qualified film production expenses.

1. a. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in an amount equal to 35 percent of the qualified film production expenses of the taxpayer during a privilege period commencing on or after July 1, 2018 but before July 1, 2034, provided that:

(a) at least 60 percent of the total film production expenses, exclusive of post-production costs, of the taxpayer are incurred for services performed, and goods purchased through vendors authorized to do business, in New Jersey, or the qualified film production expenses of the taxpayer during the privilege period for services performed, and goods purchased, through vendors authorized to do business in New Jersey, exceed \$1,000,000 per production;

(b) principal photography of the film commences within 180 days from the date of the original application for the tax credit;

(c) the film includes, when determined to be appropriate by the commission, at no cost to the State, marketing materials promoting this State as a film and entertainment production destination, which materials shall include placement of a "Filmed in New Jersey" or "Produced in New Jersey" statement, or an approved logo approved by the commission, in the end credits of the film;

(d) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection f. of this section; and

(e) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection g. of this section.

(2) Notwithstanding the provisions of paragraph (1) of subsection a. of this section to the contrary, the tax credit allowed pursuant to this subsection against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount equal to 30 percent of the qualified film production expenses of the taxpayer during a privilege period that are incurred for services performed and tangible personal property purchased for use at a sound stage or other location that is located in the State within a 30-mile radius of the intersection of Eighth Avenue/Central Park West, Broadway, and West 59th Street/Central Park South, New York, New York.

b. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in an amount equal to: 20 percent of the qualified digital media content production expenses of the taxpayer during a privilege period commencing on or after July 1, 2018 but before July 1, 2034, provided that:

(a) at least \$2,000,000 of the total digital media content production expenses of the taxpayer are incurred for services performed, and goods purchased through vendors authorized to do business, in New Jersey;

(b) at least 50 percent of the qualified digital media content production expenses of the taxpayer are for wages and salaries paid to full-time or full-time equivalent employees in New Jersey;

(c) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection f. of this section; and

(d) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection g. of this section.

(2) Notwithstanding the provisions of paragraph (1) of subsection b. of this section to the contrary, the tax credit allowed pursuant to this subsection against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount equal to 25 percent of the qualified digital media content production expenses of the taxpayer during a privilege period that are incurred for services performed and tangible personal property purchased through vendors whose primary place of business is located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, or Salem County.

c. No tax credit shall be allowed pursuant to this section for any costs or expenses included in the calculation of any other tax credit or exemption granted pursuant to a claim made on a tax return filed with the director, or included in the calculation of an award of business assistance or incentive, for a period of time that coincides with the privilege period for which a tax credit authorized pursuant to this section is allowed. The order of priority in which the tax credit allowed pursuant to this section and any other tax credits allowed by law may be taken shall be as prescribed by the director. The amount of the tax credit applied under this section against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), for a privilege period, when taken together with any other payments, credits, deductions, and adjustments allowed by law shall not reduce the tax liability of the taxpayer

to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of the tax credit otherwise allowable under this section which cannot be applied for the privilege period due to the limitations of this subsection or under other provisions of P.L.1945, c.162 (C.54:10A-1 et seq.) may be carried forward, if necessary, to the seven privilege periods following the privilege period for which the tax credit was allowed.

d. A taxpayer, with an application for a tax credit provided for in subsection a. or subsection b. of this section, may apply to the authority and the director for a tax credit transfer certificate in lieu of the taxpayer being allowed any amount of the tax credit against the tax liability of the taxpayer. The tax credit transfer certificate, upon receipt thereof by the taxpayer from the authority and the director, may be sold or assigned, in full or in part, to any other taxpayer that may have a tax liability under the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), or the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in exchange for private financial assistance to be provided by the purchaser or assignee to the taxpayer that has applied for and been granted the tax credit. The tax credit transfer certificate provided to the taxpayer shall include a statement waiving the taxpayer's right to claim that amount of the tax credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) that the taxpayer has elected to sell or assign. The sale or assignment of any amount of a tax credit transfer certificate allowed under this section shall not be exchanged for consideration received by the taxpayer of less than 75 percent of the transferred tax credit amount. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability under P.L.1945, c.162 (C.54:10A-1 et seq.) shall be subject to the same limitations and conditions that apply to the use of a tax credit pursuant to subsection c. of this section. Any amount of a tax credit transfer certificate obtained by a purchaser or assignee under subsection a. or subsection b. of this section may be applied against the purchaser's or assignee's tax liability under N.J.S.54A:1-1 et seq. and shall be subject to the same limitations and conditions that apply to the use of a credit pursuant to subsections c. and d. of section 2 of P.L.2018, c.56 (C.54A:4-12b).

e. (1) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) to taxpayers, other than New Jersey studio partners and New Jersey film-lease partners, shall not exceed a cumulative total of \$100,000,000 in fiscal year 2019 and in each fiscal year thereafter prior to fiscal year 2035 to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. In addition to the \$100,000,000 limitation on the value of tax credits approved by the director for New Jersey film-lease partners and the \$100,000,000 limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey studio partners shall not exceed a cumulative total of \$100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year 2034 to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. Beginning in fiscal year 2025, in addition to the \$100,000,000 made available for New Jersey studio partners pursuant to this paragraph, up to an additional \$350,000,000 may be made available annually, in the discretion of the authority, to New Jersey studio partners for

the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection a. of this section and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b), from the funds made available pursuant to subparagraph (i) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362). In addition to the \$100,000,000 limitation on the value of tax credits approved by the director for New Jersey studio partners and the \$100,000,000 limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey film-lease partners shall not exceed a cumulative total of \$100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year 2034 to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. Approvals made to New Jersey studio partners and New Jersey film-lease partners shall be subject to award agreements with the authority detailing obligations of the awardee and outcomes relating to events of default, including, but not limited to, recapture, forfeiture, and termination. If in any privilege period, beginning following a date determined by the authority, a New Jersey film-lease partner's annual average of qualified film production expenses falls below \$50,000,000, the authority shall reduce by 20 percent any tax credit award for a film for which final documentation pursuant to N.J.A.C.19:31-21.7(c) has been submitted, until a privilege period when the annual average of qualified film production expenses has been restored to \$50,000,000. The authority shall establish a non-binding, administrative pre-certification process for potentially eligible projects.

If the cumulative total amount of tax credits, and tax credit transfer certificates, allowed to taxpayers for privilege periods or taxable years commencing during a single fiscal year under subsection a. of this section and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) exceeds the amount of tax credits available in that fiscal year, then taxpayers who have first applied for and have not been allowed a tax credit or tax credit transfer certificate amount for that reason shall be allowed, in the order in which they have submitted an application, the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates under subsection a. of this section and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) are not in excess of the amount of credits available.

Notwithstanding any provision of paragraph (1) of this subsection to the contrary, for any fiscal year in which the amount of tax credits approved pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners in the subsequent fiscal year by the certified amount remaining from the prior fiscal year. The authority shall also certify, for each fiscal year, the amount of tax credits that were previously approved, but that the taxpayer is not able to redeem or transfer to another taxpayer under this section, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners in the subsequent fiscal year by the amount of tax credits previously approved, but not subject to redemption or transfer.

(2) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the authority and the director pursuant to subsection

b. of this section and pursuant to subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12b) shall not exceed a cumulative total of \$10,000,000 in fiscal year 2019 and in each fiscal year thereafter prior to fiscal year 2035 to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

If the total amount of tax credits and tax credit transfer certificates allowed to taxpayers for privilege periods or taxable years commencing during a single fiscal year under subsection b. of this section and subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12.b) exceeds the amount of tax credits available in that year, then taxpayers who have first applied for and have not been allowed a tax credit or tax credit transfer certificate amount for that reason shall be allowed, in the order in which they have submitted an application, the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates under subsection b. of this section and subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12.b) are not in excess of the amount of credits available.

Notwithstanding any provision of this paragraph to the contrary, for any fiscal year in which the amount of tax credits approved pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the certified amount remaining from the prior fiscal year. The authority shall also certify, for each fiscal year, the amount of tax credits that were previously approved, but that the taxpayer is not able to redeem or transfer to another taxpayer under this section, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the amount of tax credits previously approved, but not subject to redemption or transfer.

f. A taxpayer shall submit to the authority and the director a report prepared by an independent certified public accountant licensed in this State to verify the taxpayer's tax credit claim following the completion of the production. The report shall be prepared by the independent certified public accountant pursuant to agreed upon procedures prescribed by the authority and the director, and shall include such information and documentation as shall be determined to be necessary by the authority and the director to substantiate the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. A single report with attachments deemed necessary by the authority shall be submitted electronically. Upon receipt of the report, the authority and the director shall review the findings of the independent certified public accountant's report, and shall make a determination as to the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. The authority's and the director's review shall include, but shall not be limited to: a review of all non-payroll qualified film production expense items and non-payroll digital media content production expense items over \$20,000; a review of 100 randomly selected non-payroll qualified film production expense items and non-payroll digital media content production expense items that are greater than \$2,500, but less than \$20,000; a review of 100 randomly selected non-payroll qualified film production expense items and non-payroll digital media content production expense items that are less than \$2,500; a review of the qualified wages for the 15 employees, independent contractors, or loan-out companies with the highest qualified wages; and a review of the qualified wages for 35 randomly selected employees, independent contractors, or loan-out companies with qualified wages other than the 15 employees, independent contractors, or loan-out companies

with the highest qualified wages. The taxpayer's qualified film production expenses and digital media content production expenses shall be adjusted based on any discrepancies identified for the reviewed non-payroll qualified film production expense items, non-payroll digital media content production expense items and qualified wages. The taxpayer's qualified film production expenses and digital media content production expenses also shall be adjusted based on the projection of any discrepancies identified based on the review of randomly selected expense items or wages pursuant to this subsection to the extent that the discrepancies exceed one percent of the total reviewed non-payroll qualified film production expense items, non-payroll digital media content production expense items, or qualified wages. The determination shall be provided in writing to the taxpayer, and a copy of the written determination shall be included in the filing of a return that includes a claim for a tax credit allowed pursuant to this section.

g. A taxpayer shall withhold from each payment to a loan out company or to an independent contractor an amount equal to 6.37 percent of the payment otherwise due. The amounts withheld shall be deemed to be withholding of liability pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the taxpayer shall be deemed to have the rights, duties, and responsibilities of an employer pursuant to chapter 7 of Title 54A of the New Jersey Statutes. The director shall allocate the amounts withheld for a taxable year to the accounts of the individuals who are employees of a loan out company in proportion to the employee's payment by the loan out company in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during the taxable year. A loan out company that reports its payments to employees in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during a taxable year shall be relieved of its duties and responsibilities as an employer pursuant to chapter 7 of Title 54A of the New Jersey Statutes for the taxable year for any payments relating to the payments on which the taxpayer withheld.

h. As used in this section:

"Authority" means the New Jersey Economic Development Authority.

"Business assistance or incentive" means "business assistance or incentive" as that term is defined pursuant to section 1 of P.L.2007, c.101 (C.54:50-39).

"Commission" means the Motion Picture and Television Development Commission.

"Digital media content" means any data or information that is produced in digital form, including data or information created in analog form but reformatted in digital form, text, graphics, photographs, animation, sound, and video content. "Digital media content" shall not mean content offerings generated by the end user (including postings on electronic bulletin boards and chat rooms); content offerings comprised primarily of local news, events, weather, or local market reports; public service content; electronic commerce platforms (such as retail and wholesale websites); websites or content offerings that contain obscene material as defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or content that are produced or maintained primarily for private, industrial, corporate, or institutional purposes; or digital media content acquired or licensed by the taxpayer for distribution or incorporation into the taxpayer's digital media content.

"Film" means a feature film, a television series, or a television show of 22 minutes or more in length, intended for a national audience, or a television series or a television show of 22 minutes or more in length intended for a national or regional audience, including, but not limited to, a game show, award show, or other gala event filmed and produced at a nonprofit arts and cultural venue receiving State funding. "Film" shall not include a production

featuring news, current events, weather, and market reports or public programming, talk show, or sports event, a production that solicits funds, a production containing obscene material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-3, or a production primarily for private, industrial, corporate, or institutional purposes, or a reality show, except if the production company of the reality show owns, leases, or otherwise occupies a production facility of no less than 20,000 square feet of real property for a minimum term of 24 months, and invests no less than \$3,000,000 in such a facility within a designated enterprise zone established pursuant to the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et al.), or a UEZ-impacted business district established pursuant to section 3 of P.L.2001, c.347 (C.52:27H-66.2). "Film" shall not include an award show or other gala event that is not filmed and produced at a nonprofit arts and cultural venue receiving State funding.

"Full-time or full-time equivalent employee" means an individual employed by the taxpayer for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or who is a partner of a taxpayer, who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. "Full-time or full-time equivalent employee" shall not include an individual who works as an independent contractor or on a consulting basis for the taxpayer.

"Highly compensated individual" means an individual who directly or indirectly receives compensation in excess of \$500,000 for the performance of services used directly in a production. An individual receives compensation indirectly when the taxpayer pays a loan out company that, in turn, pays the individual for the performance of services.

"Incurred in New Jersey" means, for any application submitted after the effective date of P.L.2018, c.56 (C.54:10A-5.39b et al.), pursuant to which a tax credit has not been allowed prior to the effective date of P.L.2021, c.160, service performed within New Jersey and tangible personal property used or consumed in New Jersey. A service is performed in New Jersey to the extent that the individual performing the service is physically located in New Jersey while performing the service. Notwithstanding where the property is delivered or acquired, rented tangible property is used or consumed in New Jersey to the extent that the property is located in New Jersey during its use or consumption and is rented from a vendor authorized to do business in New Jersey or the film production company provides to the authority the vendor's information in a form and manner prescribed by the authority. Purchased tangible property is not used and consumed in New Jersey unless it is purchased from a vendor authorized to do business in New Jersey and is delivered to or acquired within New Jersey; provided, however, that if a production is also located in another jurisdiction, the purchased tangible property is used and consumed in New Jersey if the acquisition and delivery of purchased tangible property is located in either New Jersey or another jurisdiction where the production takes place.

"Independent contractor" means an individual treated as an independent contractor for federal and State tax purposes who is contracted with by the taxpayer for the performance of services used directly in a production.

"Loan out company" means a personal service corporation or other entity that is contracted with by the taxpayer to provide specified individual personnel, such as artists, crew, actors, producers, or directors for the performance of services used directly in a production. "Loan out company" shall not include entities contracted with by the taxpayer to provide goods or ancillary contractor services such as catering, construction, trailers, equipment, or transportation.

"New Jersey film-lease partner" means a taxpayer, including any taxpayer that is a member of a combined group under P.L.2018, c.131 (C.54:10A-4.11), that has made a commitment to lease or acquire a New Jersey production facility with an aggregate square footage of at least 50,000 square feet, which includes a sound stage and production support space such as production offices or a backlot, for a period of five or more successive years and commits to spend, on a separate-entity basis or in the aggregate with other members of the taxpayer's combined group, an annual average of \$50,000,000 of qualified film production expenses over the period of at least five but not to exceed 10 years.

"New Jersey studio partner" means a film production company that has made a commitment to produce films or commercial audiovisual products in New Jersey and has developed, purchased, or executed a 10-year contract to lease a production facility of 250,000 square feet or more as a "transformative project" pursuant to section 65 of P.L.2020, c.156 (C.34:1B-333). No more than three film production companies may be designated as a New Jersey studio partner.

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

"Post-production costs" means the costs of the phase of production of a film that follows principal photography, in which raw footage is cut and assembled into a finished film with sound synchronization and visual effects.

"Pre-production costs" means the costs of the phase of production of a film that precedes principal photography, in which a detailed schedule and budget for the production is prepared, the script and location is finalized, and contracts with vendors are negotiated.

"Qualified digital media content production expenses" means an expense incurred in New Jersey for the production of digital media content. "Qualified digital media content production expenses" shall include but not be limited to: wages and salaries of individuals employed in the production of digital media content on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; and the costs of computer software and hardware, data processing, visualization technologies, sound synchronization, editing, and the rental of facilities and equipment. Payment made to a loan out company or to an independent contractor shall not be deemed a "qualified digital media content production expense" unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required pursuant to subsection g. of this section. "Qualified digital media content production expenses" shall not include expenses incurred in marketing, promotion, or advertising digital media or other costs not directly related to the production of digital media content. Costs related to the acquisition or licensing of digital media content by the taxpayer for distribution or incorporation into the taxpayer's digital media content shall not be deemed "qualified digital media content production expenses."

"Qualified film production expenses" means an expense incurred in New Jersey for the production of a film including pre-production costs and post-production costs incurred in New Jersey. "Qualified film production expenses" shall include but not be limited to: wages and salaries of individuals employed in the production of a film on which the tax imposed by

the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; and the costs for tangible personal property used, and services performed, directly and exclusively in the production of a film, such as expenditures for film production facilities, props, makeup, wardrobe, film processing, camera, sound recording, set construction, lighting, shooting, editing, and meals. Payment made to a loan out company or to an independent contractor shall not be deemed a "qualified film production expense" unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required pursuant to subsection g. of this section. "Qualified film production expenses" shall not include: expenses incurred in marketing or advertising a film; and payment in excess of \$500,000 to a highly compensated individual for costs for a story, script, or scenario used in the production of a film and wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, except as follows:

(1) for a New Jersey studio partner that incurs more than \$15,000,000, but less than \$50,000,000, in qualified film production expenses in the State, an amount, not to exceed \$15,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses;

(2) for a New Jersey studio partner that incurs \$50,000,000 or more, but less than \$100,000,000, in qualified film production expenses in the State, an amount, not to exceed \$25,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses;

(3) for a New Jersey studio partner that incurs \$100,000,000 or more, but less than \$150,000,000, in qualified film production expenses in the State, an amount, not to exceed \$40,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses; and

(4) for a New Jersey studio partner that incurs \$150,000,000 or more in qualified film production expenses in the State, an amount, not to exceed \$60,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses.

"Total digital media content production expenses" means costs for services performed and property used or consumed in the production of digital media content.

"Total film production expenses" means costs for services performed and tangible personal property used or consumed in the production of a film.

i. A business that is not a "taxpayer" as defined and used in the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.) and therefore is not directly allowed a credit under this section, but is a business entity that is classified as a partnership for federal income tax purposes and is ultimately owned by a business entity that is a "corporation" as defined in subsection (c) of section 4 of P.L.1945, c.162 (C.54:10A-4), or a limited liability company formed under the "Revised Uniform Limited Liability Company Act," P.L.2012, c.50 (C.42:2C-1 et seq.), or qualified to do business in this State as a foreign limited liability company, with one member, and is wholly owned by the business entity that is a "corporation" as defined in subsection (c) of section 4 of P.L.1945, c.162 (C.54:10A-4), but

otherwise meets all other requirements of this section, shall be considered an eligible applicant and "taxpayer" as that term is used in this section.

59. Section 2 of P.L.2018, c.56 (C.54A:4-12b) is amended to read as follows:

C.54A:4-12b Tax credit for certain film expenses.

2. a. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to 35 percent of the qualified film production expenses of the taxpayer during a taxable year commencing on or after July 1, 2018 but before July 1, 2034, provided that:

(a) at least 60 percent of the total film production expenses, exclusive of post-production costs, of the taxpayer are incurred for services performed, and goods purchased through vendors authorized to do business, in New Jersey, or the qualified film production expenses of the taxpayer during the taxable year for services performed, and goods purchased, through vendors authorized to do business in New Jersey, exceed \$1,000,000 per production;

(b) principal photography of the film commences within 180 days from the date of the original application for the tax credit;

(c) the film includes, when determined to be appropriate by the commission, at no cost to the State, marketing materials promoting this State as a film and entertainment production destination, which materials shall include placement of a "Filmed in New Jersey" or "Produced in New Jersey" statement, or an appropriate logo approved by the commission, in the end credits of the film;

(d) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection g. of this section; and

(e) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection h. of this section.

(2) Notwithstanding the provisions of paragraph (1) of subsection a. of this section to the contrary, the tax credit allowed pursuant to this subsection against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be in an amount equal to 30 percent of the qualified film production expenses of the taxpayer during a taxable year that are incurred for services performed and tangible personal property purchased for use at a sound stage or other location that is located in the State within a 30-mile radius of the intersection of Eighth Avenue/Central Park West, Broadway, and West 59th Street/Central Park South, New York, New York.

b. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to: 20 percent of the qualified digital media content production expenses of the taxpayer during a taxable year commencing on or after July 1, 2018 but before July 1, 2034, provided that:

(a) at least \$2,000,000 of the total digital media content production expenses of the taxpayer are incurred for services performed, and goods purchased through vendors authorized to do business, in New Jersey;

(b) at least 50 percent of the qualified digital media content production expenses of the taxpayer are for wages and salaries paid to full-time or full-time equivalent employees in New Jersey;

(c) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection g. of this section; and

(d) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection h. of this section.

(2) Notwithstanding the provisions of paragraph (1) of subsection b. of this section to the contrary, the tax credit allowed pursuant to this subsection against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be in an amount equal to 25 percent for the qualified digital media content production expenses of the taxpayer during a taxable year that are incurred for services performed and tangible personal property purchased through vendors whose primary place of business is located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, or Salem County.

c. No tax credit shall be allowed pursuant to this section for any costs or expenses included in the calculation of any other tax credit or exemption granted pursuant to a claim made on a tax return filed with the director, or included in the calculation of an award of business assistance or incentive, for a period of time that coincides with the taxable year for which a tax credit authorized pursuant to this section is allowed. The order of priority in which the tax credit allowed pursuant to this section and any other tax credits allowed by law may be taken shall be as prescribed by the director. The amount of the tax credit applied under this section against the tax otherwise due under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., for a taxable year, when taken together with any other payments, credits, deductions, and adjustments allowed by law shall not reduce the tax liability of the taxpayer to an amount less than zero. The amount of the tax credit otherwise allowable under this section which cannot be applied for the taxable year due to the limitations of this subsection or under other provisions of N.J.S.54A:1-1 et seq., may be carried forward, if necessary, to the seven taxable years following the taxable year for which the tax credit was allowed.

d. (1) A business entity that is classified as a partnership for federal income tax purposes shall not be allowed a tax credit pursuant to this section directly, but the amount of tax credit of a taxpayer in respect of a distributive share of entity income, shall be determined by allocating to the taxpayer that proportion of the tax credit acquired by the entity that is equal to the taxpayer's share, whether or not distributed, of the total distributive income or gain of the entity for its taxable year ending within or with the taxpayer's taxable year.

(2) A New Jersey S Corporation shall not be allowed a tax credit pursuant to this section directly, but the amount of tax credit of a taxpayer in respect of a pro rata share of S Corporation income, shall be determined by allocating to the taxpayer that proportion of the tax credit acquired by the New Jersey S Corporation that is equal to the taxpayer's share, whether or not distributed, of the total pro rata share of S Corporation income of the New Jersey S Corporation for its privilege period ending within or with the taxpayer's taxable year.

A business entity that is not a gross income "taxpayer" as defined and used in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and therefore is not directly allowed a credit under this section, but otherwise meets all the other requirements of this section, shall be considered an eligible applicant and "taxpayer" as that term is used in this section, and the application of an otherwise allowed credit amount shall be distributed to appropriate gross income taxpayers pursuant to the other requirements of this subsection.

e. A taxpayer, with an application for a tax credit provided for in subsection a. or subsection b. of this section, may apply to the authority and the director for a tax credit transfer certificate in lieu of the taxpayer being allowed any amount of the tax credit against the tax liability of the taxpayer. The tax credit transfer certificate, upon receipt thereof by the taxpayer from the authority and the director, may be sold or assigned, in full or in part, to any other taxpayer that may have a tax liability under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), in exchange for private financial assistance to be provided by the purchaser or assignee to the taxpayer that has applied for and been granted the tax credit. The tax credit transfer certificate provided to the taxpayer shall include a statement waiving the taxpayer's right to claim that amount of the tax credit against the tax imposed pursuant to N.J.S.54A:1-1 et seq. that the taxpayer has elected to sell or assign. The sale or assignment of any amount of a tax credit transfer certificate allowed under this section shall not be exchanged for consideration received by the taxpayer of less than 75 percent of the transferred tax credit amount. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability under N.J.S.54A:1-1 et seq. shall be subject to the same limitations and conditions that apply to the use of a tax credit pursuant to subsections c. and d. of this section. Any amount of a tax credit transfer certificate obtained by a purchaser or assignee under subsection e. of this section may be applied against the purchaser's or assignee's tax liability under P.L.1945, c.162 (C.54:10A-1 et seq.) and shall be subject to the same limitations and conditions that apply to the use of a credit pursuant to subsection c. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b).

f. (1) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) to taxpayers, other than New Jersey studio partners and New Jersey film-lease partners, shall not exceed a cumulative total of \$100,000,000 in fiscal year 2019 and in each fiscal year thereafter prior to fiscal year 2035 to apply against the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). In addition to the \$100,000,000 limitation on the value of tax credits approved by the director for New Jersey film-lease partners and the \$100,000,000 limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) to New Jersey studio partners shall not exceed a cumulative total of \$100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year 2034 to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. Beginning in fiscal year 2025, in addition to the \$100,000,000 made available for New Jersey studio partners pursuant to this paragraph, up to an additional \$350,000,000 may be made available annually, in the discretion of the authority, to New Jersey studio partners for the award of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, pursuant to subsection a. of this section and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b), from the funds made available pursuant to subparagraph (i) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362). In addition to the \$100,000,000 limitation on the value of tax credits approved by the director for New Jersey studio partners and the \$100,000,000 limitation on the value of tax credits

approved by the director for other taxpayers imposed by this paragraph, the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) to New Jersey film-lease partners shall not exceed a cumulative total of \$100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year 2034 to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. Approvals made to New Jersey studio partners and New Jersey film-lease partners shall be subject to award agreements with the authority detailing obligations of the awardee and outcomes relating to events of default, including, but not limited to, recapture, forfeiture, and termination. If in any taxable year, beginning following a date determined by the authority, a New Jersey film-lease partner's annual average of qualified film production expenses falls below \$50,000,000, the authority shall reduce by 20 percent any tax credit award for a film for which final documentation pursuant to N.J.A.C.19:31-21.7(c) has been submitted, until a taxable year when the annual average of qualified film production expenses has been restored to \$50,000,000. The authority shall establish a non-binding, administrative pre-certification process for potentially eligible projects.

If the cumulative total amount of tax credits, and tax credit transfer certificates, allowed to taxpayers for taxable years or privilege periods commencing during a single fiscal year under subsection a. of this section and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) exceeds the amount of tax credits available in that fiscal year, then taxpayers who have first applied for and have not been allowed a tax credit or tax credit transfer certificate amount for that reason shall be allowed, in the order in which they have submitted an application, the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates under subsection a. of this section and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of the amount of credits available.

Notwithstanding any provision of paragraph (1) of this subsection to the contrary, for any fiscal year in which the amount of tax credits approved pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners in the subsequent fiscal year by the certified amount remaining from the prior fiscal year. The authority shall also certify, for each fiscal year, the amount of tax credits that were previously approved, but that the taxpayer is not able to redeem or transfer to another taxpayer under this section, and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners in the subsequent fiscal year by the amount of tax credits previously approved, but not subject to redemption or transfer.

(2) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the authority and the director pursuant to subsection b. of this section and pursuant to subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) shall not exceed a cumulative total of \$10,000,000 in fiscal year 2019 and in each fiscal year thereafter prior to fiscal year 2035 to apply against the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. and the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).

If the total amount of tax credits and tax credit transfer certificates allowed to taxpayers for taxable years or privilege periods commencing during a single fiscal year under subsection b. of this section and subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) exceeds the amount of tax credits available in that year, then taxpayers who have first applied for and have not been allowed a tax credit or tax credit transfer certificate amount for that reason shall be allowed, in the order in which they have submitted an application, the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates under subsection b. of this section and subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of the amount of credits available.

Notwithstanding any provision of this paragraph to the contrary, for any fiscal year in which the amount of tax credits approved pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the certified amount remaining from the prior fiscal year. The authority shall also certify, for each fiscal year, the amount of tax credits that were previously approved, but that the taxpayer is not able to redeem or transfer to another taxpayer under this section, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the amount of tax credits previously approved, but not subject to redemption or transfer.

g. A taxpayer shall submit to the authority and the director a report prepared by an independent certified public accountant licensed in this State to verify the taxpayer's tax credit claim following the completion of the production. The report shall be prepared by the independent certified public accountant pursuant to agreed upon procedures prescribed by the authority and the director, and shall include such information and documentation as shall be determined to be necessary by the authority and the director to substantiate the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. A single report with attachments deemed necessary by the authority shall be submitted electronically. Upon receipt of the report, the authority and the director shall review the findings of the independent certified public accountant's report, and shall make a determination as to the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. The authority's and the director's review shall include, but shall not be limited to: a review of all non-payroll qualified film production expense items and non-payroll digital media content production expense items over \$20,000; a review of 100 randomly selected non-payroll qualified film production expense items and non-payroll digital media content production expense items that are greater than \$2,500, but less than \$20,000; a review of 100 randomly selected non-payroll qualified film production expense items and non-payroll digital media content production expense items that are less than \$2,500; a review of the qualified wages for the 15 employees, independent contractors, or loan-out companies with the highest qualified wages; and a review of the qualified wages for 35 randomly selected employees, independent contractors, or loan-out companies with the highest qualified wages. The taxpayer's qualified film production expenses and digital media content production expenses shall be adjusted based on any discrepancies identified for the reviewed non-payroll qualified film production expense items, non-payroll digital media content production expense items and qualified wages. The taxpayer's qualified film production expenses and digital media content production expenses also shall

be adjusted based on the projection of any discrepancies identified based on the review of randomly selected expense items or wages pursuant to this subsection to the extent that the discrepancies exceed one percent of the total reviewed non-payroll qualified film production expense items, non-payroll digital media content production expense items, or qualified wages. The determination shall be provided in writing to the taxpayer, and a copy of the written determination shall be included in the filing of a return that includes a claim for a tax credit allowed pursuant to this section.

h. A taxpayer shall withhold from each payment to a loan out company or to an independent contractor an amount equal to 6.37 percent of the payment otherwise due. The amounts withheld shall be deemed to be withholding of liability pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the taxpayer shall be deemed to have the rights, duties, and responsibilities of an employer pursuant to chapter 7 of Title 54A of the New Jersey Statutes. The director shall allocate the amounts withheld for a taxable year to the accounts of the individuals who are employees of a loan out company in proportion to the employee's payment by the loan out company in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during the taxable year. A loan out company that reports its payments to employees in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during a taxable year shall be relieved of its duties and responsibilities as an employer pursuant to chapter 7 of Title 54A of the New Jersey Statutes for the taxable year for any payments relating to the payments on which the taxpayer withheld.

i. As used in this section:

"Authority" means the New Jersey Economic Development Authority.

"Business assistance or incentive" means "business assistance or incentive" as that term is defined pursuant to section 1 of P.L.2007, c.101 (C.54:50-39).

"Commission" means the Motion Picture and Television Development Commission.

"Digital media content" means any data or information that is produced in digital form, including data or information created in analog form but reformatted in digital form, text, graphics, photographs, animation, sound, and video content. "Digital media content" shall not mean content offerings generated by the end user (including postings on electronic bulletin boards and chat rooms); content offerings comprised primarily of local news, events, weather or local market reports; public service content; electronic commerce platforms (such as retail and wholesale websites); websites or content offerings that contain obscene material as defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or content that are produced or maintained primarily for private, industrial, corporate, or institutional purposes; or digital media content acquired or licensed by the taxpayer for distribution or incorporation into the taxpayer's digital media content.

"Film" means a feature film, a television series, or a television show of 22 minutes or more in length, intended for a national audience, or a television series or a television show of 22 minutes or more in length intended for a national or regional audience, including, but not limited to, a game show, award show, or other gala event filmed and produced at a nonprofit arts and cultural venue receiving State funding. "Film" shall not include a production featuring news, current events, weather, and market reports or public programming, talk show, sports event, or reality show, a production that solicits funds, a production containing obscene material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-3, or a production primarily for private, industrial, corporate, or institutional purposes. "Film" shall not include

an award show or other gala event that is not filmed and produced at a nonprofit arts and cultural venue receiving State funding.

"Full-time or full-time equivalent employee" means an individual employed by the taxpayer for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or who is a partner of a taxpayer, who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. "Full-time or full-time equivalent employee" shall not include an individual who works as an independent contractor or on a consulting basis for the taxpayer.

"Highly compensated individual" means an individual who directly or indirectly receives compensation in excess of \$500,000 for the performance of services used directly in a production. An individual receives compensation indirectly when the taxpayer pays a loan out company that, in turn, pays the individual for the performance of services.

"Incurred in New Jersey" means, for any application submitted after the effective date of P.L.2018, c.56 (C.54:10A-5.39b et al.), pursuant to which a tax credit has not been allowed prior to the effective date of P.L.2021, c.160, service performed within New Jersey and tangible personal property used or consumed in New Jersey. A service is performed in New Jersey to the extent that the individual performing the service is physically located in New Jersey while performing the service. Notwithstanding where the property is delivered or acquired, rented tangible property is used or consumed in New Jersey to the extent that the property is located in New Jersey during its use or consumption and is rented from a vendor authorized to do business in New Jersey or the film production company provides to the authority the vendor's information in a form and manner prescribed by the authority. Purchased tangible property is not used and consumed in New Jersey unless it is purchased from a vendor authorized to do business in New Jersey and is delivered to or acquired within New Jersey; provided, however, that if a production is also located in another jurisdiction, the purchased tangible property is used and consumed in New Jersey if the acquisition and delivery of purchased tangible property is located in either New Jersey or another jurisdiction where the production takes place.

"Independent contractor" means an individual treated as an independent contractor for federal and State tax purposes who is contracted with by the taxpayer for the performance of services used directly in a production.

"Loan out company" means a personal service corporation or other entity that is contracted with by the taxpayer to provide specified individual personnel, such as artists, crew, actors, producers, or directors for the performance of services used directly in a production. "Loan out company" shall not include entities contracted with by the taxpayer to provide goods or ancillary contractor services such as catering, construction, trailers, equipment, or transportation.

"New Jersey film-lease partner" means a taxpayer, including any taxpayer that is a member of a combined group under P.L.2018, c.131 (C:54:10A-4.11), that has made a commitment to lease or acquire a New Jersey production facility with an aggregate square footage of at least 50,000 square feet, which includes a sound stage and production support space such as production offices or a backlot, for a period of five or more successive years

and commits to spend, on a separate-entity basis or in the aggregate with other members of the taxpayer's combined group, an annual average of \$50,000,000 of qualified film production expenses over the period of at least five but not to exceed 10 years.

"New Jersey studio partner" means a film production company that has made a commitment to produce films or commercial audiovisual products in New Jersey and has developed, purchased, or executed a 10-year contract to lease a production facility of 250,000 square feet or more as a "transformative project" pursuant to section 65 of P.L.2020, c.156 (C.34:1B-333). No more than three film production companies may be designated as a New Jersey studio partner.

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

"Post-production costs" means the costs of the phase of production of a film that follows principal photography, in which raw footage is cut and assembled into a finished film with sound synchronization and visual effects.

"Pre-production costs" means the costs of the phase of production of a film that precedes principal photography, in which a detailed schedule and budget for the production is prepared, the script and location is finalized, and contracts with vendors are negotiated.

"Qualified digital media content production expenses" means an expense incurred in New Jersey for the production of digital media content. "Qualified digital media content production expenses" shall include but not be limited to: wages and salaries of individuals employed in the production of digital media content on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; and the costs of computer software and hardware, data processing, visualization technologies, sound synchronization, editing, and the rental of facilities and equipment. Payment made to a loan out company or to an independent contractor shall not be deemed a "qualified digital media content production expense" unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required pursuant to subsection h. of this section. "Qualified digital media content production expenses" shall not include expenses incurred in marketing, promotion, or advertising digital media or other costs not directly related to the production of digital media content. Costs related to the acquisition or licensing of digital media content by the taxpayer for distribution or incorporation into the taxpayer's digital media content shall not be deemed "qualified digital media content production expenses."

"Qualified film production expenses" means an expense incurred in New Jersey for the production of a film including pre-production costs and post-production costs incurred in New Jersey. "Qualified film production expenses" shall include but not be limited to: wages and salaries of individuals employed in the production of a film on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; and the costs for tangible personal property used, and services performed, directly and exclusively in the production of a film, such as expenditures for film production facilities, props, makeup, wardrobe, film processing, camera, sound recording, set construction, lighting, shooting, editing, and meals. Payment made to a loan out company or to an independent contractor shall not be deemed a "qualified film production expense" unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required by subsection h. of this section. "Qualified film production expenses" shall not include: expenses incurred in marketing or advertising a film; and payment in excess of \$500,000 to a highly compensated individual for costs for a story,

script, or scenario used in the production of a film and wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, except as follows:

(1) for a New Jersey studio partner that incurs more than \$15,000,000, but less than \$50,000,000, in qualified film production expenses in the State, an amount, not to exceed \$15,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses;

(2) for a New Jersey studio partner that incurs \$50,000,000 or more, but less than \$100,000,000, in qualified film production expenses in the State, an amount, not to exceed \$25,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses;

(3) for a New Jersey studio partner that incurs \$100,000,000 or more, but less than \$150,000,000, in qualified film production expenses in the State, an amount, not to exceed \$40,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses; and

(4) for a New Jersey studio partner that incurs \$150,000,000 or more in qualified film production expenses in the State, an amount, not to exceed \$60,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses.

"Total digital media content production expenses" means costs for services performed and property used or consumed in the production of digital media content.

"Total film production expenses" means costs for services performed and tangible personal property used or consumed in the production of a film.

60. Section 9 of P.L.1985, c.334 (C.58:11B-9) is amended to read as follows:

C.58:11B-9 Loans to local governments.

9. a. (1) The trust may make and contract to make loans to local government units, or to a local government unit on behalf of another local government unit, in accordance with and subject to the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to finance the cost of any wastewater treatment system project or water supply project, which the local government unit may lawfully undertake or acquire and for which the local government unit is authorized by law to borrow money.

(2) The trust may make and contract to make loans to public water utilities, or to any other person or local government unit on behalf of a public water utility, in accordance with and subject to the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to finance the cost of any water supply project, which the public water utility may lawfully undertake or acquire.

(3) The trust may make and contract to make loans to private persons other than local government units, or to any other person or local government unit on behalf of a private person, in accordance with and subject to the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to finance the cost of stormwater management systems.

(4) The trust may make and contract to make loans and provide other assistance to a local government unit or consortia thereof to finance the cost of transportation projects, aviation projects, and marine projects pursuant to sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4), and provided that the federally-funded transportation subaccount is operated in accordance with the provisions of the federal infrastructure bank program.

The loans may be made subject to those terms and conditions as the trust shall determine to be consistent with the purposes thereof. Each loan by the trust and the terms and conditions thereof shall be subject to approval by the State Treasurer, and the trust shall make available to the State Treasurer all information, statistical data and reports of independent consultants or experts as the State Treasurer shall deem necessary in order to evaluate the loan. Each loan to a local government unit, public water utility or any other person shall be evidenced by notes, bonds or other obligations thereof issued to the trust. In the case of each local government unit, notes and bonds to be issued to the trust and, if applicable, the State, acting by and through the Department of Environmental Protection, by the local government unit (1) shall be authorized and issued as provided by law for the issuance of notes and bonds by the local government unit, (2) notwithstanding any provisions of the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.) to the contrary, shall be approved by the Director of the Division of Local Government Services in the Department of Community Affairs, and (3) notwithstanding the provisions of N.J.S.40A:2-27, N.J.S.40A:2-28 and N.J.S.40A:2-29 or any other provisions of law to the contrary, may be sold at private sale to the trust or the State, as the case may be, at any price, whether or not less than par value, and shall be subject to redemption prior to maturity at any times and at any prices as the trust or the State, as the case may be, and local government units may agree. Each loan to a local government unit, public water utility or any other person and the notes, bonds or other obligations thereby issued shall bear interest at a rate or rates per annum as the trust or the State, as the case may be, and the local government unit, public water utility or any other person, as the case may be, may agree.

b. The trust is authorized to guarantee or contract to guarantee the payment of all or any portion of the principal and interest on bonds, notes or other obligations issued by a local government unit to finance the cost of any wastewater treatment system project, water supply project, transportation project, aviation project, marine project, or redevelopment project that includes, as a portion thereof, any wastewater treatment system project, water supply project, or transportation project, which the local government unit may lawfully undertake or acquire and for which the local government unit is authorized by law to borrow money, and the guarantee shall constitute an obligation of the trust, and shall be in furtherance of the corporate purposes of the trust, for the purposes of P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-10.1 et al.), or sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4). Each guarantee by the trust and the terms and conditions thereof shall be subject to approval by the State Treasurer, and the trust shall make available to the State Treasurer all information, statistical data and reports of independent consultants or experts as the State Treasurer shall deem necessary in order to evaluate the guarantee.

c. The trust shall not make or contract to make any loans or guarantees to local government units, public water utilities or any other person, or otherwise incur any additional indebtedness, on or after June 30, 2033.

d. Notwithstanding any provision of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to the contrary, the trust may receive funds from any source

including, without limitation, any funds drawn by the trust from a revolving line of credit or other similar financial vehicle that may be procured by the trust, either through a competitive or negotiated process, pursuant to section 5 of P.L.1985, c.334 (C.58:11B-5), for deposit into the Interim Environmental Financing Program Fund or the trust may issue its bonds, notes or other obligations, including commercial paper issued through a competitive or negotiated process, in any principal amounts, in either case, as in the judgment of the trust shall be necessary to provide sufficient funds to finance or refinance short-term or temporary loans to local government units, public water utilities or private persons for any wastewater treatment system projects included on the Department of Environmental Protection project priority list and eligible for approval pursuant to section 20 of P.L.1985, c.334 (C.58:11B-20) or water supply projects included on the Department of Environmental Protection project priority list and eligible for approval pursuant to section 24 of P.L.1997, c.224 (C.58:11B-20.1), as applicable, without regard to any other provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.), including, without limitation, any administrative or legislative approvals.

The trust shall create and establish a special fund to be known as the "Interim Environmental Financing Program Fund" for the short-term or temporary loan financing or refinancing program to be known as the "Interim Environmental Financing Program." The monies in the fund shall be used for short-term or temporary loans for clean water and drinking water projects pursuant to the New Jersey Environmental Infrastructure Financing Program.

Except as provided in section 1 of P.L.2013, c.93 (C.58:11B-9.5), any short-term or temporary loans made by the trust pursuant to this subsection may only be made in advance of the anticipated loans the trust may make and contract to make under the provisions of subsection a. of this section from any source of funds anticipated to be received by the trust. Any such short-term or temporary loan made pursuant to the Interim Environmental Financing Program shall mature no later than the last day of the third succeeding fiscal year following the closing date on which the short-term or temporary loan was made by the trust to the project sponsor; except a planning, design, and construction loan shall mature no later than the last day of the fifth succeeding fiscal year following the closing date of the planning, design, and construction loan or the last day of the third succeeding fiscal year following the date of construction certification following the closing date of the planning, design, and construction loan, whichever is sooner, provided that, in either case, project planning or engineering design activities shall not exceed two years from the closing date of the planning, design, and construction loan; and except a short-term or temporary loan made pursuant to this subsection for environmental planning and engineering design costs associated with long-term control plans for combined sewer overflow projects shall mature no later than the last day of the 10th succeeding fiscal year following the closing date on which the short-term or temporary loan was made by the trust to the project sponsor; and except a short-term or temporary loan made pursuant to this subsection which has been submitted as part of an application for funding pursuant to the "Water Infrastructure Finance and Innovation Act of 2014" (WIFIA), 33 U.S.C. s.3901 et seq., as amended and supplemented, shall mature not later than the funding draw period allowed by this federal act. Any short-term or temporary loan or planning, design and construction loan made by the trust pursuant to this subsection may mature in a shorter period of time as may be necessary to align with construction completion. With respect to any short-term or temporary loan or planning, design, and construction loan made by the trust pursuant to this subsection, the trust may authorize one short-term supplemental loan for residual project expenses thereof

upon receipt by the trust from the Department of Environmental Protection of a certification that states that the time required by the project sponsor to complete construction of the project exceeds the maximum maturity date of the project sponsor's outstanding short-term or temporary loan or planning, design, and construction loan. Any such short-term supplemental loan shall not exceed in duration the last day of the third succeeding fiscal year following the loan closing of the supplemental loan. The trust may make short-term or temporary loans pursuant to the Interim Environmental Financing Program to any one or more of the project sponsors, for the respective projects thereof, identified in the interim financing project priority list to be known as the "Interim Environmental Financing Program Project Priority List" in the form provided to the Legislature by the Commissioner of Environmental Protection.

The Interim Environmental Financing Program Project Priority List, including any revision thereof or supplement thereto, shall be submitted to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1) at least once in each fiscal year as provided in section 20 of P.L.1985, c.334 (C.58:11B-20) and section 24 of P.L.1997, c.224 (C.58:11B-20.1). The Secretary and the Clerk shall cause the date of submission to be entered upon the Senate Journal and the Minutes of the General Assembly, respectively. The trust may revise or supplement the Interim Environmental Financing Program Project Priority List no more than four times during the fiscal year and shall submit the revised list to the Legislature when the revisions are made. Any environmental infrastructure project or the project sponsor thereof not identified in the Interim Environmental Financing Program Project Priority List shall not be eligible for a short-term or temporary loan from the Interim Environmental Financing Program Fund. The trust may issue short-term or temporary loans pursuant to this subsection only if a project is listed on an Interim Environmental Financing Program Project Priority List that has been submitted to the Legislature. No funds may be disbursed pursuant to this section for environmental infrastructure project activities prior to a determination and certification, in writing, from the Department of Environmental Protection, that the project activities satisfy the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.).

e. Notwithstanding any provisions of the "Local Bond Law" (N.J.S.40A:2-1 et seq.), the "sewerage authorities law," P.L.1946, c.138 (C.40:14A-1 et seq.), or the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.) to the contrary, short-term or temporary loans made by the trust pursuant to section 9 of P.L.1985, c.334 (C.58:11B-9) or section 1 of P.L.2013, c.93 (C.58:11B-9.5), and the obligations issued by project sponsors to evidence such loans, may, at the discretion of the trust and upon application by the project sponsor, bear interest at a variable rate determined pursuant to a methodology as may be established by the trust from time to time.

Further, notwithstanding any provisions of the "Local Bond Law" (N.J.S.40A:2-1 et seq.), the "sewerage authorities law," P.L.1946, c.138 (C.40:14A-1 et seq.), or the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.) to the contrary, any short-term or temporary loans made by the trust pursuant to section 9 of P.L.1985, c.334 (C.58:11B-9) or section 1 of P.L.2013, c.93 (C.58:11B-9.5), and any notes or other obligations issued by project sponsors to evidence such short-term or temporary loans, as such loans, notes, or other obligations may be refinanced or extended, as provided in subsections d. and g. of this section and section 1 of P.L.2013, c.93 (C.58:11B-9.5), except for loans for environmental planning and engineering design costs associated with long-term control plans for combined sewer overflow projects as provided in subsection d. of this section, shall mature no later than the maturity date as established pursuant to subsections d.

and g. of this section and section 1 of P.L.2013, c.93 (C.58:11B-9.5), without payment by project sponsors of any portion of the principal thereof prior to maturity.

f. Any balances remaining in the Emergency Loan Fund established pursuant to section 4 of P.L.2007, c.138 (C.58:11B-9.1), the Planning and Design Fund established pursuant to section 1 of P.L.2009, c.59 (C.58:11B-9.2), the Onsite Wastewater Disposal Loan Fund established pursuant to section 5 of P.L.2009, c.103 (C.58:11B-9.3), the Supplemental Loan Fund established pursuant to section 2 of P.L.2011, c.94 (C.58:11B-9.4), and the Equipment Loan Fund established pursuant to section 1 of P.L.2014, c.28 (C.58:11B-9.6) after the date of enactment of P.L.2016, c.30 shall be transferred to the Interim Environmental Financing Program Fund, and any loan repayments to the trust of principal and interest or premium on loans made from those funds shall be credited to the Interim Environmental Financing Program Fund.

g. The trust shall create and establish a special fund to be known as the "Interim Transportation Financing Program Fund" for the short-term or temporary loan financing or refinancing program to be known as the "Interim Transportation Financing Program."

Notwithstanding any provision of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to the contrary, the trust may receive funds from any source including, without limitation, any funds drawn by the trust from a revolving line of credit or other similar financial vehicle that may be procured by the trust, either through a competitive or negotiated process, pursuant to section 5 of P.L.1985, c.334 (C.58:11B-5), for deposit into the Interim Transportation Financing Program Fund or the trust may issue its bonds, notes or other obligations in any principal amounts, in either case, as in the judgment of the trust shall be necessary to provide sufficient funds to finance or refinance short-term or temporary loans to local government units or private persons for any transportation project, aviation project, or marine project included on the Department of Transportation Interim Transportation Financing Program Project Priority List for the ensuing fiscal year and eligible for approval pursuant to sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4), without regard to any other provisions of P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-10.1 et al.), or sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4), including, without limitation, any administrative or legislative approvals.

Any short-term or temporary loans made by the trust pursuant to this subsection may only be made in advance of the anticipated loans the trust may make and contract to make under the provisions of subsection a. of this section from any source of funds anticipated to be received by the trust. Any such short-term or temporary loan made pursuant to the Interim Transportation Financing Program shall mature no later than the last day of the third succeeding fiscal year following the closing date on which the short-term or temporary loan was made by the trust to the project sponsor; except a planning, design, and construction loan shall mature no later than the last day of the fifth succeeding fiscal year following the closing date of the planning, design, and construction loan or the last day of the third succeeding fiscal year following the date of construction certification following the closing date of the planning, design, and construction loan, whichever is sooner, provided that, in either case, project planning or engineering design activities shall not exceed two years from the closing date of the planning, design, and construction loan and except a short-term or temporary loan made pursuant to this subsection which has been submitted as part of an application for funding pursuant to the "Transportation Infrastructure Finance and Innovation Act of 1998" (TIFIA), 23 U.S.C. s.601 et seq., as amended and supplemented, shall mature not later than

the funding draw period allowed by this federal act. Any short-term or temporary loan or planning, design and construction loan made by the trust pursuant to this subsection may mature in a shorter period of time as may be necessary to align with construction completion. With respect to any short-term or temporary loan or planning, design, and construction loan made by the trust pursuant to this subsection, the trust may authorize one short-term supplemental loan for residual expenses thereof upon receipt by the trust from the Department of Transportation of a certification that states that the time required by the project sponsor to complete construction of the project exceeds the maximum maturity date of the short-term or temporary loan or planning, design, and construction loan. Any such short-term supplemental loan shall not exceed in duration the last day of the third succeeding fiscal year following the loan closing of the short-term supplemental loan. The trust may make short-term or temporary loans pursuant to the Interim Transportation Financing Program to any one or more of the project sponsors, for the respective projects thereof, only if a project is identified in the Department of Transportation Interim Transportation Financing Program Project Priority List to be known as the "Interim Transportation Financing Program Project Priority List" in the form provided to the Legislature by the Commissioner of Transportation.

The Interim Transportation Financing Program Project Priority List, including any revision thereof or supplement thereto, shall be submitted to the Secretary of the Senate and the Clerk of the General Assembly on or before July 1 of each year. The Interim Transportation Financing Program Project Priority List shall be submitted to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1) at least once in each fiscal year. The Secretary and the Clerk shall cause the date of submission to be entered upon the Senate Journal and the Minutes of the General Assembly, respectively. Any transportation infrastructure project or the project sponsor thereof not identified in the Interim Transportation Financing Program Project Priority List shall not be eligible for a short-term or temporary loan from the Interim Transportation Financing Program Fund. The trust may revise or supplement the Interim Transportation Financing Program Project Priority List no more than four times during the fiscal year, and shall submit the revised list to the Legislature when the revisions are made.

No funds may be disbursed pursuant to this subsection for transportation project, aviation project, or marine project activities prior to certification in writing, from the trust, that the project activities satisfy the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-10.1 et al.), or sections 22 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4). Construction activities for a transportation project shall also require written notification of award concurrence from the Department of Transportation prior to fund disbursement.

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

C.34:1B-243 Definitions relative to the "Grow New Jersey Act."

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

"Affiliate" means an entity that directly or indirectly controls, is under common control with, or is controlled by the business. Control exists in all cases in which the entity is a member of a controlled group of corporations as defined pursuant to section 1563 of the Internal Revenue Code of 1986 (26 U.S.C. s.1563) or the entity is an organization in a group of organizations under common control as defined pursuant to subsection (b) or (c) of section 414 of the Internal Revenue Code of 1986 (26 U.S.C. s.414). A taxpayer may establish by

clear and convincing evidence, as determined by the Director of the Division of Taxation in the Department of the Treasury, that control exists in situations involving lesser percentages of ownership than required by those statutes. An affiliate of a business may contribute to meeting either the qualified investment or full-time employee requirements of a business that applies for a credit under section 3 of P.L.2007, c.346 (C.34:1B-209).

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

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

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

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

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

a partnership;

an S corporation;

a limited liability company; or

a non-profit corporation.

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

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

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

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

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

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

d. any of the foregoing.

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

but not limited to, on- and off-site utility, road, pier, wharf, bulkhead, or sidewalk construction or repair.

In addition to the foregoing, if a business acquires or leases a qualified business facility, the capital investment made or acquired by the seller or owner, as the case may be, if pertaining primarily to the premises of the qualified business facility, shall be considered a capital investment by the business and, if pertaining generally to the qualified business facility being acquired or leased, shall be allocated to the premises of the qualified business facility on the basis of the gross leasable area of the premises in relation to the total gross leasable area in the qualified business facility. The capital investment described herein may include any capital investment made or acquired within 24 months prior to the date of application so long as the amount of capital investment made or acquired by the business, any affiliate of the business, or any owner after the date of application equals at least 50 percent of the amount of capital investment, allocated to the premises of the qualified business facility being acquired or leased on the basis of the gross leasable area of the premises in relation to the total gross leasable area in the qualified business facility made or acquired prior to the date of application.

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

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

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

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

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

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

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

"Eligibility period" means the period in which a business may claim a tax credit under the Grow New Jersey Assistance Program, beginning with the tax period in which the authority accepts certification of the business that it has met the capital investment and employment requirements of the Grow New Jersey Assistance Program and extending thereafter for a

term of not more than 10 years, with the term to be determined solely at the discretion of the applicant.

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

"Full-time employee" means a person:

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

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

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

d. who, except for purposes of the Statewide workforce, is provided, by the business, with employee health benefits under a health benefits plan authorized pursuant to State or federal law.

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

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

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

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

For any project located in a Garden State Growth Zone which qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or any project located in the Atlantic City Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority, and which will include a retail facility of at least 150,000 square feet, of which at least 50 percent will be occupied by either a full-service supermarket or

grocery store, 30 hours of employment per week at a qualified business facility shall constitute one "full-time employee," regardless of whether the hours of work were performed by one or more persons, and the requirement that employee health benefits are to be provided shall be deemed to be satisfied if the employees of the business are covered by a collective bargaining agreement.

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

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

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

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

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

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

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

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

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

"Mega project" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Qualified incentive area" means:

a. an aviation district;

b. a port district;

c. a distressed municipality or urban transit hub municipality;

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

- (a) Planning Area 1 (Metropolitan);
- (b) Planning Area 2 (Suburban); or
- (c) Planning Area 3 (Fringe Planning Area);

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

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

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

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

(6) located within a Garden State Growth Zone;

(7) located within land approved for closure under any federal Commission on Base Realignment and Closure action; or

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

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

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

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

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

(e) the planning area of the Highlands Region as defined in section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands development credit receiving area or redevelopment area; or

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

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

"Qualified incubator facility" means a commercial building located within a qualified incentive area: which contains 50,000 or more square feet of office, laboratory, or industrial space; which is located near, and presents opportunities for collaboration with, a research institution, teaching hospital, college, or university; and within which, at least 50 percent of

the gross leasable area is restricted for use by one or more technology startup companies during the commitment period.

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

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

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

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

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

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

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

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

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

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

62. Section 2 of P.L.2007, c.346 (C.34:1B-208) is amended to read as follows:

C.34:1B-208 Definitions relative to the "Urban Transit Hub Tax Credit Act."

2. As used in this act:

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

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

"Business" means a corporation that is subject to the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), a corporation that is subject to the tax imposed pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15) or N.J.S.17B:23-5, or is a partnership, an S corporation, or a limited liability corporation. A business shall include an affiliate of the business if that business applies for a credit based upon any capital investment made by or full-time employees of an affiliate.

"Capital investment" in a qualified business facility means expenses incurred after, but before the end of the eighth year after, the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.) for: a. the site preparation and construction, repair, renovation, improvement, equipping, or furnishing of a building, structure, facility or improvement to real property; and b. obtaining and installing furnishings and machinery, apparatus or equipment for the operation of a business in a building, structure, facility or improvement to real property.

"Eligible municipality" means a municipality: (1) which qualifies for State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.) or which was continued to be a qualified municipality thereunder pursuant to P.L.2007, c.111; and (2) in which 30 percent or more of the value of real property was exempt from local property taxation during tax year 2006. The percentage of exempt property shall be calculated by dividing the total exempt value by the sum of the net valuation which is taxable and that which is tax exempt.

"Full-time employee" means a person employed by the business for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, or a person who is employed by a professional employer organization pursuant to an employee leasing agreement between the business and the professional employer organization, in accordance with P.L.2001, c.260 (C.34:8-67 et seq.) for at least 35 hours a week, or who renders any other standard of service generally

accepted by custom or practice as full-time employment, and whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. or an employee who is a resident of another State but whose income is not subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. or who is a partner of a business who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. "Full-time employee" shall not include any person who works as an independent contractor or on a consulting basis for the business.

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

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

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

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

"Qualified business facility" means any building, complex of buildings or structural components of buildings, and all machinery and equipment located within a designated urban transit hub in an eligible municipality, used in connection with the operation of a business.

"Qualified residential project" shall have the meaning ascribed to that term under section 34 of P.L.2009, c.90 (C.34:1B-209.2).

"Residential unit" means a residential dwelling unit such as a rental apartment, a condominium or cooperative unit, a hotel room, or a dormitory room.

"Urban transit hub" means:

a. (1) property located within a 1/2-mile radius surrounding the mid point of a New Jersey Transit Corporation, Port Authority Transit Corporation or Port Authority Trans-Hudson Corporation rail station platform area, including all light rail stations, and

(2) property located within a one-mile radius of the mid point of the platform area of such a rail station if the property is in a qualified municipality under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et seq.) or in an area that is the subject of a Choice Neighborhoods Transformation Plan funded by the federal Department of Housing and Urban Development, and

(3) the site of the campus of an acute care medical facility located within a one-mile radius of the mid point of the platform area of such a rail station, and

(4) the site of a closed hospital located within a one-mile radius of the mid point of the platform area of such a rail station;

b. property located within a 1/2-mile radius surrounding the mid point of one of up to two underground light rail stations' platform areas that are most proximate to an interstate rail station;

c. property adjacent to, or connected by rail spur to, a freight rail line if the business utilizes that freight line at any rail spur located adjacent to or within a one-mile radius surrounding the entrance to the property for loading and unloading freight cars on trains;

which property shall have been specifically delineated by the authority pursuant to subsection e. of section 3 of P.L.2007, c.346 (C.34:1B-209).

A property which is partially included within the radius shall only be considered part of the urban transit hub if over 50 percent of its land area falls within the radius.

"Rail station" shall not include any rail station located at an international airport, except that any property within a 1/2-mile radius surrounding the mid point of a New Jersey Transit Corporation rail station platform area at an international airport upon which a qualified business facility is constructed or renovated commencing after the effective date of P.L.2011, c.149 (C.34:1B-242 et al.) shall be deemed an urban transit hub, excluding any property owned or controlled by the Port Authority of New York and New Jersey.

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

C.34:1B-125 Definitions relative to business employment incentives.

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

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

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

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

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

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

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

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

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

"Biotechnology company" means a person, whose headquarters or base of operations is located in New Jersey, engaged in the research, development, production, or provision of biotechnology for the purpose of developing or providing products or processes for specific

commercial or public purposes, including but not limited to, medical, pharmaceutical, nutritional, and other health-related purposes, agricultural purposes, and environmental purposes, or a person, whose headquarters or base of operations is located in New Jersey, engaged in providing services or products necessary for such research, development, production, or provision.

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

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

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

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

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

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

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

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

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

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

partnership or limited liability company created by a business in New Jersey or transferred from another state by the business pursuant to the conditions set forth in P.L.1996, c.26 (C.34:1B-124 et seq.) during the base years or in subsequent years of a grant. An "eligible position" shall also include a position occupied by a resident of this State whose position is relocated to this State from another state but who does not qualify as a "new employee" because prior to relocation the resident's wages or the resident's distributive share of income from a gain, from a loss or deduction, or the resident's guaranteed payments or any combination thereof, prior to the relocation, were not subject to income taxes imposed by the state or municipality in which the position was previously located. An "eligible position" shall also include a position occupied by a resident of another State whose position is relocated to this State but whose income is not subject to the New Jersey gross income tax pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. An "eligible position" shall not include any position located within New Jersey, which, within a period either three months prior to the business' application for a grant under P.L.1996, c.26 (C.34:1B-124 et seq.) or six months after the date of application, ceases to exist or be located within New Jersey.

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

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

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

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

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

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

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

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

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

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

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

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

"Partner" means a person who is entitled to either a distributive share of a partnership's income, gain, loss, or deduction, or guaranteed payments, or any combination thereof, by virtue of holding an interest in the partnership. "Partner" also includes a person who is a

member of a limited liability company which is treated as a partnership, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

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

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

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

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

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

C.34:1B-113 Definitions relative to business retention and relocation assistance.

2. As used in this act:

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

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

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

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

based upon any capital investment made by an affiliate or based upon retained full-time jobs of an affiliate;

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

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

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

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

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

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

"Eligible position" means a full-time position retained by a business in this State for which a business provides employee health benefits under a group health plan as defined under section 14 of P.L.1997, c.146 (C.17B:27-54), a health benefits plan as defined under section 1 of P.L.1992, c.162 (C.17B:27A-17), or a policy or contract of health insurance covering more than one person issued pursuant to Article 2 of Chapter 27 of Title 17B of the New Jersey Statutes;

"Full-time employee" means a person employed by the business for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice, as determined by the authority, as full-time employment, or a person who is employed by a professional employer organization pursuant to an employee leasing agreement between the business and the professional employer organization, in accordance with P.L.2001, c.260 (C.34:8-67 et seq.) for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice, as determined by the authority, as full-time employment, and whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. or an employee who is a resident of another State but whose income is not subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. or who is a partner of a business who works for the partnership for at least 35 hours a week, or who renders any other standard of service

generally accepted by custom or practice, as determined by the authority, as full-time employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. "Full-time employee" shall not include any person who works as an independent contractor or on a consulting basis for the business;

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

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

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

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

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

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

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

C.34:1B-370 Short title.

65. Sections 65 through 68 of P.L.2021, c.160 (C.34:1B-370 through 34:1B-373) shall be known and may be cited as the "New Jersey Innovation Fellows Program Act."

C.34:1B-371 Findings, declarations relative to entrepreneurs.

66. The Legislature finds and declares that:

a. One of the most difficult challenges for upstart entrepreneurs is forgoing employment to launch their businesses.

b. For diverse entrepreneurs from underserved populations, this challenge is often exacerbated as these entrepreneurs historically lack funding from family and friends to support their living expenses while building a business without income.

c. Having alternative sources of capital and new ways to deploy capital to entrepreneurs can be crucial for disadvantaged entrepreneurs in particular.

d. Although many universities provide fellowships for advancing business ideas, this assistance is often only available to students, and there is a dearth of programs designed specifically to support non-student entrepreneurs.

e. The New Jersey Economic Development Authority, through the New Jersey Innovation Fellows Program, shall seek to consolidate public and private economic development efforts through various funding sources into one targeted program to invest in diverse talent critical to New Jersey having a vibrant innovation ecosystem.

C.34:1B-372 Definitions relative to the New Jersey Innovation Fellows Program.

67. As used in sections 65 through 68 of P.L.2021, c.160 (C.34:1B-370 through 34:1B-373):

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

“Chief executive officer” means the Chief Executive Officer of the New Jersey Economic Development Authority.

“Eligible municipality” means a city of the first class, a municipality with a private research university, a municipality that is qualified to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a municipality under the supervision of the Local Finance Board pursuant to the provisions of the "Local Government Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality identified by the Director of the Division of Local Government Services in the Department of Community Affairs to be facing serious fiscal distress, a SDA municipality, or a municipality in which a major rail station is located.

“Entrepreneur” means an individual starting a small business and who meets the eligibility criteria established by the authority for the program.

“Program” means the New Jersey Innovation Fellows Program, established pursuant to section 68 of P.L.2021, c.160 (C.34:1B-373).

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

C.34:1B-373 “New Jersey Innovation Fellows Program.”

68. a. There is established the “New Jersey Innovation Fellows Program” within the authority for the purpose of providing seed funding to teams of entrepreneurs, through the disbursement of fellowship grants, and facilitating economic growth and job creation in eligible municipalities. The award of a fellowship grant to a team of entrepreneurs shall be limited to \$350,000 per team and shall be used as income-replacement for entrepreneurs who leave the workforce to open and operate a business in an eligible municipality.

b. The chief executive officer shall award fellowship grants through a competitive grant solicitation to teams of no less than three entrepreneurs, in which at least half of the team members are first time entrepreneurs, with well-written business plans who:

(1) are seeking to open and operate a business in a targeted industry, which business is located in an eligible municipality;

(2) commit to working at the business on a full-time basis for two years next following receipt of the fellowship grant;

(3) participate in a mentorship program; and

(4) pay gross income tax pursuant to N.J.S.54A:1-1 et seq. at the time of applying for the fellowship grant and remain New Jersey taxpayers during the time in which fellowship grants are disbursed and the next following two years. If any member of the original awarded team of entrepreneurs ceases to be a New Jersey taxpayer during the time in which fellowship grants are disbursed and the next following two years, the fellowship grant may be rescinded, and any amount paid may be recouped, by the authority.

c. A team of entrepreneurs seeking to participate in the program shall submit an application in a form determined by the chief executive officer. The application shall include information that the chief executive officer determines is necessary to administer the program.

d. The chief executive officer shall award fellowship grants in intervals determined by the chief executive officer following application approval and the submission of proof by a team of entrepreneurs that the team has fulfilled the eligibility requirements pursuant to subsection b. of this section and any other requirements determined by the authority. The submission of proof shall be subject to review and audit by the authority.

e. A team of entrepreneurs that includes at least one member who is a graduate of a New Jersey college or university or is a diverse entrepreneur, as defined in section 2 of P.L.1997, c.349 (C.54:10A-5.29), and meets the eligibility requirements may receive a fellowship grant up to \$400,000.

f. Within one year of the effective date of P.L.2021, c.160 (C.34:1B-370 et al.), the authority shall undertake a disparity study analyzing the relative availability of seed money and capital for diverse entrepreneurs, as defined in section 2 of P.L.1997, c.349 (C.54:10A-5.29), in this State and the authority's historic support of such businesses. If recommended by the study, the authority shall establish policies, practices, protocols, and, if appropriate, minimum percentages of the funds to be set aside to eligible teams of entrepreneurs that include at least one diverse entrepreneur or one female entrepreneur. Regardless of whether the disparity study recommends a set-aside for diverse entrepreneurs, the authority may make up to 35 percent of the funds available for the award of fellowship grants to teams of entrepreneurs that include at least one member that either resides in a New Jersey State opportunity zone, as defined in section 45 of P.L.2020, c.156 (C.34:1B-313), or is seeking to open and operate a business in an opportunity zone eligible census tract.

69. There is appropriated from the General Fund to the New Jersey Economic Development Authority the sum of \$10,000,000 for the award of fellowship grants to teams of entrepreneurs pursuant to sections 65 through 68 of P.L.2021, c.160 (C.34:1B-370 through 34:1B-373) and for the costs of administering the "New Jersey Innovation Fellows Program."

70. This act shall take effect immediately, and the amendments made to P.L.2020, c.156 by this act, P.L.2021, c.160 (C.34:1B-370 et al.), shall apply to applications submitted pursuant section 72 of P.L.2020, c.156 (C.34:1B-340), section 1 of P.L.2018, c.56 (C.54A:4-

12a), and 2 of P.L.2018, c.56 (C.54A:4-12b) on or after the effective date of P.L.2020, c.156, except the amendments made by this act to paragraph (2) of subsection a. of section 1 of P.L.2018, c.56 (C.54A:4-12a) and paragraph (2) of subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) shall apply to applications submitted on and after the effective date of this act. The amendments made to P.L.2020, c.156 by this act shall apply to all other applications submitted under P.L.2020, c.156 on and after the effective date of this act.

Approved July 2, 2021.

ASSEMBLY, No. 5939

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JUNE 21, 2021

Sponsored by:

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex)

Assemblyman JOHN J. BURZICHELLI

District 3 (Cumberland, Gloucester and Salem)

Senator M. TERESA RUIZ

District 29 (Essex)

Senator NILSA I. CRUZ-PEREZ

District 5 (Camden and Gloucester)

Co-Sponsored by:

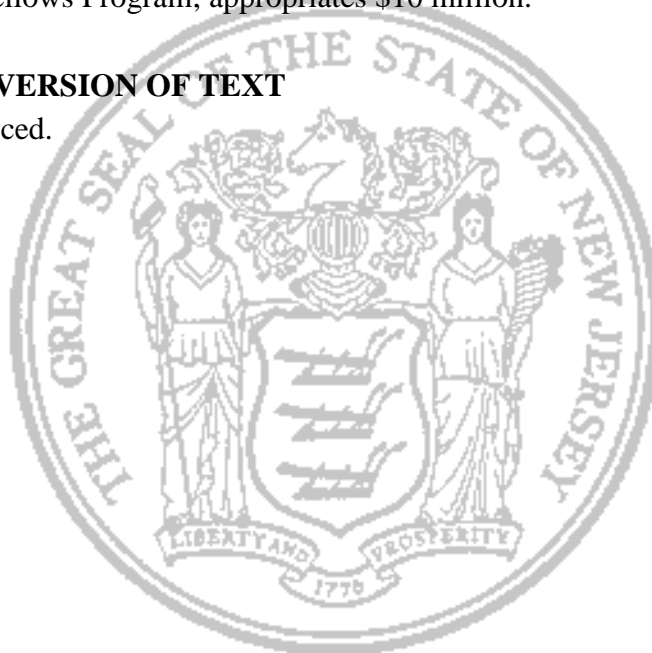
Senators Oroho and Turner

SYNOPSIS

Revises various provisions of “New Jersey Economic Recovery Act of 2020” and other economic development programs; establishes New Jersey Innovation Fellows Program; appropriates \$10 million.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/30/2021)

A5939 PINTOR MARIN, BURZICHELLI

2

1 AN ACT concerning State economic development policy, amending
2 various sections of the statutory law, supplementing Title 34 of
3 the Revised Statutes, 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. Section 3 of P.L.2020, c.156 (C.34:1B-271) is amended to
9 read as follows:

10 3. As used in sections 2 through 8 of P.L.2020, c.156
11 (C.34:1B-270 through C.34:1B-276):

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

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

18 "Cost of rehabilitation" means the consideration given, valued in
19 money, whether given in money or otherwise, for the materials and
20 services which constitute the rehabilitation.

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

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

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.2020, c.156 (C.34:1B-269 et al.), is subject to financial
38 restrictions imposed pursuant to the "Municipal Stabilization and
39 Recovery Act," P.L.2016, c.4 (C.52:27BBBB-1 et seq.), or is
40 restricted in its ability to levy property taxes on property in that
41 municipality as a result of the State of New Jersey owning or
42 controlling property representing at least 25 percent of the total land
43 area of the municipality or as a result of the federal government of
44 the United States owning or controlling at least 50 acres of the total

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 land area of the municipality, which is dedicated as a national
2 natural landmark.

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

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

7 "Officer" means the State Historic Preservation Officer or the
8 official within the State designated by the Governor or by statute in
9 accordance with the provisions of chapter 3023 of Title 54, United
10 States Code (54 U.S.C. s.302301 et seq.), to act as liaison for the
11 purpose of administering historic preservation programs in the
12 State.

13 "Partnership" means an entity classified as a partnership for
14 federal income tax purposes.

15 "Project financing gap" means the part of the total cost of
16 rehabilitation, including reasonable and appropriate return on
17 investment, that remains to be financed after all other sources of
18 capital have been accounted for, including, but not limited to,
19 developer contributed capital, which shall not be less than 20
20 percent of the total cost of rehabilitation, and investor or financial
21 entity capital or loans for which the developer, after making all
22 good faith efforts to raise additional capital, certifies that additional
23 capital cannot be raised from other sources; provided, however, that
24 for a redevelopment project located in a government-restricted
25 municipality, the developer contributed capital shall not be less than
26 10 percent of the cost of rehabilitation. Developer contributed
27 capital may consist of cash, deferred development fees, costs for
28 project feasibility incurred within the 12 months prior to
29 application, property value less any mortgages when the developer
30 owns the project site, and any other investment by the developer in
31 the project deemed acceptable by the authority, as provided by
32 regulations promulgated by the authority. Property value shall be
33 valued at the lesser of either: a. the purchase price, provided the
34 property was purchased pursuant to an arm's length transaction
35 within 12 months of application; or b. the value as determined by a
36 current appraisal.

37 "Property" means a structure, including its site improvements
38 and landscape features, assessed as real property, and used for: a
39 commercial purpose; a residential rental purpose, provided the
40 structure contains at least four dwelling units; or any combination
41 thereof.

42 "Qualified incentive tract" means: a. a population census tract
43 having a poverty rate of 20 percent or more; or b. a census tract in
44 which the median family income for the census tract does not
45 exceed 80 percent of the greater of the Statewide median family
46 income or the median family income of the metropolitan statistical
47 area in which the census tract is situated.

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

3 **[(a) (i)] a. (1)** individually listed, or located in a district listed
4 on the National Register of Historic Places in accordance with the
5 provisions of chapter 3021 of Title 54, United States Code (54
6 U.S.C. s.302101 et seq.), or on the New Jersey Register of Historic
7 Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.), or
8 individually designated, or located in a district designated, by the
9 Pinelands Commission as a historic resource of significance to the
10 Pinelands in accordance with the Pinelands comprehensive
11 management plan adopted pursuant to the "Pinelands Protection
12 Act," P.L.1979, c.111 (C.13:18A-1 et seq.), and

13 **[(ii)] (2)** if located within a district, certified by either the
14 officer or the Pinelands Commission, as appropriate, as contributing
15 to the historic significance of the district; or

16 **[(b) (i)] b. (1)** individually identified or registered, or located in
17 a district composed of properties identified or registered, for
18 protection as significant historic resources in accordance with
19 criteria established by a municipality in which the property or
20 district is located if the criteria for identification or registration has
21 been approved by the officer as suitable for substantially achieving
22 the purpose of preserving and rehabilitating buildings of historic
23 significance within the jurisdiction of the municipality, and

24 **[(ii)] (2)** if located within a district, certified by the officer as
25 contributing to the historic significance of the district.

26 "Rehabilitation" means the repair or reconstruction of the
27 exterior or interior of a qualified property or transformative project
28 to make an efficient contemporary use possible while preserving the
29 portions or features of the property that have significant historical,
30 architectural, and cultural values.

31 "Rehabilitation of the interior of the qualified property or
32 transformative project" means the repair or reconstruction of the
33 structural or substrate components and electrical, plumbing, and
34 heating components within the interior of a qualified property or
35 transformative project.

36 "Selected rehabilitation period" means a period of 24 months if
37 the beginning of such period is chosen by the business entity during
38 which, or parts of which, a rehabilitation is occurring, or a period of
39 60 months if a rehabilitation is reasonably expected to be completed
40 in distinct phases set forth in written architectural plans and
41 specifications completed before or during the physical work on the
42 rehabilitation.

43 "Transformative project" means a property that is:

44 **[(a)] a.** an income producing property, not including a
45 residential property, whose rehabilitation the authority determines
46 will generate substantial increases in State revenues through the
47 creation of increased business activity within the surrounding area;

1 **[(b)]** b. individually listed on the New Jersey Register of
2 Historic Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et
3 seq.) and which, before the enactment of P.L.2020, c.156 (C.34:1B-
4 269 et al.), received a Determination of Eligibility from the Keeper
5 of the National Register of Historic Places in accordance with the
6 provisions of Part 60 of Title 36 of the Code of Federal
7 Regulations; **[(c)]** and

8 c. (1) located within a one-half mile radius of the center point
9 of a transit village, as designated by the New Jersey Department of
10 Transportation **[(d)]**; and

11 **[(d)]** , and located within a city of the first class, as classified
12 under N.J.S.40A:6-4; or (2) located within a government-restricted
13 municipality.

14 (cf: P.L.2020, c.156, s.3)

15

16 2. Section 4 of P.L.2020, c.156 (C.34:1B-272) is amended to
17 read as follows:

18 4. a. (1) A business entity, upon successful application to the
19 New Jersey Economic Development Authority, and commitment to
20 the authority to pay each worker employed to perform construction
21 work and building services work at the qualified property or
22 transformative project a wage not less than the prevailing wage rate
23 for the worker's craft or trade, as determined by the Commissioner
24 of Labor and Workforce Development pursuant to P.L.1963, c.150
25 (C.34:11-56.25 et seq.), shall be allowed a credit against the tax
26 otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-
27 5), **[(the tax imposed on insurers generally pursuant to P.L.1945,**
28 **c.132 (C.54:18A-1 et seq.), or the tax imposed on marine insurance**
29 **companies pursuant to R.S.54:16-1 et. seq.)** sections 2 and 3 of
30 P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of
31 P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5, for [40 percent]
32 a portion of the cost of rehabilitation paid by the business entity for
33 the rehabilitation of a qualified property or transformative project,
34 if the cost of rehabilitation during a business entity's selected
35 rehabilitation period is not less than the greater of **[(1)]** (a) the
36 adjusted basis of the structure of the qualified property or
37 transformative project used for federal income tax purposes as of
38 the beginning of the business entity's selected rehabilitation period,
39 or **[(2)]** (b) \$5,000. The amount of the credit claimed in any
40 accounting or privilege period shall not reduce the amount of the
41 tax liability to less than the statutory minimum provided in
42 subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

43 (2) The amount of credit allowed to a business entity pursuant to
44 this section shall be as follows:

45 (a) for the rehabilitation of a qualified property located in a
46 qualified incentive tract or government-restricted municipality, 45
47 percent of the cost of rehabilitation paid by the business entity for

1 the rehabilitation of the qualified property or \$8 million, whichever
2 is less;

3 (b) for the rehabilitation of a transformative project, 45 percent
4 of the cost of rehabilitation paid by the business entity for the
5 rehabilitation of the transformative project or \$50 million,
6 whichever is less; and

7 (c) for the rehabilitation of any other qualified property not
8 subject to provisions of subparagraph (a) or (b) of this paragraph,
9 40 percent of the cost of rehabilitation paid by the business entity
10 for the rehabilitation of the qualified property or \$4 million,
11 whichever is less.

12 (3) The prevailing wage [requirements] requirement for
13 construction work shall apply at a qualified property or
14 transformative project during the selected rehabilitation period, and
15 the prevailing wage requirement for building services work shall
16 apply at a qualified property or transformative project for 10 years
17 following completion of the rehabilitation work at the qualified
18 property or transformative project. In the event a qualified property
19 or transformative project, or the aggregate of all qualified properties
20 and transformative projects approved for awards under the program,
21 constitute a lease of more than 35 percent of a facility, the
22 prevailing wage requirements shall apply to the entire facility.

23 **[(3)]** (4) Prior to approval of an application by the authority, the
24 authority shall confirm with the Department of Labor and
25 Workforce Development, the Department of Environmental
26 Protection, and the Department of the Treasury [shall each report to
27 the authority] whether the business entity is in substantial good
28 standing with the respective department [in lieu of submitting
29 certificates of good standing for the business entity, the business
30 entity may demonstrate that it] or has entered into an agreement
31 with the respective department that includes a practical corrective
32 action plan for the business entity. The business entity shall certify
33 that any contractors or subcontractors that perform work at the
34 qualified property or transformative project: a. are registered as
35 required by “The Public Works Contractor Registration Act,”
36 P.L.1999, c.238 (C.34:11-56.48 et seq.); b. have not been debarred
37 by Department of Labor and Workforce Development from
38 engaging in or bidding on Public Works Contracts in New Jersey,
39 and c. possess a tax clearance certificate issued by the Division of
40 Taxation in the Department of the Treasury. The authority may also
41 contract with an independent third party to perform a background
42 check on the business entity. Following approval of an application
43 by the authority, but prior to the start of any construction or
44 rehabilitation at the qualified property or transformative project, the
45 authority shall enter into a rehabilitation agreement with the
46 business entity. The authority shall negotiate the terms and
47 conditions of the rehabilitation agreement on behalf of the State.

1 **[(4)] (5)** A rehabilitation project shall be eligible for a tax credit
2 only if the business entity demonstrates to the authority at the time
3 of application that:

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

6 (b) a project financing gap exists.

7 b. A business entity may claim a credit under this section
8 during the accounting or privilege period: (1) in which it makes the
9 final payment for the cost of the rehabilitation if the business entity
10 has chosen a selected rehabilitation period of 24 months; or (2) in
11 which a distinct project phase of the rehabilitation is completed if
12 the business entity has chosen a selected rehabilitation period of 60
13 months. The credit may be claimed against any State tax, listed in
14 paragraph (1) of subsection a. of this section, liability otherwise due
15 after any other credits permitted pursuant to law have been applied.
16 The amount of credit claimed in an accounting or privilege period
17 that cannot be applied for that accounting or privilege period due to
18 limitations in this section may be transferred pursuant to section 5
19 of P.L.2020, c.156 (C.34:1B-273) or carried over, if necessary, to
20 the nine accounting or privilege periods following the accounting or
21 privilege period for which the credit was allowed.

22 c. A business entity shall submit to the authority satisfactory
23 evidence of the actual cost of rehabilitation, as certified by a
24 certified public accountant, evidence of completion of the
25 rehabilitation or phase, and a certification that all information
26 provided by the business entity to the authority is true, including
27 information contained in the application, the rehabilitation
28 agreement, any amendment to the rehabilitation agreement, and any
29 other information submitted by the business entity to the authority
30 pursuant to sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270
31 through C.34:1B-276). The business entity, or an authorized agent
32 of the business entity, shall certify under the penalty of perjury that
33 the information provided pursuant to this subsection is true.

34 (cf: P.L.2020, c.156, s.4)

35

36 3. Section 5 of P.L.2020, c.156 (C.34:1B-273) is amended to
37 read as follows:

38 5. a. The authority shall, in cooperation with the director,
39 establish and administer a corporation business tax credit transfer
40 certificate program and an insurance premiums tax credit transfer
41 certificate program to enable business entities with unused,
42 otherwise allowable amounts of tax credits issued pursuant to
43 sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through
44 C.34:1B-276) to exchange these credits, in whole or in part, for
45 private financial assistance prior to the expiration of the tax credit.

46 A certificate issued by the director and the authority shall include
47 a statement waiving the rights of the business entity to which the

1 tax credit has been granted to claim any amount of remaining credit
2 against any tax liability.

3 b. A business entity holding an unused, otherwise allowable tax
4 credit issued pursuant to sections 2 through 8 of P.L.2020, c.156
5 (C.34:1B-270 through C.34:1B-276) may apply to the director and
6 the authority for a tax credit transfer certificate pursuant to
7 subsection a. of this section. Upon receipt thereof, the business
8 entity may sell or assign, in full or in part, the tax credit transfer
9 certificate to another taxpayer in exchange for private financial
10 assistance to be provided by the purchaser or assignee of the tax
11 credit transfer certificate to the seller thereof. The developer shall
12 not sell a tax credit transfer certificate allowed under this section
13 for consideration received by the developer of less than 85 percent
14 of the transferred credit amount before considering any further
15 discounting to present value which shall be permitted, except a
16 developer of a residential project consisting of newly-constructed
17 residential units that has received federal low income housing tax
18 credits under 26 U.S.C. **[s.42(b)(2)(B)(i)]** s.42(b)(1)(B)(i) may
19 assign a tax credit transfer certificate for consideration of no less
20 than 75 percent subject to the submission of a plan to the authority
21 and the New Jersey Housing and Mortgage Finance Agency to use
22 the proceeds derived from the assignment of tax credits to complete
23 the residential project. The purchaser or assignee of the tax credit
24 transfer certificate may apply the face value of the tax credit
25 transfer certificate acquired against the purchaser's or assignee's
26 applicable tax liability by claiming the tax credit on the purchaser's
27 or assignee's corporation business tax or insurance premiums tax
28 return with the corresponding tax credit transfer certificate
29 accompanying the tax return. A purchaser or assignee of a tax
30 credit transfer certificate pursuant to this section shall not make any
31 subsequent transfers, assignments, or sales of the tax credit transfer
32 certificate.

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

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

42 (cf: P.L.2020, c.156, s.5)

43

44 4. Section 6 of P.L.2020, c.156 (C.34:1B-274) is amended to
45 read as follows:

46 6. a. The authority shall, in consultation with the officer and
47 the director, promulgate rules and regulations in accordance with
48 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et

1 seq.), as the officer deems necessary to administer the provisions of
2 sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through
3 C.34:1B-276), including but not limited to rules establishing
4 administrative fees to implement the provisions of sections 2
5 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276),
6 and setting of an annual application submission date, requiring
7 annual reporting by each business entity that [receive] receives a
8 tax credit pursuant to sections 2 through 8 of P.L.2020, c.156
9 (C.34:1B-270 through C.34:1B-276) [, and requiring those reports
10 to include certifications by] . As part of the authority's review of
11 the annual reports required from each business entity that receives a
12 tax credit, the authority shall confirm with the Department of Labor
13 and Workforce Development, the Department of Environmental
14 Protection, and the Department of the Treasury that; the business
15 entity [, and any contractors or subcontractors performing work at
16 the qualified property or transformative project, are] is in
17 substantial good standing with the respective department, or has
18 entered into an agreement with the respective department that
19 includes a practical corrective action plan for the business entity,
20 and the business entity shall certify that any contractors or
21 subcontractors performing work at the qualified property or
22 transformative project: (1) are registered as required by "The Public
23 Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-
24 56.48 et seq.); (2) have not been debarred by Department of Labor
25 and Workforce Development from engaging in or bidding on Public
26 Works Contracts in the State; and (3) possess a tax clearance
27 certificate issued by the Division of Taxation in the Department of
28 the Treasury. The rules and regulations adopted pursuant to this
29 section shall also include a provision to require that business
30 entities forfeit all tax credits awarded in any year in which [any
31 such report is not received] the Department of Labor and
32 Workforce Development, the Department of Environmental
33 Protection, or the Department of the Treasury advises the authority
34 that the business entity is not in substantial good standing nor has
35 the business entity entered into an agreement with the respective
36 department that includes a practical corrective action plan, and to
37 allow the authority to extend, in individual cases, the deadline for
38 any annual reporting or certification requirement established
39 pursuant to this section.

40 b. For every tax credit allowed pursuant to section 4 of
41 P.L.2020, c.156 (C.34:1B-272), the authority, in consultation with
42 the officer, shall certify to the director: the total cost of
43 rehabilitation; that the property meets the definition of qualified
44 property or transformative project, as applicable; and that the
45 rehabilitation has been completed in substantial compliance with
46 the requirements of the Secretary of the Interior's Standards for
47 Rehabilitation pursuant to section 67.7 of Title 36, Code of Federal

1 Regulations. The business entity shall attach the certification to the
2 tax return on which the business entity claims the credit.

3 c. (1) The total amount of credits approved by the authority
4 pursuant to sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270
5 through C.34:1B-276) shall not exceed the limitations set forth in
6 section 98 of P.L.2020, c.156 (C.34:1B-362). If the authority
7 approves less than the total amount of tax credits authorized
8 pursuant to this subsection in a fiscal year, the remaining amount,
9 plus any amounts remaining from previous fiscal years, shall be
10 added to the limit of subsequent fiscal years until that amount of tax
11 credits are claimed or allowed. Any unapproved, uncertified, or
12 recaptured portion of tax credits during any fiscal year may be
13 carried over and reallocated in succeeding years.

14 (2) Notwithstanding the provisions of paragraph (1) of this
15 subsection and section 98 of P.L.2020, c.156 (C.34:1B-362) to the
16 contrary, the authority may approve tax credits, pursuant to sections
17 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-
18 276), for the rehabilitation of a transformative project in an amount
19 that causes the total amount of credits approved during the fiscal
20 year to exceed the limitations set forth in section 98 of P.L.2020,
21 c.156 (C.34:1B-362), provided that the amount of the excess shall
22 be subtracted from the total amount of credits that may be approved
23 by the authority in the subsequent fiscal year, and the amount of the
24 excess shall not exceed 50 percent of the total tax credits otherwise
25 authorized for the fiscal year.

26 The authority, in consultation with the officer, shall devise
27 criteria for allocating tax credit amounts if the approved amounts
28 combined exceed the total amount in each fiscal year, including
29 rules that allocate over multiple fiscal years a single credit amount
30 granted in excess of \$2,000,000. The criteria shall include a
31 project's historic importance, positive impact on the surrounding
32 neighborhood, economic sustainability, geographic diversity, and
33 consistency with Statewide growth and development policies and
34 plans.

35 (cf: P.L.2020, c.156, s.6)

36

37 5. Section 10 of P.L.2020, c.156 (C.34:1B-278) is amended to
38 read as follows:

39 10. As used in sections 9 through 19 of P.L.2020, c.156
40 (C.34:1B-277 through C.34:1B-287):

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

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

46 "Brownfield site" means any former or current commercial or
47 industrial site that is currently vacant or underutilized and on which

1 there has been, or there is suspected to have been, a discharge of a
2 contaminant or on which there is contaminated building material.

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

13 "Contaminated building material" means components of a
14 structure where abatement or removal of asbestos, or remediation of
15 materials containing hazardous substances defined pursuant to
16 section 3 of P.L.1976, c.141 (C.58:10-23.11b), is required by
17 applicable federal, state, or local rules or regulations.

18 "Contamination" or "contaminant" means any discharged
19 hazardous substance as defined pursuant to section 3 of P.L.1976,
20 c.141 (C.58:10-23.11b), hazardous waste as defined pursuant to
21 section 1 of P.L.1976, c.99 (C.13:1E-38), pollutant as defined
22 pursuant to section 3 of P.L.1977, c.74 (C.58:10A-3), or
23 contaminated building material.

24 "Department" means the Department of Environmental
25 Protection.

26 "Developer" means any person that enters or proposes to enter
27 into a redevelopment agreement with the authority pursuant to the
28 provisions of section 13 of P.L.2020, c.156 (C.34:1B-281).

29 "Director" means the Director of the Division of Taxation in the
30 Department of the Treasury.

31 "Government-restricted municipality" means a municipality in
32 this State with a municipal revitalization index distress score of at
33 least 75, that met the criteria for designation as an urban aid
34 municipality in the 2019 State fiscal year, and that, on the effective
35 date of P.L.2020, c.156 (C.34:1B-269 et al.), is subject to financial
36 restrictions imposed pursuant to the "Municipal Stabilization and
37 Recovery Act," P.L.2016, c.4 (C.52:27BBBB-1 et seq.), or is
38 restricted in its ability to levy property taxes on property in that
39 municipality as a result of the State of New Jersey owning or
40 controlling property representing at least 25 percent of the total land
41 area of the municipality or as a result of the federal government of
42 the United States owning or controlling at least 50 acres of the total
43 land area of the municipality, which is dedicated as a national
44 natural landmark.

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

1 "Program" means the Brownfields Redevelopment Incentive
2 Program established by section 11 of P.L.2020, c.156 (C.34:1B-
3 279).

4 "Project financing gap" means the part of the total remediation
5 cost, including reasonable and appropriate return on investment,
6 that remains to be financed after all other sources of capital have
7 been accounted for, including, but not limited to, developer
8 contributed capital, which shall not be less than 20 percent of the
9 total remediation cost, and investor or financial entity capital or
10 loans for which the developer, after making all good faith efforts to
11 raise additional capital, certifies that additional capital cannot be
12 raised from other sources; provided, however, that for a
13 redevelopment project located in a government-restricted
14 municipality, the developer contributed capital shall not be less than
15 10 percent of the cost of rehabilitation. Developer contributed
16 capital may consist of cash, deferred development fees, costs for
17 project feasibility incurred within the 12 months prior to
18 application, property value less any mortgages when the developer
19 owns the project site, and any other investment by the developer in
20 the project deemed acceptable by the authority, as provided by
21 regulations promulgated by the authority. Property value shall be
22 valued at the lesser of either: a. the purchase price, provided the
23 property was purchased pursuant to an arm's length transaction
24 within 12 months of application; or b. the value as determined by a
25 current appraisal.

26 "Qualified incentive tract" means: a. a population census tract
27 having a poverty rate of 20 percent or more; or b. a census tract in
28 which the median family income for the census tract does not
29 exceed 80 percent of the greater of the Statewide median family
30 income or the median family income of the metropolitan statistical
31 area in which the census tract is situated.

32 "Redevelopment agreement" means an agreement between the
33 authority and a developer under which the developer agrees to
34 perform any work or undertaking necessary for the remediation of a
35 **【contaminated】** brownfield site located at the site of the
36 redevelopment project, and for the clearance, development or
37 redevelopment, construction, reconstruction, or rehabilitation of any
38 structure or improvement of commercial, industrial, or public
39 structures or improvements within an area of land whereon a
40 brownfield site is located.

41 "Redevelopment project" means a specific construction project
42 or improvement undertaken, pursuant to the terms of a
43 redevelopment agreement, by a developer within an area of land
44 whereon a brownfield site is located. A redevelopment project may
45 involve construction or improvement upon lands, buildings,
46 improvements, or real and personal property, or any interest therein,
47 including lands under water, riparian rights, space rights, and air

1 rights, acquired, owned, developed or redeveloped, constructed,
2 reconstructed, rehabilitated, or improved.

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

16 "Remediation costs" means all reasonable costs associated with
17 the remediation of a contaminated site, except any costs incurred in
18 financing the remediation.

19 (cf: P.L.2020, c.156, s.10)

20

21 6. Section 12 of P.L.2020, c.156 (C.34:1B-280) is amended to
22 read as follows:

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

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

32 (1) except as provided in subsection j. of this section, the
33 developer has not commenced any remediation or clean up at the
34 site of the redevelopment project, except for preliminary
35 assessments and investigations, prior to applying for a tax credit
36 pursuant to this section, but intends to remediate and redevelop the
37 site immediately upon approval of the tax credit;

38 (2) the redevelopment project is located on a brownfield site;

39 (3) without the tax credit, the redevelopment project is not
40 economically feasible;

41 (4) a project financing gap exists;

42 (5) the developer has obtained and submitted to the authority a
43 letter evidencing support for the redevelopment project from the
44 governing body of the municipality in which the redevelopment
45 project is located; and

46 (6) each worker employed to perform remediation, **[or]**
47 construction, or building services work at the redevelopment project
48 shall be paid not less than the prevailing wage rate for the worker's

1 craft or trade, as determined by the Commissioner of Labor and
2 Workforce Development pursuant to P.L.1963, c.150 (C.34:11-
3 56.25 et seq.). The prevailing wage requirements shall apply for
4 remediation or construction work through the completion of the
5 redevelopment project, and the prevailing wage requirements shall
6 apply for building services work at the site of the redevelopment
7 project for 10 years following completion of the redevelopment
8 project. In the event a redevelopment project, or the aggregate of
9 all redevelopment projects approved for an award under the
10 program, constitute a lease of more than 35 percent of a facility, the
11 prevailing wage requirements shall apply to the entire facility.

12 c. A redevelopment project that received a reimbursement
13 pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26
14 through 58:10B-31) shall not be eligible to apply for a tax credit
15 under the program. If the authority receives an application and
16 supporting documentation for approval of a reimbursement pursuant
17 to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through
18 58:10B-31) prior to the effective date of sections 9 through 19 of
19 P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287), then the
20 authority may consider the application and award a tax credit to a
21 developer, provided that the authority shall take final action on all
22 applications for approval of a reimbursement pursuant to sections
23 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through 58:10B-31)
24 no later than July 1, 2019. No applications shall be submitted
25 pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26
26 through 58:10B-31) after the effective date of sections 9 through 19
27 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287).

28 d. (1) Prior to approval of an application, the authority shall
29 confirm with the Department of Labor and Workforce
30 Development, the Department of Environmental Protection, and the
31 Department of the Treasury **【shall each report to the chief executive**
32 **officer of the authority】** whether the developer is in substantial
33 good standing with the respective department, or has entered into an
34 agreement with the respective department that includes a practical
35 corrective action plan for the developer. The authority may also
36 contract with an independent third party to perform a background
37 check on the developer. The developer shall certify that any
38 contractors or subcontractors that perform work at the
39 redevelopment project: (1) are registered as required by “The Public
40 Works Contractor Registration Act,” P.L.1999, c.238 (C.34:11-
41 56.48 et seq.); (2) have not been debarred by Department of Labor
42 and Workforce Development from engaging in or bidding on Public
43 Works Contracts in New Jersey, and (3) possess a tax clearance
44 certificate issued by the Division of Taxation in the Department of
45 the Treasury. Provided that the developer is in substantial good
46 standing with the Department of Labor and Workforce
47 Development, the Department of Environmental Protection, and the
48 Department of the Treasury, or has entered into such an agreement,

1 and following approval of an application by the board, the authority
2 shall enter into a redevelopment agreement with the developer, as
3 provided for in section 13 of P.L.2020, c.156 (C.34:1B-281).

4 (2) The authority, in consultation with the department, may
5 impose additional requirements upon an applicant through rule or
6 regulation adopted pursuant to the provisions of the "Administrative
7 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), if the
8 authority or the department determines the additional requirements
9 to be necessary and appropriate to effectuate the purposes of
10 sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through
11 C.34:1B-287).

12 e. The authority, in consultation with the department, shall
13 conduct a review of the applications through a competitive
14 application process whereby the authority and the department shall
15 evaluate all applications submitted by a date certain, as if all
16 received applications were submitted on that date. In addition to
17 the eligibility criteria set forth in subsection b. of this section, the
18 authority, in consultation with the department, may consider
19 additional factors that may include, but shall not be limited to: the
20 economic feasibility of the redevelopment project; the benefit of the
21 redevelopment project to the community in which the remediation
22 project is located; the degree to which the redevelopment project
23 enhances and promotes job creation and economic development and
24 reduces environmental or public health stressors in an overburdened
25 community, as those terms are defined by section 2 of **[P.L.2020,**
26 **c.92 (C.13:1D-157)]** P.L.2020, c.92 (C.13:1D-158), and attendant
27 department regulations; and, if the developer has a board of
28 directors, the extent to which that board of directors is diverse and
29 representative of the community in which the redevelopment project
30 is located. The authority, in consultation with the department, shall
31 submit applications that comply with the eligibility criteria set forth
32 in this section, fulfill the additional factors considered by the
33 authority pursuant to this subsection, satisfy the submission
34 requirements, and provide adequate information for the subject
35 application, to the board for final approval.

36 f. The authority shall award tax credits to redevelopment
37 projects until either the available tax credits are exhausted or all
38 redevelopment projects that are eligible for a tax credit pursuant to
39 the provisions of sections 9 through 19 of P.L.2020, c.156
40 (C.34:1B-277 through C.34:1B-287) receive a tax credit, whichever
41 occurs first. If insufficient funding exists to allow a tax credit to a
42 developer in accordance with the provisions of subsection a. of
43 section 16 of P.L.2020, c.156 (C.34:1B-284), the authority may
44 offer the developer a value of the tax credit below the amount
45 provided for in subsection a. of section 16 of P.L.2020, c.156
46 (C.34:1B-284).

47 g. A developer shall pay to the authority or to the department,
48 as appropriate, the full amount of the direct costs of an analysis

1 concerning the developer's application for a tax credit, which a
2 third party retained by the authority or department performs, if the
3 authority or department deems such retention to be necessary.

4 h. If the authority determines that a developer made a material
5 misrepresentation on the developer's application, the developer
6 shall forfeit all tax credits awarded under the program.

7 i. If circumstances require a developer to amend its application
8 to the authority, then the developer, or an authorized agent of the
9 developer, shall certify to the authority that the information
10 provided in its amended application is true, under the penalty of
11 perjury.

12 j. A developer **[that]** who has commenced remediation or
13 clean up at the site and who could not reasonably have known the
14 full extent of the site contamination **[when the developer of a**
15 **redevelopment project prior to application]** prior to commencing
16 the remediation may still apply for a tax credit under the program, if
17 the developer certifies to the authority, under the penalty of perjury,
18 that the developer **[could not]** cannot reasonably **[have**
19 **commenced]** finish the remediation and commence the
20 redevelopment project absent the tax credit.

21 (cf: P.L.2020, c.156, s.12)

22

23 7. Section 13 of P.L.2020, c.156 (C.34:1B-281) is amended to
24 read as follows:

25 13. a. Following approval of an application by the board, but
26 prior to the start of any remediation or clean up at the site of the
27 redevelopment project, except activities disclosed at the time of
28 approval, the authority shall enter into a redevelopment agreement
29 with the developer. The chief executive officer of the authority
30 shall negotiate the terms and conditions of the redevelopment
31 agreement on behalf of the State.

32 b. The redevelopment agreement shall specify the amount of
33 the tax credit to be awarded to the developer, the date on which the
34 developer shall complete the remediation, and the projected project
35 remediation cost. The redevelopment agreement shall require the
36 developer to submit progress reports to the authority and to the
37 department every six months pursuant to section 15 of P.L.2020,
38 c.156 (C.34:1B-283).

39 c. The authority shall not enter into a redevelopment agreement
40 with a developer unless:

41 (1) the redevelopment project complies with standards
42 established by the authority in accordance with the green building
43 manual prepared by the Commissioner of Community Affairs
44 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 to reduce environmental degradation
47 and encourage long-term cost reduction;

1 (2) the redevelopment project complies with the authority's
2 affirmative action requirements, adopted pursuant to section 4 of
3 P.L.1979, c.303 (C.34:1B-5.4); and

4 (3) the developer pays each worker employed to perform
5 remediation work **[or]** , construction work, or building services
6 work at the redevelopment project not less than the prevailing wage
7 rate in accordance with the requirements of paragraph (6) of
8 subsection b. of section 12 of P.L.2020, c.156 (C.34:1B-280) for the
9 worker's craft or trade, as determined by the Commissioner of
10 Labor and Workforce Development pursuant to P.L.1963, c.150
11 (C.34:11-56.25 et seq.).

12 d. The authority shall not enter into a redevelopment agreement
13 unless the developer demonstrates, to the satisfaction of the
14 Department of Environmental Protection, that the developer did not
15 discharge a hazardous substance at the brownfield site proposed to
16 be in the redevelopment agreement, is not in any way responsible
17 for the hazardous substance, and is not a corporate successor to the
18 discharger or to any person in any way responsible for the
19 hazardous substance or to anyone liable for cleanup and removal
20 costs pursuant to section 8 of P.L.1976, c.141 (C.58:10-23.11g).

21 e. (1) Except as provided in paragraph (2) of this subsection, the
22 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
29 labor organization or cooperating labor organizations which
30 represent retail or distribution center 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 a 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
38 would not be feasible if a labor harmony agreement is required.
39 The authority shall support the determination by a written finding,
40 which provides the specific basis for the determination.

41 (3) As used in this subsection, "labor harmony agreement"
42 means an agreement between a business that serves as the owner or
43 operator of a retail establishment or distribution center and one or
44 more labor organizations, which requires, for the duration of the
45 agreement: that any participating labor organization and its
46 members agree to refrain from picketing, work stoppages, boycotts,
47 or other economic interference against the business; and that the
48 business agrees to maintain a neutral posture with respect to efforts

1 of any participating labor organization to represent employees at an
2 establishment or other unit in the retail establishment or distribution
3 center, agrees to permit the labor organization to have access to the
4 employees, and agrees to guarantee to the labor organization the
5 right to obtain recognition as the exclusive collective bargaining
6 representatives of the employees in an establishment or unit at the
7 retail establishment or distribution center by demonstrating to the
8 New Jersey State Board of Mediation, Division of Private
9 Employment Dispute Settlement, or a mutually agreed-upon,
10 neutral, third-party, that a majority of workers in the unit have
11 shown their preference for the labor organization to be their
12 representative by signing authorization cards indicating that
13 preference. The labor organization or organizations shall be from a
14 list of labor organizations that have requested to be on the list and
15 that the Commissioner of Labor and Workforce Development has
16 determined represent substantial numbers of retail or distribution
17 center employees in the State.

18 f. The redevelopment agreement shall provide that issuance of
19 a tax credit under the program shall be conditioned upon the
20 subrogation to the department of all rights of the developer to
21 recover remediation costs from any other person who discharges a
22 hazardous substance or is in any way responsible, pursuant to
23 section 8 of P.L.1976, c.141 (C.58:10-23.11g), for a hazardous
24 substance that was discharged at the brownfield site.

25 g. A developer may seek a revision to the redevelopment
26 agreement if the developer cannot complete the remediation on or
27 before the date set forth in the redevelopment agreement. A
28 developer's ability to change the date on which the developer shall
29 complete the remediation shall be subject to the availability of tax
30 credits in the year of the revised date of completion.

31 h. A developer shall submit to the authority satisfactory
32 evidence of the actual remediation costs, as certified by a certified
33 public accountant, and a Licensed Site Remediation Professional for
34 costs under the jurisdiction of the "Site Remediation Reform Act,"
35 sections 1 through 29 of P.L.2009, c.60 (C.58:10C-1 et seq.), and as
36 applicable, other appropriate licensed or certified professional for
37 costs that are not under the jurisdiction of the "Site Remediation
38 Reform Act," evidence of completion of the remediation as
39 demonstrated by a Response Action Outcome where the
40 remediation is subject to the "Site Remediation Reform Act," a
41 certification from the appropriate licensed or certified professional
42 for other remedial activities, and a certification that all information
43 provided by the developer to the authority is true, including
44 information contained in the application, the redevelopment
45 agreement, any amendment to the redevelopment agreement, and
46 any other information submitted by the developer to the authority
47 pursuant to sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277
48 through C34:1B-287). The developer, or an authorized agent of the

1 developer, shall certify under the penalty of perjury that the
2 information provided pursuant to this subsection is true.

3 i. The redevelopment agreement shall include a **[requirement**
4 **that the chief executive officer of the authority receive annual**
5 **reports from]** provision allowing the authority to recapture the tax
6 credits for any year in which the Department of Environmental
7 Protection, the Department of Labor and Workforce Development,
8 **[and]** or the Department of the Treasury that **[demonstrate]**
9 advises the authority that the developer **[, and each contractors and**
10 **subcontractor performing work on the redevelopment project,]** is
11 not in substantial good standing with the respective department,
12 **[or]** nor has the developer entered into an agreement with the
13 respective department that includes a practical corrective action
14 plan for the developer. The redevelopment agreement shall also
15 include a provision allowing authority to recapture the tax credits
16 for any year in which **[any such report is not received]** the
17 developer fails to confirm that each contractor or subcontractor
18 performing work at the redevelopment project: (1) is registered as
19 required by “The Public Works Contractor Registration Act,”
20 P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has not been debarred
21 by Department of Labor and Workforce Development from
22 engaging in or bidding on Public Works Contracts in New Jersey,
23 and (3) possesses a tax clearance certificate issued by the Division
24 of Taxation in the Department of the Treasury. The redevelopment
25 agreement shall also require a developer to engage in on-site
26 consultations with the Division of Workplace Safety and Health in
27 the Department of Health.

28 (cf: P.L.2020, c.156, s.13)

29

30 8. Section 16 of P.L.2020, c.156 (C.34:1B-284) is amended to
31 read as follows:

32 16. a. Upon completion of the **[redevelopment project]**
33 remediation, the developer shall seek certification from the
34 department that:

35 (1) the **[redevelopment project]** remediation is complete;

36 (2) the developer complied with the requirements of section 15
37 of P.L.2020, c.156 (C.34:1B-283), including the requirements of
38 any memorandum of agreement or other oversight document that
39 the developer may have executed with the Commissioner of
40 Environmental Protection pursuant to that section; and

41 (3) the remediation costs were actually and reasonably incurred.

42 Upon receipt of certification, and confirmation by the authority
43 that the developer's obligations under the redevelopment agreement
44 have been met, a developer shall be awarded a credit against the tax
45 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
46 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),
47 section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 as

1 follows: (a) for project located in a qualified incentive tract or
2 government-restricted municipality, in an amount not to exceed 60
3 percent of the actual remediation costs, or 60 percent of the
4 projected remediation costs as set forth in the redevelopment
5 agreement, or \$8,000,000, whichever is least; and (b) for all other
6 projects, in an amount not to exceed [40] 50 percent of the actual
7 remediation costs, or [40] 50 percent of the projected remediation
8 costs as set forth in the redevelopment agreement, or \$4,000,000,
9 whichever is least. The developer, or an authorized agent of the
10 developer, shall certify that the information provided to the
11 department and the authority pursuant to this subsection is true
12 under the penalty of perjury.

13 b. When filing an application for certification pursuant to
14 subsection a. of this section, the developer shall submit to the
15 department: (1) the total remediation costs incurred by the
16 developer for the remediation of the subject property located at the
17 site of the redevelopment project, as provided in the redevelopment
18 agreement, and certified by a certified public accountant, and a
19 Licensed Site Remediation Professional for costs under the
20 jurisdiction of the "Site Remediation Reform Act," sections 1
21 through 29 of P.L.2009, c.60 (C.58:10C-1 et seq.), and as
22 applicable, other appropriate licensed or certified professional for
23 costs that are not under the jurisdiction of the "Site Remediation
24 Reform Act"; (2) evidence of completion of the remediation, as
25 demonstrated by a Response Action Outcome where the
26 remediation is subject to the "Site Remediation Reform Act"; (3) a
27 certification from the appropriate licensed or certified professional
28 for other remedial activities; (4) information concerning the
29 occupancy rate of the buildings or other work areas located on the
30 property subject to the redevelopment agreement [,] ; and (5) such
31 other information as the department deems necessary in order to
32 make the certifications and findings pursuant to this section.

33 c. A developer shall apply the credit awarded against the
34 developer's liability for the tax imposed pursuant to section 5 of
35 P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132
36 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231
37 (C.17:32-15), or N.J.S.17B:23-5 for the privilege period during
38 which the department awards the developer a tax credit pursuant to
39 subsection a. of this section. A developer shall not carry forward
40 any unused credit.

41 d. The director shall prescribe the order of priority of the
42 application of the credit awarded under this section and any other
43 credits allowed by law against the tax imposed under section 5 of
44 P.L.1945, c.162 (C.54:10A-5). The amount of the credit applied
45 under this section against the tax imposed pursuant to section 5 of
46 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with
47 any other credits allowed by law, shall not reduce the tax liability to

1 an amount less than the statutory minimum provided in subsection
2 (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

3 (cf: P.L.2020, c.156, s.16)

4

5 9. Section 17 of P.L.2020, c.156 (C.34:1B-285) is amended to
6 read as follows:

7 17. a. A developer may apply to the director and the chief
8 executive officer of the authority for a tax credit transfer certificate,
9 during the privilege period in which the director awards the
10 developer a tax credit pursuant to section 16 of P.L.2020, c.156
11 (C.34:1B-284), in lieu of the developer being allowed to apply any
12 amount of the tax credit against the developer's State tax liability.
13 The tax credit transfer certificate, upon receipt thereof by the
14 developer from the director and the chief executive officer of the
15 authority, may be sold or assigned, in the privilege period during
16 which the developer receives the tax credit transfer certificate from
17 the director, to another person, who may apply the credit against a
18 tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
19 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),
20 section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The
21 tax credit transfer certificate provided to the developer shall include
22 a statement waiving the developer's right to claim the credit that the
23 developer has elected to sell or assign.

24 b. The developer shall not sell or assign a tax credit transfer
25 certificate allowed under this section for consideration received by
26 the developer of less than 85 percent of the transferred credit
27 amount before considering any further discounting to present value
28 which shall be permitted, except a developer of a residential project
29 consisting of newly-constructed residential units that has received
30 federal low income housing tax credits under 26 U.S.C.
31 **[s.42(b)(2)(B)(i)]** s.42(b)(1)(B)(i) may assign a tax credit transfer
32 certificate for consideration of no less than 75 percent subject to the
33 submission of a plan to the authority and the New Jersey Housing
34 and Mortgage Finance Agency to use the proceeds derived from the
35 assignment of tax credits to complete the residential project. The
36 tax credit transfer certificate issued to a developer by the director
37 shall be subject to any limitations and conditions imposed on the
38 application of State tax credits pursuant to section 16 of P.L.2020,
39 c.156 (C.34:1B-284) and any other terms and conditions that the
40 director may prescribe.

41 c. A purchaser or assignee of a tax credit transfer certificate
42 pursuant to this section shall not make any subsequent transfers,
43 assignments, or sales of the tax credit transfer certificate.

44 d. The authority shall publish on its Internet website the
45 following information concerning each tax credit transfer certificate
46 approved by the authority and the director pursuant to this section:

47 (1) the name of the transferor;

48 (2) the name of the transferee;

- 1 (3) the value of the tax credit transfer certificate;
2 (4) the State tax against which the transferee may apply the tax
3 credit; and
4 (5) the consideration received by the transferor.
5 (cf: P.L.2020, c.156, s.17)
6

7 10. Section 19 of P.L.2020, c.156 (C.34:1B-287) is amended to
8 read as follows:

9 19. Notwithstanding the provisions 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, in consultation
12 with the Commissioner of Environmental Protection, may adopt,
13 immediately upon filing with the Office of Administrative Law,
14 regulations that the chief executive officer and commissioner deem
15 necessary to implement the provisions of sections 9 through 19 of
16 P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287), which
17 regulations shall be effective for a period not to exceed **[180]** 360
18 days from the date of the filing. The chief executive officer, in
19 consultation with the Commissioner of Environmental Protection,
20 shall thereafter amend, adopt, or readopt the regulations in
21 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
22 et seq.). The rules shall require annual reporting by developers that
23 receive tax credits pursuant to the program, in addition to the
24 regular progress updates. **[Developers]** As part of the authority's
25 review of the annual reports required from a developer, the
26 authority shall [obtain certifications by] confirm with the
27 Department of Labor and Workforce Development, the Department
28 of Environmental Protection, and the Department of the Treasury
29 **[stating]** that the developer is in substantial good standing with the
30 respective department, or has entered into an agreement with the
31 respective department that includes a practical corrective action
32 plan, and the developer shall certify that any contractors or
33 subcontractors performing work at the redevelopment project: (1)
34 are registered as required by "The Public Works Contractor
35 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have
36 not been debarred by Department of Labor and Workforce
37 Development from engaging in or bidding on Public Works
38 Contracts in New Jersey, and (3) possess a tax clearance certificate
39 issued by the Division of Taxation in the Department of the
40 Treasury. The rules and regulations adopted pursuant to this
41 section shall also include a provision to require that **[developers]** ,
42 in any year in which the developer is not in substantial good
43 standing with the Department of Labor and Workforce
44 Development, the Department of Environmental Protection, or the
45 Department of the Treasury, the developer may forfeit all tax credits
46 awarded in [any] that year [in which any such report is not
47 received], and to allow the authority to extend, in individual cases,

1 the deadline for any annual reporting **【or certification】** requirement
2 established pursuant to this section.

3 (cf: P.L.2020, c.156, s.19)

4

5 11. Section 24 of P.L.2020, c.156 (C.34:1B-292) is amended to
6 read as follows:

7 24. a. The authority shall sell the tax credits authorized pursuant
8 to section 22 of P.L.2020, c.156 (C.34:1B-290) to purchasers
9 through a competitive auction process.

10 b. The authority shall determine the form and manner in which
11 potential purchasers may bid for tax credits available under the
12 program. To be awarded a tax credit under the program, a potential
13 purchaser shall:

14 (1) specify the requested amount of tax credits, which shall not
15 be less than **【\$1,000,000】** \$500,000;

16 (2) specify the amount the potential purchaser will pay in
17 exchange for the requested amount of tax credits, which shall not be
18 less than **【85】** 75 percent of the requested dollar amount of tax
19 credits;

20 (3) commit to serve on the New Jersey Innovation Evergreen
21 Advisory Board, established pursuant to section 32 of P.L.2020,
22 c.156 (C.34:1B-300), and to otherwise provide mentorship,
23 networking, and collaboration opportunities to qualified businesses
24 that receive funding under the program; and

25 (4) provide any other information that the chief executive
26 officer of the authority determines is necessary.

27 c. Prior to an auction, the authority shall establish and disclose
28 to bidders the weighted criteria the authority will utilize, which the
29 authority shall base on the price offered to purchase the tax credits
30 and the quality of the mentorship and networking opportunities and
31 other support of the State's innovation ecosystem offered by a
32 purchaser in its bid. The authority may pro rate the amount of tax
33 credits allocated to each purchaser. A potential purchaser that
34 submits a bid for tax credits under this section shall receive a
35 written notice from the authority indicating whether the authority
36 has approved it as a purchaser of tax credits and, if so, the amount
37 of tax credits approved.

38 d. Except as provided in section 22 of P.L.2020, c.156
39 (C.34:1B-290), the authority shall hold one competitive auction per
40 calendar year.

41 e. The authority may contract with an independent third party
42 to conduct the competitive bidding process through which State tax
43 credits issued by the authority may be sold.

44 (cf: P.L.2020, c.156, s.24)

45

46 12. Section 29 of P.L.2020, c.156 (C.34:1B-297) is amended to
47 read as follows:

1 29. a. The authority shall certify or refuse to certify a venture
2 firm as a qualified venture firm based on the criteria for
3 certification set forth in section 28 of P.L.2020, c.156 (C.34:1B-
4 296), and subsections b. and c. of this section.

5 b. The authority shall not certify a venture firm as a qualified
6 venture firm if the venture firm has: (1) an equity capitalization, net
7 assets, or written commitments of less than \$10,000,000 in the form
8 of cash or cash equivalents on the date the determination for
9 certification is made; or (2) fewer than two principals or persons
10 employed to direct the qualified investment of capital with at least
11 five years of money management experience in the venture capital
12 or private equity sectors on the date the determination for
13 certification is made. The authority may adopt, pursuant to the
14 provisions of the "Administrative Procedure Act," P.L.1968, c.410
15 (C.52:14B-1 et seq.), rules setting forth additional disqualifying
16 criteria and adjusting the minimum equity capitalization, net assets,
17 or written commitments of a qualified venture firm.

18 c. Prior to certifying a venture firm as a qualified venture firm,
19 the authority shall confirm with the Department of Labor and
20 Workforce Development, the Department of Environmental
21 Protection, and the Department of the Treasury **【shall each report to**
22 **the chief executive officer of the authority】** whether the venture
23 firm is in substantial good standing with the respective department,
24 or has entered into an agreement with the respective department that
25 includes a practical corrective action plan for the venture firm. The
26 authority may also contract with an independent third party to
27 perform a background check on the venture firm.

28 d. The authority shall provide written notification to each
29 venture firm that is certified as a qualified venture firm by the
30 authority and shall provide written notification to each venture firm
31 that the authority refuses to certify as a qualified venture firm,
32 communicating in detail the grounds for the authority's refusal. The
33 authority shall review each qualified venture firm annually for the
34 disqualifying criteria set forth in subsection b. of this section or
35 other reasonable industry-accepted standards as determined by the
36 authority. The authority may decertify a qualified venture firm at
37 any time pursuant to the disqualifying criteria set forth in
38 subsection b. of this section. Decertification shall not affect any
39 previously made qualified investment or the fund's commitment to
40 make a follow-on investment in a qualified business.

41 (cf: P.L.2020, c.156, s.29)

42
43 13. Section 37 of P.L.2020, c.156 (C.34:1B-305) is amended to
44 read as follows:

45 37. As used in sections 35 through 42 of P.L.2020, c.156
46 (C.34:1B-303 through C.34:1B-310):

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 "Department" means the Department of Agriculture.

5 "Eligible equipment costs" means expenditures for the
6 procurement of such equipment as is needed to allow a
7 supermarket, grocery store, mid-sized food retailer, **[or]** small food
8 retailer, or other eligible entity to store, refrigerate, transport, or
9 otherwise maintain nutritious foods, including fresh fruits and
10 vegetables, for retail purposes, but within a standard range based
11 upon industry standards, as determined by the authority.

12 "Eligible technology costs" means expenditures for the
13 procurement or upgrade of technology systems to support online
14 ordering and e-commerce, including but not limited to computer
15 hardware, software, internet connectivity, and database systems.

16 "Food desert community" means a physically contiguous area in
17 the State in which residents have limited access to nutritious foods,
18 such as fresh fruits and vegetables, **[through supermarkets and**
19 **grocery stores,]** and which has been designated as a food desert
20 community pursuant to subsection b. of section 38 of P.L.2020,
21 c.156 (C.34:1B-306).

22 "Initial operating costs" means expenditures for the operation of
23 a supermarket or grocery store within the first three years after
24 opening to the public, but within a standard range based upon
25 industry standards, as determined by the authority.

26 "Mid-sized food retailer" means a medium-sized retail outlet
27 with at least 2,500 but less than 16,000 square feet, of which at least
28 75 percent is occupied by food and related products.

29 "Program" means the Food Desert Relief Program established in
30 section 38 of P.L.2020, c.156 (C.34:1B-306).

31 "Project cost" means the costs incurred in connection with the
32 establishment of a supermarket or grocery store within a food desert
33 community by the developer until the opening of the supermarket or
34 grocery store to the public, including the costs relating to lands,
35 buildings, improvements, real or personal property, or any interest
36 therein, including leases discounted to present value, including
37 lands under water, riparian rights, space rights and air rights
38 acquired, owned, developed or redeveloped, constructed,
39 reconstructed, rehabilitated or improved, any environmental
40 remediation costs, plus costs not directly related to construction,
41 including capitalized interest paid to third parties, of an amount not
42 to exceed 20 percent of the total costs, **[capitalized interest paid to**
43 **third parties,]** and the cost of infrastructure improvements,
44 including ancillary infrastructure projects.

45 "Project financing gap" means the part of the total project cost,
46 including return on investment, that remains to be financed after all
47 other sources of capital have been accounted for, including, but not

1 limited to, developer-contributed capital, which shall not be less
2 than 20 percent of the total project cost, which may include the
3 value of any existing land and improvements in the project area
4 owned or controlled by the developer, and the cost of infrastructure
5 improvements in the public right-of-way, and investor or financial
6 entity capital or loans for which the developer, after making all
7 good faith efforts to raise additional capital, certifies that additional
8 capital cannot be raised from other sources on a non-recourse basis.

9 "Small food retailer" means a small retail outlet, with less than
10 2,500 square feet, that sells a limited selection of foods and other
11 products, such as a bodega, convenience store, corner store,
12 neighborhood store, small grocery, mobile food vendor, farmers'
13 market, food co-op, or small-scale store.

14 "Supermarket or grocery store" means a retail outlet with at least
15 16,000 square feet, of which at least 90 percent is occupied by food
16 and related products.

17 (cf: P.L.2020, c.156, s.37)

18

19 14. Section 38 of P.L.2020, c.156 (C.34:1B-306) is amended to
20 read as follows:

21 38. a. (1) There is established the Food Desert Relief Program
22 to be administered by the New Jersey Economic Development
23 Authority. The program shall include tax credit components, as
24 provided in sections 39 and 40 of P.L.2020, c.156 (C.34:1B-307
25 and C.34:1B-308), in order to incentivize businesses to establish
26 and retain new supermarkets and grocery stores in food desert
27 communities.

28 (2) The total value of tax credits approved by the authority
29 pursuant to sections 39 and 40 of P.L.2020, c.156 (C.34:1B-307 and
30 C.34:1B-308) shall not exceed the limitations set forth in section 98
31 of P.L.2020, c.156 (C.34:1B-362).

32 b. The authority, in consultation with the Department of
33 Agriculture and the Department of Community Affairs, shall
34 initially designate not more than 50 separate geographic areas that
35 **【are most in need of a supermarket or grocery store】** have limited
36 access to nutritious foods as food desert communities in this State.
37 The authority, in consultation with the Department of Agriculture
38 and the Department of Community Affairs, shall develop criteria for
39 the designation of food desert communities, but each separate food
40 desert community shall consist of a distinct geographic area with a
41 single defined border. The criteria shall, at a minimum, incorporate
42 analysis of municipal or census tract poverty statistics, food desert
43 information from the Economic Research Service of the United
44 States Department of Agriculture, **【and】** healthier food retail tract
45 information from the federal Centers for Disease Control and
46 Prevention, and residents' access to nutritious foods, such as fresh
47 fruits and vegetables, through supermarkets and grocery stores. The
48 authority, in consultation with the departments, may also consider

1 in making food desert community designations pursuant to this
2 subsection, data related to municipal or census tract population size
3 and population density **【in making food desert community**
4 **designations pursuant to this subsection】**, the number of residents
5 who receive Supplemental Nutrition Assistance Program (SNAP)
6 benefits within a municipality, the extent to which a municipality's
7 residents have access to a personal vehicle, and a municipality's
8 Municipal Revitalization Index distress score, obesity rate, and
9 unemployment rate. The authority, in consultation with the
10 departments, shall continuously evaluate areas previously
11 designated as food desert communities and assess whether they still
12 meet the criteria for designation as a food desert community and
13 may designate additional food desert communities once every three
14 years following the effective date of sections 35 through 42 of
15 P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310).

16 c. To receive a tax credit under section 39 or 40 of P.L.2020,
17 c.156 (C.34:1B-307 or C.34:1B-308), a taxpayer shall submit an
18 application to the authority in the form and manner prescribed by
19 the authority and in accordance with criteria established by the
20 authority, which at minimum will include a commitment to accept
21 benefits from federal nutrition assistance programs, such as the
22 Supplemental Nutrition Assistance Program (SNAP) and the
23 Special Supplemental Nutrition Program for Women, Infants, and
24 Children (WIC). Following the approval of an application, the
25 authority may, pursuant to an award agreement, award tax credits to
26 an eligible taxpayer that:

27 (1) develops and opens for business to the public the first or
28 second supermarket or grocery store in a designated food desert
29 community; or

30 (2) owns and operates the first or second supermarket or grocery
31 store in a designated food desert community.

32 d. (1) The authority may sell all or a portion of the tax credits
33 made available in a fiscal year pursuant to subsection a. of this
34 section and dedicate the proceeds from such sale to provide grants
35 and loans to qualifying supermarkets, grocery stores, mid-sized
36 food retailers, **【and】** small food retailers, and any other eligible
37 entity. The amount of any grant or loan provided pursuant to this
38 subsection shall be in accordance with the need of the supermarket,
39 grocery store, mid-sized food retailer, **【or】** small food retailer, or
40 any other eligible entity, as determined by the authority. The
41 authority shall sell tax credits pursuant to this section in the manner
42 determined by the authority; provided, however, the authority shall
43 not sell tax credits for less than 85 percent of the tax credit amount.
44 Grants and loans made available pursuant to this subsection shall be
45 awarded to entities that:

46 (a) are eligible for tax credits under subsection c. of this section
47 in lieu of tax credits; **【or】**

1 (b) own and operate a mid-sized food retailer or small food
2 retailer that commits to selling nutritious foods, including fresh
3 fruits and vegetables, in a designated food desert community; or

4 (c) at the discretion of the authority, support initiatives to
5 strengthen food security of residents in food desert communities.

6 (2) A supermarket, grocery store, mid-sized food retailer, **[or]**
7 small food retailer, or other eligible entity shall submit an
8 application to the authority to receive a grant or loan pursuant to
9 this subsection. The application shall be submitted in the form and
10 manner prescribed by the authority and in accordance with criteria
11 established by the authority. An entity eligible for a grant or loan
12 under subparagraph (a) of paragraph (1) of this subsection shall not
13 be required to submit a separate application to the authority for the
14 grant or loan, provided that the entity has submitted an application
15 to the authority pursuant to subsection c. of this section.

16 (3) Prior to awarding a grant or loan to an applicant
17 supermarket, grocery store, mid-sized food retailer, **[or]** small food
18 retailer, or other eligible entity pursuant to this subsection, the
19 authority shall confirm with the Department of Labor and
20 Workforce Development, the Department of Environmental
21 Protection, and the Department of the Treasury **[shall each report to**
22 **the chief executive officer of the authority]** whether the applicant is
23 in substantial good standing with the respective department, or has
24 entered into an agreement with the respective department that
25 includes a practical corrective action plan for the applicant. The
26 applicant shall certify that any contractors or subcontractors that
27 perform work at the qualifying supermarket or grocery store: (1) are
28 registered as required by “The Public Works Contractor
29 Registration Act,” P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have
30 not been debarred by Department of Labor and Workforce
31 Development from engaging in or bidding on Public Works
32 Contracts in the State; and (3) possess a tax clearance certificate
33 issued by the Division of Taxation in the Department of the
34 Treasury. The authority may also contract with an independent
35 third party to perform a background check on the entity.

36 (4) An applicant supermarket, grocery store, mid-sized food
37 retailer, **[or]** small food retailer, or other eligible entity shall, as
38 required at the discretion of the authority, submit to the authority
39 satisfactory information pertaining to the eligible equipment costs
40 and eligible technology costs, as certified by a certified public
41 accountant, certifications that all information provided by the
42 applicant to the authority is true, including information contained in
43 the application, any agreement pertaining to the award of grants or
44 loans under the program, any amendment to such an agreement, and
45 any other information submitted by the applicant to the authority
46 pursuant to sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303
47 through C.34:1B-310), and evidence of the eligible equipment costs

1 and eligible technology costs of the applicant. The applicant, or an
2 authorized agent of the applicant, shall certify under the penalty of
3 perjury that the information provided pursuant to this subsection is
4 true.

5 e. The authority may establish a technical assistance fund to
6 assist any entity that is eligible for a tax credit, grant, or loan under
7 this section. The authority, through the technical assistance fund,
8 may make grants to entities to assist qualifying supermarkets,
9 grocery stores, mid-sized food retailers, **[or]** small food retailers, or
10 other eligible entities in implementation of best practices for
11 increasing the accessibility of nutritious foods in food desert
12 communities. Technical assistance shall be provided either directly
13 by the authority or through a not-for-profit or for-profit entity and
14 made available in English as well as the two most commonly
15 spoken languages in New Jersey other than English. At the
16 discretion of the authority, funds to support technical assistance
17 may be provided in addition to, or in lieu of, any tax credit, grant,
18 or loan awarded under sections 35 through 42 of P.L.2020, c.156
19 (C.34:1B-303 through C.34:1B-310).

20 f. (1) The authority shall require that any tax credits, grants, or
21 loans awarded by the authority under the program be utilized by the
22 recipient for one or more of the following purposes, which shall be
23 set forth in the award agreement:

24 (a) to mitigate a project financing gap;

25 (b) to mitigate the initial operating costs of the supermarket or
26 grocery store; or

27 (c) to mitigate the eligible equipment costs or eligible
28 technology costs of the supermarket, grocery store, mid-sized food
29 retailer, **[or]** small food retailer, or other eligible entity in order to
30 make nutritious foods more accessible and affordable to residents
31 within food deserts; or

32 (d) to support initiatives to ensure food security of residents in
33 food desert communities.

34 (2) The value of tax credits **[or]** grants, or loans awarded to
35 individual entities under the program shall not exceed:

36 (a) in the case of an entity eligible under paragraph (1) of
37 subsection c. of this section, 40 percent of the total project cost for
38 the first supermarket or grocery store in a designated food desert
39 community, and 20 percent of the total project cost for the second
40 supermarket or grocery store in the food desert community; and

41 (b) in the case of an entity eligible under paragraph (2) of
42 subsection c. of this section, the initial operating costs of the first
43 supermarket or grocery store in a designated food desert
44 community, and one-half of the initial operating costs of the second
45 supermarket or grocery store in the food desert community; and

46 (c) in the case of an entity eligible for a grant or loan under
47 subparagraph (b) of paragraph (1) of subsection d. of this section,
48 the eligible equipment costs and eligible technology costs of the

1 supermarket, grocery store, mid-sized food retailer, **[or]** small food
2 retailer, or other eligible entity.

3 g. An entity that develops and opens a new supermarket or
4 grocery store in a designated food desert community shall be
5 eligible for a tax credit only if the entity demonstrates to the
6 authority at the time of application that each worker employed to
7 perform construction at the project shall be paid not less than the
8 prevailing wage rate for the worker's craft or trade, as determined
9 by the Commissioner of Labor and Workforce Development
10 pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005,
11 c.379 (C.34:11-56.58 et seq.).

12 h. (1) Except as provided in paragraph (2) of this subsection, a
13 labor harmony agreement shall be required if the State has a
14 proprietary interest in a supermarket or grocery store and the
15 agreement shall remain in effect for as long as the State acts as a
16 market participant in the project. The provisions of this paragraph
17 shall apply to a supermarket or grocery store that will have more
18 than 10 employees.

19 (2) A labor harmony agreement under paragraph (1) of this
20 subsection shall not be required if the authority determines that the
21 supermarket or grocery store would not be feasible if a labor
22 harmony agreement is required. The authority shall support the
23 determination by a written finding, which provides the specific
24 basis for the determination.

25 (3) As used in this subsection, "labor harmony agreement"
26 means an agreement between a business that serves as the owner or
27 operator of a supermarket or grocery store and one or more labor
28 organizations, which requires, for the duration of the agreement:
29 that any participating labor organization and its members agree to
30 refrain from picketing, work stoppages, boycotts, or other economic
31 interference against the business; and that the business agrees to
32 maintain a neutral posture with respect to efforts of any
33 participating labor organization to represent employees at a
34 supermarket or grocery store, agrees to permit the labor
35 organization to have access to the employees, and agrees to
36 guarantee to the labor organization the right to obtain recognition as
37 the exclusive collective bargaining representatives of the employees
38 at a supermarket or grocery store by demonstrating to the New
39 Jersey State Board of Mediation, Division of Private Employment
40 Dispute Settlement, or a mutually agreed-upon, neutral, third-party,
41 that a majority of workers in the unit have shown their preference
42 for the labor organization to be their representative by signing
43 authorization cards indicating that preference. The labor
44 organization or organizations shall be from a list of labor
45 organizations that have requested to be on the list and that the
46 Commissioner of Labor and Workforce Development has
47 determined represent substantial numbers of supermarket or grocery
48 store employees in the State.

1 i. A recipient shall certify that all factual representations made
2 by the recipient in the application or award agreement are true
3 under the penalty of perjury. A material misrepresentation of fact
4 in either the application or award agreement may result in recession
5 and recapture of any grants or tax credits awarded, or acceleration
6 of any loans made, under sections 35 through 42 of P.L.2020, c.156
7 (C.34:1B-303 through C.34:1B-310).
8 (cf: P.L.2020, c.156, s.38)
9

10 15. Section 39 of P.L.2020, c.156 (C.34:1B-307) is amended to
11 read as follows:

12 39. a. For privilege periods beginning on or after January 1 next
13 following the effective date of sections 35 through 42 of P.L.2020,
14 c.156 (C.34:1B-303 through C.34:1B-310), a taxpayer eligible
15 under subsection c. of section 38 of P.L.2020, c.156 (C.34:1B-306)
16 shall be awarded a credit against the tax due pursuant to section 5 of
17 P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132
18 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231
19 (C.17:32-15), or N.J.S.17B:23-5. A taxpayer that qualifies for the
20 award of a tax credit under this section may claim 25 percent of the
21 total amount awarded in the privilege period in which the taxpayer
22 establishes and opens the supermarket or grocery store for business,
23 and an additional 25 percent of the total amount awarded in each of
24 the three privilege periods next following the initial opening,
25 provided that the supermarket or grocery store remains in business
26 and open to the public. For a taxpayer to be allowed a tax credit
27 pursuant to this section, the taxpayer shall meet the requirements of
28 this section, and the rules and regulations adopted pursuant to
29 section 41 of P.L.2020, c.156 (C.34:1B-309).

30 b. The order of priority of the application of the credit allowed
31 pursuant to this section and any other credits allowed against the tax
32 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for
33 a privilege period shall be as prescribed by the Director of the
34 Division of Taxation in the Department of the Treasury. The
35 amount of the credit applied pursuant to this section against the tax
36 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
37 shall not reduce a taxpayer's tax liability for a privilege period to an
38 amount less than the statutory minimum provided in subsection (e)
39 of section 5 of P.L.1945, c.162 (C.54:10A-5). Any credit shall be
40 valid in the privilege period in which the certification is approved
41 and any unused portion thereof may be carried forward into the next
42 10 privilege periods or until exhausted, whichever is earlier.

43 c. The authority shall award tax credits to taxpayers until either
44 the available tax credits are exhausted or all projects that are
45 eligible for a tax credit pursuant to the provisions of sections 35
46 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310)
47 receive a tax credit, whichever occurs first. If insufficient funding
48 exists to allow a tax credit to a taxpayer in accordance with the

1 provisions of subsection a. of section 38 of P.L.2020, c.156
2 (C.34:1B-306), the authority may offer the taxpayer a tax credit in
3 an amount less than that provided in subsection a. of this section.

4 d. Prior to awarding a tax credit to a supermarket or grocery
5 store, the authority shall confirm with the Department of Labor and
6 Workforce Development, the Department of Environmental
7 Protection, and the Department of the Treasury **[shall each report to**
8 **the chief executive officer of the authority whether]** that the
9 qualifying supermarket or grocery store is in substantial good
10 standing with the respective department, or has entered into an
11 agreement with the respective department that includes a practical
12 corrective action plan for the supermarket or grocery store, and the
13 qualifying supermarket or grocery store shall certify that any
14 contractors or subcontractors performing work at the qualifying
15 supermarket or grocery store: (1) are registered as required by “The
16 Public Works Contractor Registration Act,” P.L.1999, c.238
17 (C.34:11-56.48 et seq.); (2) have not been debarred by Department
18 of Labor and Workforce Development from engaging in or bidding
19 on Public Works Contracts in the State; and (3) possess a tax
20 clearance certificate issued by the Division of Taxation in the
21 Department of the Treasury. The authority may also contract with
22 an independent third party to perform a background check on the
23 developer.

24 e. A supermarket or grocery store shall, as required at the
25 discretion of the authority, submit to the authority satisfactory
26 information pertaining to the project cost, project financing gap,
27 and the initial operating costs, as certified by a certified public
28 accountant, certifications that all information provided by the
29 supermarket or grocery store to the authority is true, including
30 information contained in the application, any agreement pertaining
31 to the award of tax credits under the program, any amendment to
32 such an agreement, and any other information submitted by the
33 supermarket or grocery store to the authority pursuant to sections 35
34 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310),
35 and evidence of the initial opening and continued operation of the
36 supermarket or grocery store. The supermarket or grocery store, or
37 an authorized agent of the supermarket or grocery store, shall
38 certify under the penalty of perjury that the information provided
39 pursuant to this subsection is true.

40 (cf: P.L.2020, c.156, s.39)

41

42 16. Section 40 of P.L.2020, c.156 (C.34:1B-308) is amended to
43 read as follows:

44 40. a. For taxable years beginning on or after January 1 next
45 following the effective date of sections 35 through 42 of P.L.2020,
46 c.156 (C.34:1B-303 through C.34:1B-310), a taxpayer eligible
47 under subsection c. of section 38 of P.L.2020, c.156 (C.34:1B-306)
48 shall be awarded a credit against the tax due pursuant to

1 N.J.S.54A:1-1 et seq. A taxpayer that qualifies for the award of a
2 tax credit under this section may claim 25 percent of the total
3 amount awarded in the taxable year in which the taxpayer
4 establishes and opens the supermarket or grocery store for business,
5 and may claim 25 percent of the total amount awarded in each of
6 the three taxable years next following the initial opening, provided
7 that the supermarket or grocery store remains in business and open
8 to the public. For a taxpayer to be awarded a tax credit pursuant to
9 this section, the taxpayer shall meet the requirements of this
10 section, and the rules and regulations adopted pursuant to section 41
11 of P.L.2020, c.156 (C.34:1B-309).

12 b. The order of priority of the application of the credit allowed
13 pursuant to this section and any other credits allowed against the tax
14 imposed pursuant to N.J.S.54A:1-1 et seq. for a taxable year shall
15 be as prescribed by the Director of the Division of Taxation in the
16 Department of the Treasury, in consultation with the chief executive
17 officer of the authority. The amount of the credit applied pursuant
18 to this section against the tax imposed pursuant to N.J.S.54A:1-1 et
19 seq. shall not reduce a taxpayer's tax liability for a taxable year to
20 an amount less than zero. Any credit shall be valid in the taxable
21 year in which the certification is approved and any unused portion
22 thereof may be carried forward into the next 10 taxable years or
23 until depleted, whichever is earlier.

24 c. A business entity that is classified as a partnership for
25 federal income tax purposes shall not be allowed the credit directly
26 under N.J.S.54A:1-1 et seq., but the amount of credit of the
27 taxpayer in respect of a distributive share of partnership income
28 shall be determined by allocating to the taxpayer that proportion of
29 the credit acquired by the partnership that is equal to the taxpayer's
30 share, whether or not distributed, of the total distributive income or
31 gain of the partnership for its taxable year ending within or with the
32 taxpayer's taxable year.

33 A taxpayer that is a New Jersey S corporation shall not be
34 allowed the credit directly under N.J.S.54A:1-1 et seq., but the
35 amount of credit of a taxpayer in respect of a pro rata share of S
36 corporation income shall be determined by allocating to the
37 taxpayer that proportion of the credit acquired by the New Jersey S
38 corporation that is equal to the taxpayer's share, whether or not
39 distributed, of the total pro rata share of S corporation income of the
40 New Jersey S corporation for its taxable year ending within or with
41 the taxpayer's taxable year.

42 d. The authority shall award tax credits to taxpayers until either
43 the available tax credits are exhausted or all projects that are
44 eligible for a tax credit pursuant to the provisions of sections 35
45 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310)
46 receive a tax credit, whichever occurs first. If insufficient funding
47 exists to allow a tax credit to a taxpayer in accordance with the
48 provisions of subsection a. of section 38 of P.L.2020, c.156

1 (C.34:1B-306), the authority may offer the taxpayer a tax credit in
2 an amount less than that provided in subsection a. of this section
3 **[40]**.

4 e. Prior to awarding a tax credit to a supermarket or grocery
5 store, the authority shall confirm with the Department of Labor and
6 Workforce Development, the Department of Environmental
7 Protection, and the Department of the Treasury **[shall each report to**
8 **the chief executive officer of the authority whether a]** that the
9 qualifying supermarket or grocery store **[, and each contractor and**
10 **subcontractor performing construction work at the qualifying**
11 **supermarket or grocery store,]** is in substantial good standing with
12 the respective department, or has entered into an agreement with the
13 respective department that includes a practical corrective action
14 plan, and the qualifying supermarket or grocery store shall confirm
15 that any contractors and subcontractors performing construction
16 work at the qualifying supermarket or grocery store: (1) are
17 registered as required by “The Public Works Contractor
18 Registration Act,” P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have
19 not been debarred by Department of Labor and Workforce
20 Development from engaging in or bidding on Public Works
21 Contracts in the State; and (3) possesses a tax clearance certificate
22 issued by the Division of Taxation in the Department of the
23 Treasury. The authority may also contract with an independent
24 third party to perform a background check on the **[developer]**
25 qualifying supermarket or grocery store.

26 f. A supermarket or grocery store shall, as required at the
27 discretion of the authority, submit to the authority satisfactory
28 information pertaining to the project cost, project financing gap,
29 and the initial operating costs, as certified by a certified public
30 accountant, certifications that all information provided by the
31 supermarket or grocery store to the authority is true, including
32 information contained in the application, any agreement pertaining
33 to the award of tax credits under the program, any amendment to
34 such an agreement, and any other information submitted by the
35 supermarket or grocery store to the authority pursuant to sections 35
36 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310),
37 and evidence of the initial opening and continued operation of the
38 supermarket or grocery store. The supermarket or grocery store, or
39 an authorized agent of the supermarket or grocery store, shall
40 certify under the penalty of perjury that the information provided
41 pursuant to this subsection is true.

42 (cf: P.L.2020, c.156, s.40)

43

44 17. Section 41 of P.L.2020, c.156 (C.34:1B-309) is amended to
45 read as follows:

46 41. **[The]** Notwithstanding the provisions of the
47 "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, in
2 consultation with the department and the Director of the Division of
3 Taxation in the Department of the Treasury, [shall] may adopt,
4 [pursuant to the "Administrative Procedure Act," P.L.1968, c.410
5 (C.52:14B-1 et seq.)] immediately upon filing with the Office of
6 Administrative Law, rules and regulations necessary to carry out the
7 provisions of sections 35 through 42 of P.L.2020, c.156 (C.34:1B-
8 303 through C.34:1B-310)), which rules and regulations shall be
9 effective for a period not to exceed 360 days from the date of the
10 filing. The chief executive officer shall thereafter amend, adopt, or
11 readopt the rules and regulations in accordance with the
12 requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).
13 (cf: P.L.2020, c.156, s.41)

14
15 18. Section 45 of P.L.2020, c.156 (C.34:1B-313) is amended to
16 read as follows:

17 45. As used in sections 43 through 53 of P.L.2020, c.156
18 (C.34:1B-311 through C.34:1B-321):

19 "Affiliate" means an entity that directly or indirectly controls, is
20 under common control with, or is controlled by an anchor
21 institution partner anchor institution, or a partner business. Control
22 exists in all cases in which the entity is a member of a controlled
23 group of corporations as defined pursuant to section 1563 of the
24 federal Internal Revenue Code (26 U.S.C. s.1563) or the entity is an
25 organization in a group of organizations under common control that
26 is subject to the regulations applicable to organizations pursuant to
27 subsection (b) or (c) of section 414 of the federal Internal Revenue
28 Code (26 U.S.C. s.414). A taxpayer may establish by clear and
29 convincing evidence, as determined by the Director of the Division
30 of Taxation in the Department of the Treasury, that control exists in
31 situations involving lesser percentages of ownership than required
32 by the above referenced federal statutes.

33 "Anchor institution" means a governmental entity or nonprofit
34 entity incorporated pursuant to Title 15 of the Revised Statutes or
35 Title 15A of the New Jersey Statutes having a primary mission and
36 specific policy goals that align with those of the authority under the
37 program and that is a comprehensive health care system, a public
38 research university, a private research university, a major cultural
39 scientific, research, or philanthropic institution, or a public college
40 which is separate from public research universities, or an
41 experienced nonprofit or governmental economic or community
42 development entity certified as an anchor institution by the board
43 pursuant to subsection a. of section 46 of P.L.2020, c.156 (C.34:1B-
44 314).

45 "Authority" means the New Jersey Economic Development
46 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
6 period that is granted to an anchor institution or, if applicable, a
7 partner anchor institution, to distribute to the authority the agreed
8 upon returns on investment for the award of tax credits pursuant to
9 the program; provided, however, at the election of the authority or
10 upon the request of an anchor institution or, if applicable, a partner
11 anchor institution in order to benefit the community-anchored
12 project, and as determined in the sole discretion of the authority, the
13 authority may grant up to two consecutive five-year extensions of
14 the commitment period.

15 "Community-anchored project" means a capital project that is
16 located in an area that is designated as a New Jersey State
17 opportunity zone, an area of the State designated pursuant to the
18 "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as
19 Planning Area 1 (Metropolitan), or a municipality with a Municipal
20 Revitalization Index distress score of at least 50 and for which an
21 anchor institution and, if applicable, any partner anchor institution
22 is to be awarded tax credits by the authority pursuant to a tax credit
23 agreement which establishes the award of tax credits as an
24 investment by the authority in the project, provided that the project
25 will result in a capital investment of at least \$10,000,000 in a New
26 Jersey State opportunity zone or in any other area of the State, but a
27 project that is not located in a New Jersey State opportunity zone is
28 to be primarily designed to result in the economic expansion of a
29 targeted industry in this State.

30 "Comprehensive health care system" means an entity in this State
31 with the primary purpose of offering comprehensive health care
32 services.

33 "Comprehensive health care services" means the basic health
34 care services provided under a health benefits plan, including
35 medical and surgical services provided by licensed health care
36 providers who may include, but are not limited to, family
37 physicians, internists, cardiologists, psychiatrists, rheumatologists,
38 dermatologists, orthopedists, obstetricians, gynecologists,
39 neurologists, endocrinologists, radiologists, nephrologists,
40 emergency services physicians, ophthalmologists, pediatricians,
41 pathologists, general surgeons, osteopathic physicians, physical
42 therapists and chiropractors. Basic benefits may also include
43 inpatient or outpatient services rendered at a licensed hospital,
44 covered services performed at an ambulatory surgical facility, and
45 ambulance services. "Comprehensive health care services" shall
46 include only services provided by licensed health care providers.

47 "Director" means the Director of the Division of Taxation in the
48 Department of the Treasury.

1 "Eligibility period" means the period in which an anchor
2 institution or, if applicable, a partner anchor institution may claim,
3 sell, transfer, or otherwise use a tax credit under the New Jersey
4 Community-Anchored Development Program, beginning with the
5 tax period in which the authority accepts certification of the
6 business that it has met the capital investment requirements of the
7 program and extending thereafter for a term of not more than 10
8 years.

9 "Eligible position" means a full-time position in a business in
10 this State which the business has filled with a full-time employee.
11 An eligible position shall not include an independent contractor or a
12 consultant.

13 "Experienced nonprofit or governmental economic or community
14 development entity" means a nonprofit entity incorporated pursuant
15 to Title 15 of the Revised Statutes or Title 15A of the New Jersey
16 Statutes with a substantial number of years of experience that has a
17 core mission and a community track record of advancing economic
18 or community development in at least one area of the State, that the
19 senior management has undertaken multiple successful partnerships
20 with government entities, educational institutions, and the private
21 sector in carrying out development projects, that has successfully
22 developed multiple types of mixed-use projects, [that owns or
23 controls significant real estate assets,] and that has appropriate
24 prior experience in successfully developing mixed-use projects of
25 comparable or greater size, value and complexity to that being
26 proposed, structuring, securing, and utilizing complex financing in
27 the development of projects of comparable or greater size, value,
28 and complexity to that being proposed, as determined by the board.
29 An experienced nonprofit or governmental economic or community
30 development entity shall not be eligible to participate in the
31 program in connection with a project that is primarily residential or
32 retail.

33 "Major cultural institution" means a public or nonsectarian
34 nonprofit institution within this State that engages in the cultural,
35 intellectual, scientific, environmental, educational, or artistic
36 enrichment of the people of this State, and which is designated by
37 the board as a major cultural institution.

38 "New full-time job" means an eligible position created by an
39 anchor institution, partner anchor institution or a partner business at
40 the community-anchored project that did not previously exist in this
41 State. For the purposes of determining a number of new full-time
42 jobs, the eligible positions of an affiliate shall be considered
43 eligible positions of the business.

44 "New Jersey State opportunity zone" means a federal population
45 census tract in this State that was eligible to be designated as a
46 qualified opportunity zone pursuant to 26 U.S.C. s.1400Z-1.

47 "Partner anchor institution" means an anchor institution that
48 partners with one or more anchor institutions to make an equity

1 investment in or to provide a loan or other financial support for a
2 community-anchored project.

3 "Partner business" means a corporation, partnership, firm,
4 enterprise, franchise, association, trust, sole proprietorship, or other
5 legal entity, but shall not include a public entity that enters into an
6 agreement with an anchor institution or, if applicable, a partner
7 anchor institution to rent and occupy commercial space within a
8 community-anchored project. Under the program a partner
9 business, subject to agreement with the anchor institution or, if
10 applicable, a partner anchor institution, may lease one or more
11 portions of the partner business's space in the community-anchored
12 project to one or more other persons or entities.

13 "Private research university" means Princeton University and any
14 other institution of higher education in this State designated by the
15 board as a private research university, based on criteria and metrics
16 established by the board.

17 "Program" means the New Jersey Community-Anchored
18 Development Program established pursuant to section 46 of
19 P.L.2020, c.156 (C.34:1B-314).

20 "Public research university" means Rutgers, The State University
21 of New Jersey, Rowan University, the New Jersey Institute of
22 Technology, and Montclair State University.

23 "Qualified business accelerator or incubator facility" means a
24 commercial space that contains office, laboratory, or industrial
25 space and which is located near, and presents opportunities for
26 collaboration with, a public research university, a private research
27 university, teaching hospital, college, or university, and within
28 which at least 50 percent of the gross leasable area is restricted for
29 use by one or more targeted industry start-up companies during the
30 commitment period.

31 "Targeted industry" means any industry identified from time to
32 time by the authority which shall initially include advanced
33 transportation and logistics, advanced manufacturing, aviation,
34 autonomous vehicle and zero-emission vehicle research or
35 development, clean energy, life sciences, hemp processing,
36 information and high technology, finance and insurance,
37 professional services, film and digital media, non-retail food and
38 beverage businesses including food innovation, and other
39 innovative industries that disrupt current technologies or business
40 models.

41 "Tax credit agreement" means a tax credit agreement entered into
42 pursuant to section 50 of P.L.2020, c.156 (C.34:1B-318) between
43 the authority and an anchor institution or, if applicable, a partner
44 anchor institution.

45 "Work First New Jersey program" means the Work First New
46 Jersey program established pursuant to P.L.1997, c. 38 (C.44:10-55
47 et seq.).

48 (cf: P.L.2020, c.156, s.45)

1 19. Section 47 of P.L.2020, c.156 (C.34:1B-315) is amended to
2 read as follows:

3 47. a. An anchor institution and, if applicable, each partner
4 anchor institution shall be eligible to receive a tax credit under the
5 program only if the anchor institution and, if applicable, each
6 partner anchor institution submits a program application to the
7 authority that results in completion of a community-anchored
8 project through a capital investment in a New Jersey State
9 opportunity zone or, if the community-anchored project is primarily
10 designed to result in the economic expansion of a targeted industry
11 in this State, in an area of the State designated pursuant to the "State
12 Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning
13 Area 1 (Metropolitan) or in a municipality with a Municipal
14 Revitalization Index distress score of at least 50.

15 b. At the time of application, an anchor institution and, if
16 applicable, each partner anchor institution seeking tax credits
17 pursuant to the program shall demonstrate to the authority:

18 (1) that the proposed community-anchored project will result in
19 a capital investment in a New Jersey State opportunity zone or, if
20 the project is primarily designed to result in the economic
21 expansion of a targeted industry in this State, in an area of the State
22 designated pursuant to the "State Planning Act," P.L.1985, c.398
23 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan) or in a
24 municipality with a Municipal Revitalization Index distress score of
25 at least 50;

26 (2) the structure and terms of the financial, corporate, and real
27 estate instruments to be utilized to successfully complete and then
28 operate the community-anchored project, including, but not limited
29 to, the proposed economic and business relationship between the
30 anchor institution and, if applicable, each partner anchor institution
31 and any partner business;

32 (3) that the anchor institution and, if applicable, each partner
33 anchor institution, along with any partner business and each partner
34 institution participating in a community-anchored project, has not
35 commenced any construction at the site of the community-anchored
36 project prior to submitting an application, unless the authority
37 determines that the community-anchored project would not be
38 completed otherwise or, in the event the community-anchored
39 project is to be undertaken in phases, the requested tax credit covers
40 only phases for which construction has not yet commenced;

41 (4) the value of the tax credit that is necessary in each year of
42 the eligibility period, in order for the anchor institution and, if
43 applicable, each partner anchor institution to finance the
44 establishment of the community-anchored project;

45 (5) the total aggregate value of the tax credit for the entire
46 eligibility period that is necessary in order for the anchor institution
47 and, if applicable, each partner anchor institution to finance the
48 establishment of the community-anchored project;

1 (6) that the award of tax credits under the program will be
2 converted into an investment by the authority into the community-
3 anchored project, and demonstrate to the authority the anticipated
4 current and deferred returns, as applicable, on that investment;

5 (7) that the community-anchored project shall comply with the
6 standards established by the authority through regulation based on
7 the green building manual prepared by the Commissioner of
8 Community Affairs pursuant to section 1 of P.L.2007, c.132
9 (C.52:27D-130.6), regarding the use of renewable energy, energy-
10 efficient technology, and non-renewable resources in order to
11 reduce environmental degradation and encourage long-term cost
12 reduction;

13 (8) that the community-anchored project shall comply with the
14 authority's affirmative action requirements, adopted pursuant to
15 section 4 of P.L.1979, c.303 (C.34:1B-5.4);

16 (9) a description of the significant economic, social, planning,
17 employment, environmental, fiscal, and other benefits that would
18 accrue to the State, county, or municipality from the community-
19 anchored project;

20 (10) that during the eligibility period, each worker employed to
21 perform construction work and building services work at the
22 community-anchored project shall be paid not less than the
23 prevailing wage rate for the worker's craft or trade, as determined
24 by the Commissioner of Labor and Workforce Development
25 pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005,
26 c.379 (C.34:11-56.58 et seq.). In the event the community-
27 anchored project constitutes a lease of more than 55 percent of a
28 single facility, these requirements shall apply to construction work
29 and building services work at the entire facility. In the event the
30 community-anchored project constitutes a lease of more than 35
31 percent of a single facility, these requirements shall apply to
32 construction work at the entire facility;

33 (11) that during the eligibility period, the anchor institution and,
34 if applicable, each partner anchor institution shall partner with one
35 or more local community organizations that provide support and
36 services to Work First New Jersey program recipients, in order to
37 provide work activity opportunities and other appropriate services
38 to Work First New Jersey program recipients, which activities and
39 services may include, but shall not be limited to: work-study
40 programs, internships, sector-based contextualized literacy training,
41 skills-based training in growth industries in the State, and job
42 retention and advancement services;

43 (12) the extent to which the community-anchored development
44 will result in the expansion of a targeted industry in this State;

45 (13) that the timing of the award and investment of tax credits
46 under the program shall allow for the successful completion and
47 operation of the community-anchored project; and

1 (14) that the community-anchored project is viable and that the
2 anchor institution and, if applicable, each partner anchor institution
3 is a credible partner for completing the community-anchored project
4 and providing the agreed-upon potential returns to the authority, as
5 detailed in the tax credit agreement entered into pursuant to section
6 50 of P.L.2020, c.156 (C.34:1B-318).

7 c. Prior to the board considering an application submitted by an
8 anchor institution and, if applicable, each partner anchor institution,
9 the authority shall confirm with the Department of Labor and
10 Workforce Development, the Department of Environmental
11 Protection, and the Department of the Treasury **【**shall each report to
12 the chief executive officer of the authority**】** whether the anchor
13 institution and, if applicable, each partner anchor institution and any
14 partner business is in substantial good standing with the respective
15 department, or has entered into an agreement with the respective
16 department that includes a practical corrective action plan. The
17 anchor institution shall certify that any contractors or
18 subcontractors that will perform work at the community-anchored
19 project: (1) are registered as required by “The Public Works
20 Contractor Registration Act,” P.L.1999, c.238 (C.34:11-56.48 et
21 seq.); (2) have not been debarred by Department of Labor and
22 Workforce Development from engaging in or bidding on Public
23 Works Contracts in the State; and (3) possess a tax clearance
24 certificate issued by the Division of Taxation in the Department of
25 the Treasury. The authority may also contract with an independent
26 third party to perform a background check on an anchor institution
27 and, if applicable, each partner anchor institution and any partner
28 business.

29 d. In order to facilitate the creation of new partnerships with
30 anchor institutions and, if applicable, partner anchor institutions, the
31 authority shall publish on the authority's website a list of names and
32 contact information for each anchor institution that has submitted
33 an application pursuant to this section.

34 (cf: P.L.2020, c.156, s.47)

35
36 20. Section 49 of P.L.2020, c.156 (C.34:1B-317) is amended to
37 read as follows:

38 49. a. The authority shall award tax credits under the program
39 through a competitive application process consisting of up to two
40 award rounds each year. The authority shall provide notice to the
41 public of the opening and closing dates for submission of program
42 applications on the authority's Internet website.

43 b. (1) The authority shall review applications for tax credits
44 submitted to the authority by the deadline date of the award round
45 and shall evaluate each application as if it were received on the
46 deadline date, without providing any preference for early
47 submissions. To determine priority for an award of a tax credit, all
48 applications for community-anchored projects that satisfy the

1 criteria set forth in sections 47 and 48 of P.L.2020, c.156 (C.34:1B-
2 315 and C.34:1B-316) in a given award round shall be ranked on
3 the basis of a scoring system developed by the authority through
4 regulations adopted pursuant to the provisions of the
5 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
6 seq.). Prior to the commencement of an award round, the authority
7 shall determine the minimum score for the award round that an
8 anchor institution or, if applicable, each partner anchor institution is
9 required to attain to be eligible for a tax credit.

10 (2) The authority may establish different criteria for community-
11 anchored projects that are located in a New Jersey State opportunity
12 zone and community-anchored projects that are primarily designed
13 to result in the economic expansion of a targeted industry in this
14 State.

15 c. The scoring system developed by the authority pursuant to
16 subsection b. of this section shall assess applications for tax credits
17 based on the following competitive criteria, which shall include, but
18 shall not be limited to:

19 (1) the amount of tax credit requested by the anchor institution
20 and, if applicable, each partner anchor institution compared to the
21 overall investments required for the completion of the community-
22 anchored project, along with the amount of the potential return on
23 the authority's investment of tax credits to the State by the end of
24 the commitment period, the amount of the tax credit, if any, that is
25 unlikely to be realized as a return on investment to the State, and
26 the proposed terms and structure for the authority's investment in
27 the project, including applicable current and deferred returns;

28 (2) the financial benefit of the community-anchored project to
29 the community in which the community-anchored project will be
30 located;

31 (3) apprenticeships or workforce programs to be offered because
32 of the community-anchored project;

33 (4) the ability of the community-anchored project to absorb and
34 adapt to changing environmental conditions and deliver its
35 objectives;

36 (5) how the community-anchored project will advance State,
37 regional, and local development and planning strategies;

38 (6) the relationship of the community-anchored project to a
39 comprehensive local development strategy, including its relation to
40 other development and redevelopment projects in the municipality;

41 (7) the degree to which the community-anchored project
42 enhances and promotes job creation and economic development;

43 (8) the extent of economic and related social distress in the
44 municipality and the immediate area surrounding the community-
45 anchored project;

46 (9) the extent to which the community-anchored project
47 provides for the development of **workforce housing and** housing
48 for individuals with special needs;

- 1 (10) the extent to which the community-anchored project
2 constitutes the expansion of the anchor institution and, if applicable,
3 each partner anchor institution to different areas of the State;
- 4 (11) the extent to which the community-anchored project
5 provides for infrastructure, parking, retail, green space, or other
6 public amenities creating a mixed-use community-anchored project;
- 7 (12) the inclusion of a qualified business accelerator or incubator
8 facility as a part of the community-anchored project;
- 9 (13) the length of the commitment period for the community-
10 anchored project;
- 11 (14) the quality and number of new full-time jobs that will be
12 created by the anchor institution, partner anchor institution or a
13 partner business at the community-anchored project;
- 14 (15) the quality and number of existing full-time jobs that will be
15 retained by the anchor institution, partner anchor institution, or a
16 partner business in the State as a result of completing the
17 community-anchored project, with the criteria specifying, in scoring
18 the application, that the retention of an existing full-time job shall
19 be given not more than one-third the weight of a new full-time job
20 of a similar quality; and
- 21 (16) if the anchor institution has a board of directors, the extent
22 to which that board of directors is diverse and representative of the
23 community in which the community-anchored project is located.
- 24 d. Notwithstanding the provisions of subsection c. of this
25 section, the authority may adopt, pursuant to the provisions of the
26 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
27 seq.), rules and regulations adjusting competitive criteria required
28 under the program when necessary to respond to the prevailing
29 economic conditions in the State.
- 30 e. Prior to the award of a tax credit to an anchor institution or,
31 if applicable, each partner anchor institution, to be converted into
32 an authority investment in a community-anchored project, the
33 authority shall confirm with the Department of Labor and
34 Workforce Development, the Department of Environmental
35 Protection, and the Department of the Treasury **【shall each report to**
36 **the chief executive officer of the authority as to whether】** that the
37 anchor institution and, if applicable, each partner anchor institution,
38 along with any partner business identified in a program application,
39 **【and each contractor and subcontractor performing work at the**
40 **community-anchored project,】** is in substantial good standing with
41 the respective department, or has entered into an agreement with the
42 respective department that includes a practical corrective action
43 plan for the anchor institution and, if applicable, each partner
44 anchor institution and any partner business, and the anchor
45 institution shall confirm that any contractors and subcontractors
46 performing work at the community-anchored project: (1) are
47 registered as required by "The Public Works Contractor
48 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have

1 not been debarred by Department of Labor and Workforce
2 Development from engaging in or bidding on Public Works
3 Contracts in the State; and (3) possess a tax clearance certificate
4 issued by the Division of Taxation in the Department of the
5 Treasury. Provided that all parties are in **【substantial good**
6 **standing, or have entered into such an agreement】** compliance with
7 this subsection, the authority shall allocate tax credits to
8 community-anchored projects according to the community-
9 anchored project's score and until either the available tax credits are
10 exhausted or all community-anchored projects obtaining the
11 minimum score receive a tax credit, whichever occurs first. If
12 insufficient funding exists to fully fund all eligible community-
13 anchored projects, a community-anchored project may be offered
14 partial funding.

15 f. Applications that do not receive the minimum score
16 established by the authority for that award round shall not receive
17 further consideration for a tax credit by the authority in that award
18 round; however, an anchor institution or partner anchor institution
19 may revise or complete a new application to be submitted in a
20 subsequent award round.

21 g. If an anchor institution or partner anchor institution declines
22 a tax credit offered by the authority, the authority shall offer the tax
23 credit to the applicant with the application having the next highest
24 score, and having obtained at least the minimum score in that award
25 round.

26 (cf: P.L.2020, c.156, s.49)

27

28 21. Section 50 of P.L.2020, c.156 (C.34:1B-318) is amended to
29 read as follows:

30 50. a. Following approval and selection of an application
31 pursuant to sections 48 and 49 of P.L.2020, c.156 (C.34:1B-316 and
32 C.34:1B-317), the authority shall enter into a tax credit agreement
33 with the anchor institution and, if applicable, each partner anchor
34 institution. The chief executive officer of the authority shall
35 negotiate the terms and conditions of the tax credit agreement on
36 behalf of the State.

37 b. (1) A tax credit agreement shall specify the amount of the
38 tax credit that the authority shall award to the anchor institution
39 and, if applicable, each partner anchor institution for conversion
40 into an authority investment and specify the duration of the
41 eligibility period, which shall not exceed 10 years. The tax credit
42 agreement shall provide an estimated date of completion for the
43 community-anchored project and include a requirement for periodic
44 progress reports through completion, including the submittal of
45 executed financing commitments and documents or agreements that
46 evidence site control.

47 (2) If, as a result of a default under the tax credit agreement, the
48 authority rescinds a tax credit in the same calendar year in which

1 the authority approved the tax credit, then the authority may assign
2 the tax credit to another applicant that attained the minimum score
3 determined pursuant to section 49 of P.L.2020, c.156 (C.34:1B-
4 317).

5 c. The terms of the tax credit agreement shall:

6 (1) provide for a verification of project financing at the time the
7 anchor institution, each partner anchor institution, and any partner
8 business provides executed financing commitments to the authority
9 and a verification of the anchor institution's projected cash flow and
10 each partner anchor institution's cash flow at the time of
11 certification that the project is completed;

12 (2) specify the length of the commitment period for the
13 community-anchored project and the terms by which the anchor
14 institution and, if applicable, each partner anchor institution shall
15 provide to the authority current or deferred returns on investment
16 generated by the community-anchored project and commit to a
17 structure for returns on investment;

18 (3) allow the anchor institution and, if applicable, each partner
19 anchor institution to distribute returns on investment to the
20 authority for the tax credits in the amount specified in the tax credit
21 agreement at any time within the commitment period, but require
22 such distribution to occur if the community-anchored project is sold
23 before the end of the commitment period;

24 (4) specify amounts of returns to be retained by the anchor
25 institution and, if applicable, each partner anchor institution for
26 capital reserves, programming, or other purposes;

27 (5) identify the value of any monetary or financial benefit
28 offered or provided by the anchor institution and, if applicable, each
29 partner anchor institution to any partner business that works with
30 the anchor institution and, if applicable, each partner anchor
31 institution to complete and operate the community-anchored
32 project;

33 (6) identify any benefits created by the anchor institution and, if
34 applicable, each partner anchor institution for a partner business
35 through equity investment in or debt-financing of a community-
36 anchored project and specify the formula by which such benefits are
37 passed through to a partner business;

38 (7) specify that the authority or the State may purchase tax
39 credits offered for sale by an anchor institution and, if applicable,
40 each partner anchor institution for 90 percent of the stated value of
41 the tax credit before considering any further discounting to present
42 value which shall be permitted;

43 (8) at a minimum, require an anchor institution and, if
44 applicable, each partner anchor institution to provide oversight of
45 the community-anchored project through ongoing reporting by a
46 partner business to the anchor institution and, if applicable, each
47 partner anchor institution, and subsequent ongoing reporting by the

1 anchor institution and, if applicable, each partner anchor institution
2 to the authority;

3 (9) specify other measures through which the authority shall
4 ensure oversight of outstanding tax credit investments, and, in the
5 event that an anchor institution or partner anchor institution fails to
6 meet its obligations under the tax credit agreement or any program
7 requirement, establish the right of the authority to assume direct
8 oversight of any or all projects for which the anchor institution or
9 partner anchor institution has entered into investment agreements
10 and require the anchor institution or partner anchor institution to
11 pursue any remedies it may have against a partner business; and

12 (10) at a minimum, require that the anchor institution, each
13 partner anchor institution, and any partner businesses, adopt
14 specific nondiscrimination policies for the operation of a
15 community-anchored project.

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 and, if applicable, each partner institution
19 **[that are to include separate certifications by] and any partner**
20 **business. As part of the authority's review of the annual reports**
21 **required from each anchor institution and, if applicable, each**
22 **partner institution, the authority shall confirm with** the Department
23 of Environmental Protection, the Department of Labor and
24 Workforce Development, and the Department of the Treasury
25 **[demonstrating] that** the anchor institution and, if applicable, each
26 partner institution **and** any partner business **], and each contractor**
27 **and subcontractor performing work at the community-anchored**
28 **project] is in substantial good standing with [that] the respective**
29 **department, or [have] has entered into an agreement with [that]**
30 **such** department that includes a **practical** corrective action plan **],**
31 **and the] for the anchor institution and, if applicable, each partner**
32 **anchor institution and any partner business, and the anchor**
33 **institution shall confirm that any contractors and subcontractors**
34 **performing work at the community-anchored project: (1) are**
35 **registered as required by "The Public Works Contractor**
36 **Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have**
37 **not been debarred by Department of Labor and Workforce**
38 **Development from engaging in or bidding on Public Works**
39 **Contracts in the State; and (3) possess a tax clearance certificate**
40 **issued by the Division of Taxation in the Department of the**
41 **Treasury. The** tax credit agreement shall include a provision that
42 the anchor institution and, if applicable, each partner institution
43 shall forfeit the tax credit in any year in which an uncured default
44 exists under the tax credit agreement **or the anchor institution and,**
45 **if applicable, each partner institution is neither in substantial good**
46 **standing with the Department of Environmental Protection, the**
47 **Department of Labor and Workforce Development, or the**

1 Department of the Treasury nor has entered into a practical
2 corrective action plan. The tax credit agreement shall, however,
3 allow the authority to extend, in individual cases, the deadline for
4 any annual reporting **【or certification】** requirement.

5 e. An anchor institution and, if applicable, each partner
6 institution shall, as required at the discretion of the authority,
7 submit to the authority satisfactory evidence of actual project costs,
8 as certified by a certified public accountant, evidence of a
9 temporary certificate of occupancy, or other event evidencing
10 project completion. The anchor institution and, if applicable, each
11 partner institution, or an authorized agent of the anchor institution
12 or partner institution, shall certify under the penalty of perjury that
13 the information provided pursuant to this subsection is true.

14 (cf: P.L.2020, c.156, s.50)

15

16 22. Section 55 of P.L.2020, c.156 (C.34:1B-323) is amended to
17 read as follows:

18 55. As used in sections 54 through 67 of P.L.2020, c.156
19 (C.34:1B-322 through C.34:1B-335):

20 "Agency" means the New Jersey Housing and Mortgage Finance
21 Agency established pursuant to P.L.1983, c.530 (C.55:14K-1 et
22 seq.).

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 "Aviation district" means all areas within the boundaries of the
26 Atlantic City International Airport, established pursuant to section
27 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation
28 Administration William J. Hughes Technical Center and the area
29 within a one-mile radius of the outermost boundary of the Atlantic
30 City International Airport and the Federal Aviation Administration
31 William J. Hughes Technical Center.

32 "Board" means the Board of the New Jersey Economic
33 Development Authority, established by section 4 of P.L.1974, c.80
34 (C.34:1B-4).

35 "Building services" means any cleaning or routine building
36 maintenance work, including but not limited to sweeping,
37 vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse
38 or trash, window cleaning, securing, patrolling, or other work in
39 connection with the care or securing of an existing building,
40 including services typically provided by a door-attendant or
41 concierge. "Building services" shall not include any skilled
42 maintenance work, professional services, or other public work for
43 which a contractor is required to pay the "prevailing wage" as
44 defined in section 2 of P.L.1963, c.150 (C.34:11-56.26).

45 "Cash flow" means the profit or loss that an investment property
46 earns from rent, deposits, and other fees after financial obligations,
47 such as debt, maintenance, government payments, and other
48 expenses, have been paid.

1 "Collaborative workspace" means coworking, accelerator,
2 incubator, or other shared working environments that promote
3 collaboration, interaction, socialization, and coordination among
4 tenants through the clustering of multiple businesses or individuals.
5 For this purpose, the collaborative workspace shall be the greater
6 of: 2,500 of dedicated square feet or 10 percent of the total property
7 on which the redevelopment project is situated. The collaborative
8 workspace shall include a community manager, be focused on
9 collaboration among the community members, and include
10 regularly scheduled education events for the community members.
11 The collaborative workspace shall also include a physical open
12 space that supports the engagement of its community members.

13 "Commercial project" means a **【building】** redevelopment
14 project, which is predominantly commercial and contains 100,000
15 or more square feet of office and retail space, industrial space, or
16 film studios, professional stages, television studios, recording
17 studios, screening rooms, or other infrastructure for film
18 production, for purchase or lease and may include a parking
19 component.

20 "Developer" means a person who enters or proposes to enter into
21 an incentive award agreement pursuant to the provisions of section
22 60 of P.L.2020, c.156 (C.34:1B-328), including, but not limited, to
23 a lender that completes a redevelopment project, operates a
24 redevelopment project, or completes and operates a redevelopment
25 project.

26 "Director" means the Director of the Division of Taxation in the
27 Department of the Treasury.

28 "Distressed municipality" means a municipality that is qualified
29 to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a
30 municipality under the supervision of the Local Finance Board
31 pursuant to the provisions of the "Local Government Supervision
32 Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality
33 identified by the Director of the Division of Local Government
34 Services in the Department of Community Affairs to be facing
35 serious fiscal distress, a SDA municipality, or a municipality in
36 which a major rail station is located.

37 "Economic development incentive" means a financial incentive,
38 awarded by the authority, or agreed to between the authority and a
39 business or person, for the purpose of stimulating economic
40 development or redevelopment in New Jersey, including, but not
41 limited to, a bond, grant, loan, loan guarantee, matching fund, tax
42 credit, or other tax expenditure.

43 "Eligibility period" means the period not to exceed 15 years for a
44 commercial or mixed-use project or the period not to exceed 10
45 years for a residential project specified in an incentive award
46 agreement during which a developer may claim a tax credit under
47 the program.

1 “Enhanced area” means (1) a municipality that contains an urban
2 transit hub, as defined in section 2 of P.L.2007, c.346 (C.34:1B-
3 208); (2) the five municipalities with the highest poverty rates
4 according to the 2017 Municipal Revitalization Index; and (3) the
5 three municipalities with the highest percentage of SNAP recipients
6 according to the 2017 Municipal Revitalization Index.

7 "Food delivery source" means access to nutritious foods, such as
8 fresh fruits and vegetables, through grocery operators, including,
9 but not limited to a full-service supermarket or grocery store, and
10 other healthy food retailers of at least **【18,000】** 16,000 square feet,
11 including, but not limited to, a prepared food establishment selling
12 primarily nutritious ready-to-serve meals.

13 "Food desert community" means a physically contiguous area in
14 the State in which residents have limited access to nutritious foods,
15 such as fresh fruits and vegetables, **【through supermarkets and**
16 **grocery stores】** and that has been designated as a food desert
17 community pursuant to subsection b. of section 38 of P.L.2020,
18 c.156 (C.34:1B-306).

19 "Government-restricted municipality" means a municipality in
20 this State with a municipal revitalization index distress score of at
21 least **【7】** 75, that met the criteria for designation as an urban aid
22 municipality in the 2019 State fiscal year, and that, on the effective
23 date of P.L.2020, c.156 (C.34:1B-269 et al.), is subject to financial
24 restrictions imposed pursuant to the “Municipal Stabilization and
25 Recovery Act,” P.L.2016, c.4 (C.52:27BBBB-1 et seq.), or is
26 restricted in its ability to levy property taxes on property in that
27 municipality as a result of the State of New Jersey owning or
28 controlling property representing at least 25 percent of the total land
29 area of the municipality or as a result of the federal government of
30 the United States owning or controlling at least 50 acres of the total
31 land area of the municipality, which is dedicated as a national
32 natural landmark.

33 "Health care or health services center" means an establishment
34 where patients are admitted for examination and treatment by one or
35 more physicians, dentists, psychologists, or other medical
36 practitioners.

37 "Incentive area" means an aviation district, a port district, or an
38 area designated pursuant to the "State Planning Act," P.L.1985,
39 c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan),
40 Planning Area 2 (Suburban), or a Designated Center, provided an
41 area designated as Planning Area 2 (Suburban) or a Designated
42 Center shall be located within a one-half mile radius of the mid-
43 point, with bicycle and pedestrian connectivity, of a New Jersey
44 Transit Corporation, Port Authority Transit Corporation, or Port
45 Authority Trans-Hudson Corporation rail, bus, or ferry station,
46 including all light rail stations, or a high frequency bus stop as
47 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.2020, c.156 (C.34:1B-322 through C.34:1B-335).

5 "Incentive award agreement" means the contract executed
6 between a developer and the authority pursuant to section 60 of
7 P.L.2020, c.156 (C.34:1B-328), which sets forth the terms and
8 conditions under which the developer may receive the incentive
9 awards authorized pursuant to the provisions of sections 54 through
10 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335).

11 "Incubator facility" means a commercial property, which
12 contains 5,000 or more square feet of office, laboratory, or
13 industrial space, which is located near, and presents opportunities
14 for collaboration with, a research institution, teaching hospital,
15 college, or university, and within which at least 75 percent of the
16 gross leasable area is restricted for use by one or more technology
17 startup companies.

18 "Individuals with special needs" means individuals with mental
19 illness, individuals with physical or developmental disabilities, and
20 individuals in other emerging special needs groups identified by the
21 authority, based on guidelines established for the administration of
22 the Special Needs Housing Trust Fund established pursuant to
23 section 1 of P.L.2005, c.163 (C.34:1B-21.25a) or developed in
24 consultation with other State agencies.

25 "Low-income housing" means housing affordable according to
26 federal Department of Housing and Urban Development or other
27 recognized standards for home ownership and rental costs and
28 occupied or reserved for occupancy by households with a gross
29 household income equal to 50 percent or less of the median gross
30 household income for households of the same size within the
31 housing region in which the housing is located.

32 "Major rail station" means a railroad station that is located within
33 a qualified incentive area and that provides to the public access to a
34 minimum of six rail passenger service lines operated by the New
35 Jersey Transit Corporation.

36 "Minimum environmental and sustainability standards" means
37 standards established by the authority in accordance with the green
38 building manual prepared by the Commissioner of Community
39 Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6),
40 regarding the use of renewable energy, energy-efficient technology,
41 and non-renewable resources to reduce environmental degradation
42 and encourage long-term cost reduction.

43 "Moderate-income housing" means housing affordable according
44 to federal Department of Housing and Urban Development or other
45 recognized standards for home ownership and rental costs and
46 occupied or reserved for occupancy by households with a gross
47 household income equal to more than 50 percent, but less than 80
48 percent, of the median gross household income for households of

1 the same size within the housing region in which the housing is
2 located.

3 "Municipal Revitalization Index" means the index by the
4 Department of Community Affairs ranking New Jersey's
5 municipalities according to eight separate indicators that measure
6 diverse aspects of social, economic, physical, and fiscal conditions
7 in each locality.

8 "Port district" means the portions of a qualified incentive area
9 that are located within:

10 a. the "Port of New York District" of the Port Authority of
11 New York and New Jersey, as defined in Article II of the Compact
12 Between the States of New York and New Jersey of 1921; or

13 b. a 15-mile radius of the outermost boundary of each marine
14 terminal facility established, acquired, constructed, rehabilitated, or
15 improved by the South Jersey Port District established pursuant to
16 "The South Jersey Port Corporation Act," P.L.1968, c.60
17 (C.12:11A-1 et seq.).

18 "Program" means the New Jersey Aspire Program established by
19 section 56 of P.L.2020, c.156 (C.34:1B-324).

20 "Project cost" means the costs incurred in connection with a
21 redevelopment project by a developer until the issuance of a
22 permanent certificate of occupancy, or until such other time
23 specified by the authority, for a specific investment or
24 improvement, including the costs relating to lands, except the cost
25 of acquiring such lands, buildings, improvements, real or personal
26 property, or any interest therein, including leases discounted to
27 present value, including lands under water, riparian rights, space
28 rights, and air rights acquired, owned, developed or redeveloped,
29 constructed, reconstructed, rehabilitated, or improved, any
30 environmental remediation costs, plus costs not directly related to
31 construction, including capitalized interest paid to third parties, of
32 an amount not to exceed 20 percent of the total costs **【**, capitalized
33 interest paid to third parties,**】** and the cost of infrastructure
34 improvements, including ancillary infrastructure projects. The
35 **【**cost of acquisition of land or**】** fees associated with the application
36 or administration of a grant under sections 54 through 67 of
37 P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335) 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; provided, however, that for a
48 redevelopment project located in a government-restricted

1 municipality, the developer contributed capital shall not be less than
2 10 percent of the total project cost. Developer contributed capital
3 may consist of cash, deferred development fees, costs for project
4 feasibility incurred within the 12 months prior to application,
5 property value less any mortgages when the developer owns the
6 project site, and any other investment by the developer in the
7 project deemed acceptable by the authority, as provided by
8 regulations promulgated by the authority. Property value shall be
9 valued at the lesser of: (i) the purchase price, provided the property
10 was purchased pursuant to an arm's length transaction within 12
11 months of application; or (ii) the value as determined by a current
12 appraisal.

13 "Project labor agreement" means a form of pre-hire collective
14 bargaining agreement covering terms and conditions of a specific
15 project that satisfies the requirements set forth in section 5 of
16 P.L.2002, c.44 (C.52:38-5).

17 "Qualified incentive tract" means (i) a population census tract
18 having a poverty rate of 20 percent or more; or (ii) a census tract in
19 which the median family income for the census tract does not
20 exceed 80 percent of the greater of the Statewide median family
21 income or the median family income of the metropolitan statistical
22 area in which the census tract is situated.

23 "Quality childcare facility" is a child care center licensed by the
24 Department of Children and Families or a registered family child
25 care home with the Department of Human Services, operating
26 continuously, which has not been subject to an enforcement action,
27 and which has and maintains a [total] licensed capacity [of at least
28 60] for children age [6] 13 years or younger who attend for less
29 than 24 hours a day.

30 "Redevelopment project" means a specific construction project
31 or improvement or phase of a project or improvement undertaken
32 by a developer, owner or tenant, or both, and any ancillary
33 infrastructure project. A redevelopment project may involve
34 construction or improvement upon lands, buildings, improvements,
35 or real and personal property, or any interest therein, including
36 lands under water, riparian rights, space rights, and air rights,
37 acquired, owned, developed or redeveloped, constructed,
38 reconstructed, rehabilitated, or improved.

39 "Residential project" means a redevelopment project that is
40 predominantly residential, intended for multi-family residency, and
41 may include a parking component.

42 "SDA district" means an SDA district as defined in section 3 of
43 P.L.2000, c.72 (C.18A:7G-3).

44 "SDA municipality" means a municipality in which an SDA
45 district is situated.

46 "Technology startup company" means a for-profit business that
47 has been in operation fewer than seven years at the time that it
48 initially occupies or expands in a qualified business facility and is

1 developing or possesses a proprietary technology or business
2 method of a high technology or life science-related product,
3 process, or service, which proprietary technology or business
4 method the business intends to move to commercialization. The
5 business shall be deemed to have begun operation on the date that
6 the business first hired at least one employee in a full-time position.

7 "Total project cost" means the costs incurred in connection with
8 the redevelopment project by the developer until the issuance of a
9 permanent certificate of occupancy, or upon such other event
10 evidencing project completion as set forth in the incentive grant
11 agreement, for a specific investment or improvement.

12 "Tourism destination project" means a non-gaming business
13 facility that will be among the most visited privately owned or
14 operated tourism or recreation sites in the State, and which has been
15 determined by the authority to be in an area appropriate for
16 development and in need of economic development incentive
17 assistance, including a non-gaming business within an established
18 Tourism District with a significant impact on the economic viability
19 of that district.

20 "Transit hub" means an urban transit hub, as defined in section 2
21 of P.L.2007, c.346 (C.34:1B-208), that is located within an eligible
22 municipality, as defined in section 2 of P.L.2007, c.346 (C.34:1B-
23 208) and also located within a qualified incentive area.

24 "Transit hub municipality" means a Transit Village or a
25 municipality: a. which qualifies for State aid pursuant to P.L.1978,
26 c.14 (C.52:27D-178 et seq.), or which has continued to be a
27 qualified municipality thereunder pursuant to P.L.2007, c.111; and
28 b. in which 30 percent or more of the value of real property was
29 exempt from local property taxation during tax year 2006. The
30 percentage of exempt property shall be calculated by dividing the
31 total exempt value by the sum of the net valuation which is taxable
32 and that which is tax exempt.

33 "Transit Village" means a municipality that has been designated
34 as a transit village by the Commissioner of Transportation and the
35 Transit Village Task Force established pursuant to P.L.1985, c.398
36 (C.27:1A-5).

37 **["Workforce housing" means housing that is affordable**
38 **according to federal Department of Housing and Urban**
39 **Development or other recognized standards for home ownership**
40 **and rental costs, and occupied or reserved for occupancy by**
41 **households with a gross household income of more than 80 percent,**
42 **but less than 120 percent, of the median gross household income for**
43 **households of the same size within the housing region in which the**
44 **housing is located.]**

45 (cf: P.L.2020, c.156, s.55)

46

47 23. Section 57 of P.L.2020, c.156 (C.34:1B-325) is amended to
48 read as follows:

1 57. a. Prior to March 1, 2027, a developer shall be eligible to
2 receive an incentive award for a redevelopment project only if the
3 developer demonstrates to the authority at the time of application
4 that:

5 (1) without the incentive award, the redevelopment project is
6 not economically feasible;

7 (2) a project financing gap exists, or the authority determines
8 that the redevelopment project will generate a below market rate of
9 return;

10 (3) the redevelopment project, except a film studio, professional
11 stage, television studio, recording studio, screening room, or other
12 infrastructure used for film production, is located in the incentive
13 area;

14 (4) except for demolition and site remediation activities, the
15 developer has not commenced any construction at the site of the
16 redevelopment project prior to submitting an application, unless the
17 authority determines that the redevelopment project would not be
18 completed otherwise or, in the event the redevelopment project is to
19 be undertaken in phases, the requested incentive award is limited to
20 only phases for which construction has not yet commenced;

21 (5) the redevelopment project shall comply with minimum
22 environmental and sustainability standards;

23 (6) the redevelopment project shall comply with the authority's
24 affirmative action requirements, adopted pursuant to section 4 of
25 P.L.1979, c.303 (C.34:1B-5.4);

26 (7) during the eligibility period, each worker employed to
27 perform construction work or building services work at the
28 redevelopment project shall be paid not less than the prevailing
29 wage rate for the worker's craft or trade, as determined by the
30 Commissioner of Labor and Workforce Development pursuant to
31 P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379
32 (C.34:11-56.58 et seq.). In the event a redevelopment project is
33 undertaken by a tenant and the tenant has a leasehold of more than
34 55 percent of space in the building owned or controlled by the
35 developer, the requirement that each worker employed to perform
36 building service work at the building be paid not less than the
37 prevailing wage shall apply to the entire building;

38 (8) (a) the redevelopment project shall be completed, and the
39 developer shall be issued a certificate of occupancy for the
40 redevelopment project facilities by the applicable enforcing agency
41 within four years of executing the incentive award agreement, or in
42 the case of a redevelopment project with a project cost in excess of
43 \$50,000,000, the incentive phase agreement corresponding to the
44 redevelopment project; or

45 (b) in the discretion of the authority, a redevelopment project
46 with a project cost in excess of \$50,000,000, and that is authorized
47 to be completed in phases, may be allowed no more than six years
48 from the date on which the incentive award agreement is executed

1 to be issued a certificate of occupancy by the applicable
2 enforcement agency;

3 (9) the developer has complied with all requirements for filing
4 tax and information returns and for paying or remitting required
5 State taxes and fees by submitting, as a part of the application, a tax
6 clearance certificate, as described in section 1 of P.L.2007, c.101
7 (C.54:50-39); and

8 (10)the developer is not more than 24 months in arrears at the
9 time of application.

10 b. In addition to the requirements set forth in subsection a. of
11 this section, for a commercial project to qualify for an incentive
12 award the developer shall demonstrate that **【**:

13 (1) the incremental increase of State revenues realized from the
14 commercial project upon its completion shall be in excess of the
15 amount necessary to reimburse the developer for its project
16 financing gap; and

17 (2)**】** the developer shall **【**have an equity participation**】** contribute
18 capital of at least 20 percent of the total project cost, except that if a
19 redevelopment project is located in a government-restricted
20 municipality, the developer shall contribute capital of at least 10
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.) **【**and at least 5 percent of the residential units constructed
42 as workforce housing, 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. If the municipality in which the property is located
2 has received substantive certification from the council and such a
3 reservation is not required under the approved affordable housing
4 plan or the municipality has been given a judgment of repose or a
5 judgment of compliance by the court, and such a reservation is not
6 required under the approved affordable housing plan, then the
7 developer shall reserve at least 10 percent, but not more than 50
8 percent, of the residential units constructed for occupancy by low-
9 and moderate-income households with affordability controls as
10 required under the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-
11 301 et al.) and at least 15 percent of the residential units constructed
12 as workforce housing】.

13 e. Prior to the board considering an application submitted by a
14 developer, the authority shall confirm with the Department of Labor
15 and Workforce Development, the Department of Environmental
16 Protection, and the Department of the Treasury 【shall each report to
17 the chief executive officer of the authority】 whether the developer
18 is in substantial good standing with the respective department, or
19 has entered into an agreement with the respective department that
20 includes a practical corrective action plan for the developer. The
21 developer shall certify that any contractors or subcontractors that
22 will perform work at the redevelopment project: (1) are registered
23 as required by "The Public Works Contractor Registration Act,"
24 P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have not been debarred
25 by Department of Labor and Workforce Development from
26 engaging in or bidding on Public Works Contracts in the State; and
27 (3) possess a tax clearance certificate issued by the Division of
28 Taxation in the Department of the Treasury. The authority may also
29 contract with an independent third party to perform a background
30 check on the developer.

31 (cf: P.L.2020, c.156, s.57)

32

33 24. Section 58 of P.L.2020, c.156 (C.34:1B-326) is amended to
34 read as follows:

35 58. a. Prior to March 1, 2027, 【a developer that meets the
36 eligibility criteria in】 for redevelopment projects eligible pursuant
37 to section 57 of P.L.2020, c.156 (C.34:1B-325) 【and is】 for which a
38 developer is seeking an incentive award for 【a】 the redevelopment
39 project, the developer shall submit an application to the authority
40 and, in the case of a residential project, shall submit an application
41 to the authority and the agency, in a form and manner prescribed in
42 regulations adopted by the authority, in consultation with the
43 agency, pursuant to the provisions of the "Administrative Procedure
44 Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The authority shall
45 accept applications for incentive awards during the grant periods
46 established pursuant to section 59 of P.L.2020, c.156 (C.34:1B-
47 327).

- 1 b. The authority shall not consider an application for a
2 commercial project unless the developer submits a letter evidencing
3 support for the commercial project from the governing body of the
4 municipality in which the commercial project is located with the
5 application.
- 6 c. The authority shall review the project cost, evaluate and
7 validate the project financing gap estimated by the developer, and
8 conduct a State fiscal impact analysis to ensure that the overall
9 public assistance provided to the project will result in a net positive
10 benefit to the State, provided that the net benefit analysis shall not
11 apply to capital investment for a food delivery source; a health care
12 or health services center with a minimum of 10,000 square feet of
13 space devoted to health care or health services that is located in a
14 municipality with a Municipal Revitalization Index distress score of
15 at least 50 lacking adequate access, as determined by the
16 Commissioner of Health; or a residential project. In determining
17 whether a project will result in a net positive benefit to the State,
18 the authority shall not consider the value of any taxes exempted,
19 abated, rebated, or retained under the "Five-Year Exemption and
20 Abatement Law," P.L.1991, c.441 (C.40A:21-1 et seq.), the "Long
21 Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et al.),
22 the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303
23 (C.52:27H-60 et seq.), or any other law that has the effect of
24 lowering or eliminating the developer's State or local tax liability.
25 The determination made pursuant to this subsection shall be based
26 on the potential tax liability of the developer without regard for
27 potential tax losses if the developer were to locate in another state.
28 The authority shall assess the cost of these reviews to the applicant.
29 A developer shall pay to the authority the full amount of the direct
30 costs of an analysis concerning the developer's application for a tax
31 credit that a third party retained by the authority performs, if the
32 authority deems such retention to be necessary. The authority shall
33 evaluate the net economic benefits on a present value basis under
34 which the requested tax credit allocation amount is discounted to
35 present value at the same discount rate as the projected benefits
36 from the implementation of the proposed redevelopment project for
37 which an award of tax credits is being sought.
- 38 d. For a redevelopment project subject to the requirement of
39 subsection c. of this section to be eligible for any tax credits under
40 the program, a developer shall demonstrate to the authority that the
41 award of tax credits will yield a net positive benefit to the State
42 equaling an amount determined by the authority through regulation
43 that exceeds the requested tax credit amount. The developer shall
44 certify, under the penalty of perjury, that all documents submitted,
45 and factual assertions made, to the authority to demonstrate that the
46 award of tax credits will yield a net positive benefit to the State in
47 accordance with this subsection are true and accurate at the time of
48 submission. A redevelopment project located in a government-

1 restricted municipality shall yield a net positive benefit to the State
2 that exceeds the requested tax credit amount, but the net benefit
3 requirement set by the authority for such redevelopment projects
4 may be up to 35 percentage points lower than the net benefit
5 requirement set by the authority for all other eligible redevelopment
6 projects.

7 e. If at any time during the eligibility period the authority
8 determines that the developer made a material misrepresentation on
9 the developer's application, the developer shall forfeit the incentive
10 award.

11 f. If circumstances require a developer to amend its application
12 to the authority, then the developer, or an authorized agent of the
13 developer, shall certify to the authority that the information
14 provided in its amended application is true under the penalty of
15 perjury.

16 (cf: P.L.2020, c.156, s.58)

17

18 25. Section 59 of P.L.2020, c.156 (C.34:1B-327) is amended to
19 read as follows:

20 59. a. Prior to March 1, 2027, for redevelopment projects
21 eligible pursuant to section 57 of P.L.2020, c.156 (C.34:1B-325),
22 the authority shall award incentive awards based on the order in
23 which complete, qualifying applications were received by the
24 authority. If a developer intends to apply to both the authority and
25 the agency for subsidies, the developer shall notify the agency
26 simultaneously with any application made to the authority. The
27 authority shall transmit its grant determination for such residential
28 projects to the agency along with any information developed by the
29 authority and confirmation of the authority's intent to provide an
30 incentive award or award to the project. Approval of an application
31 by the agency shall be the final determination required for an
32 incentive award for a residential project under this section.

33 b. Prior to allocating an incentive award to a redevelopment
34 project, the authority shall confirm with the Department of Labor
35 and Workforce Development, the Department of Environmental
36 Protection, and the Department of the Treasury [shall each report to
37 the chief executive officer of the authority whether the developer
38 and each contractor and subcontractor performing work at the
39 redevelopment project] that the developer is in substantial good
40 standing with the respective department, or a developer not in
41 substantial good standing with each department has entered into an
42 agreement with the respective department that includes a practical
43 corrective action plan for the developer, and that the developer shall
44 confirm that each contractor or subcontractor performing work at
45 the redevelopment project: (1) is registered as required by “The
46 Public Works Contractor Registration Act,” P.L.1999, c.238
47 (C.34:11-56.48 et seq.); (2) has not been debarred by Department of
48 Labor and Workforce Development from engaging in or bidding on

1 Public Works Contracts in the State; and (3) possesses a tax
2 clearance certificate issued by the Division of Taxation in the
3 Department of the Treasury. The authority may also contract with
4 an independent third party to perform a background check on the
5 developer. Provided that the developer, and all contractors and
6 subcontractors, are in [substantial good standing, or have entered
7 into such agreements] compliance with this subsection, the
8 authority shall allocate incentive awards to redevelopment projects
9 according to the redevelopment project's score and until either the
10 available incentive awards are exhausted or all redevelopment
11 projects obtaining the minimum score receive an incentive award,
12 whichever occurs first. If insufficient funding exists to fully fund
13 all eligible projects, a project may be offered partial funding.
14 (cf: P.L.2020, c.156, s.59)

15
16 26. Section 60 of P.L.2020, c.156 (C.34:1B-328) is amended to
17 read as follows:

18 60. a. (1) Following approval and selection of an application
19 pursuant to sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and
20 C.34:1B-327), the authority shall enter into an incentive award
21 agreement with the developer. The chief executive officer of the
22 authority shall negotiate the terms and conditions of the incentive
23 award agreement on behalf of the State.

24 (2) For a phased project, the incentive phase agreement shall set
25 forth, for each phase of the project and for the total project, the
26 capital investment requirements and the time periods in which each
27 phase of the project shall be commenced and completed. The
28 awarding of tax credits shall be conditioned on the developer's
29 compliance with the requirements of the agreement. A
30 redevelopment project may be completed in phases in accordance
31 with rules adopted by the authority if the redevelopment project has
32 a total project cost in excess of \$50,000,000.

33 b. An incentive award agreement shall specify the amount of
34 the incentive award the authority shall award to the developer and
35 the duration of the eligibility period, which shall not exceed 15
36 years for a commercial or mixed-use project and shall not exceed 10
37 years for a residential project. The incentive award agreement shall
38 provide an estimated date of completion and include a requirement
39 for periodic progress reports, including the submittal of executed
40 financing commitments and documents that evidence site control.
41 If the authority does not receive periodic progress reports, or if the
42 progress reports demonstrate unsatisfactory progress, then the
43 authority may rescind the incentive award. If the authority rescinds
44 an incentive award in the same calendar year in which the authority
45 approved the incentive award, then the authority may assign the
46 incentive award to another applicant. The incentive award
47 agreement may also provide for a verification of the financing gap
48 at the time the developer provides executed financing commitments

1 to the authority and a verification of the developer's projected cash
2 flow at the time of certification that the project is completed.

3 c. To ensure the protection of taxpayer money, if the authority
4 determines at project certification that the actual capital financing
5 approach utilized by the project has resulted in a financing gap that
6 is smaller than the financing gap determined at board approval, the
7 authority shall reduce the amount of the tax credit or accept
8 payment from the developer on a pro rata basis. If there is no
9 project financing gap due to the actual capital financing approach
10 utilized by the project, then the developer shall forfeit the incentive
11 award. **At** the end of the **third**
12 seventh year of the eligibility period **whereupon** , the authority
13 shall evaluate the developer's **cash flow** rate of return on
14 investment and compare that **cash flow** rate of return on
15 investment to the **projected cash flow** reasonable and appropriate
16 rate of return at the time of board approval. **For a commercial**
17 **project, if** If the actual cash flow rate of return on investment
18 exceeds the projected cash flow reasonable and appropriate rate
19 of return on investment at the time of board approval by more than
20 15 percent, the authority shall require the developer to pay up to
21 **15** 20 percent of the amount **of the excess, which payment shall**
22 **be deposited in the State General Fund. To the extent applicable, in**
23 **the case of a residential project, the developer's return on**
24 **investment shall be subject to the provisions of section 7 of**
25 **P.L.1983, c.530 (C.55:14K-7)** in excess of the reasonable and
26 appropriate rate of return on investment. The authority shall require
27 an escrow account to be held by the authority until the end of the
28 eligibility period. Following the final year of the eligibility period,
29 the authority shall determine if the developer's rate of return
30 exceeded the reasonable and appropriate rate of return determined
31 at board approval. If the final rate of return does not exceed the
32 reasonable and appropriate rate of return determined at board
33 approval, the authority shall release to the developer the escrowed
34 funds. If the project final rate of return exceeds the reasonable and
35 appropriate rate of return determined at board approval, the
36 authority shall require the developer to pay up to 20 percent of the
37 amount of the excess, which shall include the funds held in escrow,
38 and such funds shall be deposited in the State General Fund,

39 d. The incentive award agreement shall include a requirement
40 that **the chief executive officer of the authority receive annual**
41 **reports from** the authority confirm with the Department of
42 Environmental Protection, the Department of Labor and Workforce
43 Development, and the Department of the Treasury **demonstrating**
44 that the developer **and each contractor and subcontractor**
45 **performing work at the redevelopment project** is in substantial
46 good standing with the respective department, or the developer has

1 entered into an agreement with the respective department that
2 includes a practical corrective action for the developer, and the
3 developer shall confirm that each contractor or subcontractor
4 performing work at the redevelopment project: (1) is registered as
5 required by "The Public Works Contractor Registration Act,"
6 P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has not been debarred
7 by Department of Labor and Workforce Development from
8 engaging in or bidding on Public Works Contracts in the State; and
9 (3) possesses a tax clearance certificate issued by the Division of
10 Taxation in the Department of the Treasury. The incentive award
11 agreement shall also include a provision that the developer shall
12 forfeit the incentive award in any year in which **【any such report is**
13 **not received】** the developer is neither in substantial good standing
14 with each department nor has entered into a practical corrective
15 action. 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
29 employees in the State.

30 (2) A labor harmony agreement shall be required only if the
31 State has a proprietary interest in the redevelopment project and
32 shall remain in effect for as long as the State acts as a market
33 participant in the redevelopment project. The authority may enter
34 into an incentive award agreement with a developer without the
35 labor harmony agreement required under paragraph (1) of this
36 subsection if the authority determines that the redevelopment
37 project would not be able to go forward if a labor harmony
38 agreement is required. The authority shall support the
39 determination by a written finding, which provides the specific
40 basis for the determination.

41 (3) As used in this subsection:

42 "Hospitality establishment" means a hotel, motel, or any
43 business, however organized, that sells food, beverages, or both for
44 consumption by patrons on the premises.

45 "Labor harmony agreement" means an agreement between a
46 business that serves as the owner or operator of a retail
47 establishment or distribution center and one or more labor
48 organizations, which requires, for the duration of the agreement:

1 that any participating labor organization and its members agree to
2 refrain from picketing, work stoppages, boycotts, or other economic
3 interference against the business; and that the business agrees to
4 maintain a neutral posture with respect to efforts of any
5 participating labor organization to represent employees at an
6 establishment or other unit in the retail establishment or distribution
7 center, agrees to permit the labor organization to have access to the
8 employees, and agrees to guarantee to the labor organization the
9 right to obtain recognition as the exclusive collective bargaining
10 representatives of the employees in an establishment or unit at the
11 retail establishment or distribution center by demonstrating to the
12 New Jersey State Board of Mediation, Division of Private
13 Employment Dispute Settlement, or a mutually agreed-upon,
14 neutral, third-party, that a majority of workers in the unit have
15 shown their preference for the labor organization to be their
16 representative by signing authorization cards indicating that
17 preference. The labor organization or organizations shall be from a
18 list of labor organizations which have requested to be on the list and
19 which the Commissioner of Labor and Workforce Development has
20 determined represent substantial numbers of retail or distribution
21 center employees in the State.

22 f. (1) For a redevelopment project whose total project cost
23 equals or exceeds \$10 million, in addition to the incentive award
24 agreement, a developer shall enter into a community benefits
25 agreement with the authority and the county or municipality in
26 which the redevelopment project is located. The agreement may
27 include, but shall not be limited to, requirements for training,
28 employment, and youth development and free services to
29 underserved communities in and around the community in which
30 the redevelopment project is located. Prior to entering a community
31 benefits agreement, the governing body of the county or
32 municipality in which the redevelopment project is located shall
33 hold at least one public hearing at which the governing body shall
34 hear testimony from residents, community groups, and other
35 stakeholders on the needs of the community that the agreement
36 should address.

37 (2) The community benefits agreement shall provide for the
38 creation of a community advisory committee to oversee the
39 implementation of the agreement, monitor successes, ensure
40 compliance with the terms of the agreement, and produce an annual
41 public report. The community advisory committee created pursuant
42 to this paragraph shall be comprised of representatives of diverse
43 community groups and residents of the county or municipality in
44 which the redevelopment project is located.

45 (3) At the time the developer submits the annual report required
46 pursuant to section 62 of P.L.2020, c.156 (C.34:1B-330) to the
47 authority, the developer shall certify, under the penalty of perjury,
48 that it is in compliance with the terms of the community benefits

1 agreement. If the developer fails to provide the certification
2 required pursuant to this paragraph or the authority determines that
3 the developer is not in compliance with the terms of the community
4 benefits agreement based on the reports submitted by the
5 community advisory committee pursuant to paragraph (2) of this
6 subsection, then the authority may rescind an award or recapture all
7 or part of any tax credits awarded.

8 (4) A developer shall not be required to enter into a community
9 benefits agreement pursuant to this subsection if the developer
10 submits to the authority a copy of either the developer's approval
11 letter from the authority or a redevelopment agreement [that]
12 applicable to the qualified business facility, provided that the
13 approval letter or redevelopment agreement is certified by the
14 municipality in which the redevelopment project is located, and
15 includes provisions that meet or exceed the standards required for a
16 community benefits agreement in this subsection, as determined by
17 the chief executive officer pursuant to rules adopted by the
18 authority.

19 g. A developer shall submit, prior to the first disbursement of
20 tax credits under the incentive award agreement, but no later than
21 six months following project completion, satisfactory evidence of
22 actual project costs, as certified by a certified public accountant,
23 evidence of a temporary certificate of occupancy, or other event
24 evidencing project completion that begins the eligibility period
25 indicated in the incentive award agreement. The developer, or an
26 authorized agent of the developer, shall certify that the information
27 provided pursuant to this subsection is true under the penalty of
28 perjury. Claims, records, or statements submitted by a developer to
29 the authority in order to receive tax credits shall not be considered
30 claims, records, or statements made in connection with State tax
31 laws.

32 h. The incentive award agreement shall include a provision
33 allowing the authority to extend, in individual cases, the deadline
34 for any annual reporting or certification requirement.

35 (cf: P.L.2020, c.156, s.60)

36

37 27. Section 61 of P.L.2020, c.156 (C.34:1B-329) is amended to
38 read as follows:

39 61. a. Up to the limits established in subsection b. of this
40 section and in accordance with an incentive award agreement,
41 beginning upon the receipt of occupancy permits for any portion of
42 the redevelopment project, or upon any other event evidencing
43 project completion as set forth in the incentive award agreement, a
44 developer shall be allowed a total tax credit that shall not exceed:

45 (1) 60 percent of the total project cost for the new construction
46 of a residential project that receives a four-percent allocation from
47 the federal Low Income Housing Tax Credit Program administered
48 by the agency;

1 (2) 50 percent of the total project cost for a commercial project
2 that is located in a government-restricted municipality; or

3 (3) 45 percent of the total project cost **【of the】** for any other
4 redevelopment project **【,** except for a commercial project that is
5 located in a government-restricted municipality, in which case the
6 total tax credit allowed shall not exceed 50 percent of the total
7 project cost of the commercial project **】**.

8 b. The value of all tax credits approved by the authority under
9 the program for a redevelopment project phase shall not exceed
10 **【\$50,000,000】** :

11 (1) \$60,000,000 per redevelopment project 【if】 or phase for a
12 residential project that is allowed a tax credit under paragraph (1) of
13 subsection a. of this section, or a redevelopment project or phase
14 that is located in a qualified incentive tract, government-restricted
15 municipality, or municipality with a Municipal Revitalization Index
16 distress score of at least 50 【, or \$32,000,000】 ; and

17 (2) \$42,000,000 for any other redevelopment project or phase.
18 (cf: P.L.2020, c.156, s.61)

19
20 28. Section 63 of P.L.2020, c.156 (C.34:1B-331) is amended to
21 read as follows:

22 63. a. A developer may apply to the director and the chief
23 executive officer of the authority for a tax credit transfer certificate,
24 covering one or more years, in lieu of the developer being allowed
25 any amount of the credit against the tax liability of the developer.
26 The tax credit transfer certificate, upon receipt thereof by the
27 developer from the director and the chief executive officer of the
28 authority, may be sold or assigned, in full or in part in an amount
29 not less than \$25,000, in the privilege period during which the
30 developer receives the tax credit transfer certificate from the
31 director, to another person, who may apply the credit against a tax
32 liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
33 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),
34 section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The
35 certificate provided to the developer shall include a statement
36 waiving the developer's right to claim the amount of the credit that
37 the developer has elected to sell or assign against the developer's
38 tax liability.

39 b. The developer shall not sell or assign, including a collateral
40 assignment, a tax credit transfer certificate allowed under this
41 section for consideration received by the developer of less than 85
42 percent of the transferred credit amount before considering any
43 further discounting to present value which shall be permitted,
44 except a developer of a residential project consisting of newly-
45 constructed residential units may assign a tax credit transfer
46 certificate for consideration of less than 85 percent subject to the
47 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)]** s.42(b)(1)(B)(i) may assign a tax credit transfer
6 certificate for consideration of no less than **[75]** 65 percent subject
7 to the submission of a plan to the authority and the New Jersey
8 Housing and Mortgage Finance Agency to use the proceeds derived
9 from the assignment of tax credits to complete the residential
10 project. The tax credit transfer certificate issued to a developer by
11 the director shall be subject to any limitations and conditions
12 imposed on the application of State tax credits pursuant to sections
13 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-
14 335) and any other terms and conditions that the director may
15 prescribe.

16 c. A purchaser or assignee of a tax credit transfer certificate
17 pursuant to this section shall not make any subsequent transfers,
18 assignments, or sales of the tax credit transfer certificate.

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 transferrer;
- 23 (2) the name of the transferee;
- 24 (3) the value of the tax credit transfer certificate; and
- 25 (4) the consideration received by the transferrer.

26 (cf: P.L.2020, c.156, s.63)

27

28 29. Section 65 of P.L.2020, c.156 (C.34:1B-333) is amended to
29 read as follows:

30 65. a. As used in this section, "transformative project" means a
31 redevelopment project that has a project financing gap, that has a
32 total project cost of at least \$100,000,000, and that includes 500,000
33 or more square feet of new or substantially renovated industrial,
34 commercial, or residential space or that includes 250,000 or more
35 square feet of film studios, professional stages, television studios,
36 recording studios, screening rooms, or other infrastructure for film
37 production and which is of special economic importance as
38 measured by the level of new jobs, new capital investment,
39 opportunities to leverage leadership in a high-priority targeted
40 industry, or other state priorities as determined by the authority
41 pursuant to rules and regulations promulgated to implement this
42 section. A transformative project may be completed in phases,
43 which phases may be determined by the authority based on factors
44 such as written architectural plans and specifications completed
45 before or during the physical work, certificates of occupancy, or
46 financial and operational plans. The criteria developed by the
47 authority shall include, but shall not be limited to:

1 (1) the extent to which the proposed transformative project
2 would create modern facilities that enhance the State's
3 competitiveness in attracting targeted industries;

4 (2) (a) for a residential **【or mixed-use】** project, the construction
5 of 1,000 or more new residential units **【,】** ;

6 (b) for a residential project containing less than 1,000 new
7 residential units, the construction of 250 or more new residential
8 units if the project is located in a government-restricted
9 municipality, 350 or more residential units if the project is located
10 in an enhanced area, or 600 or more residential units for all other
11 mixed-use projects;

12 (c) for a residential project containing less than 1,000 new
13 residential units, the construction of 100,000 square feet or more of
14 retail or commercial space, with the majority being commercial; and

15 (d) for a residential project, 20 percent of **【which】** the new
16 residential units shall be constructed for occupancy by low- and
17 moderate-income households with affordability controls as required
18 under the "Fair Housing Act," P.L.1985, c. 222 (C.52:27D-301 et
19 al.) **【and at least 5 percent of the residential units constructed as**
20 workforce housing, unless: the municipality in which the property is
21 located has received substantive certification from the council and
22 such a reservation is not required under the approved affordable
23 housing plan; the municipality has been given a judgment of repose
24 or a judgment of compliance by the court, and such a reservation is
25 not required under the approved affordable housing plan. If the
26 municipality in which the property is located has received
27 substantive certification from the council and such a reservation is
28 not required under the approved affordable housing plan or the
29 municipality has been given a judgment of repose or a judgment of
30 compliance by the court, and such a reservation is not required
31 under the approved affordable housing plan, then the developer
32 shall reserve at least 10 percent, but not more than 50 percent, of
33 the residential units constructed for occupancy by low- and
34 moderate-income households with affordability controls as required
35 under the "Fair Housing Act," P.L.1985, c. 222 (C.52:27D-301 et
36 al.) and at least 15 percent of the residential units constructed as
37 workforce housing**】**; and

38 (3) the extent to which the proposed project would leverage the
39 competitive economic development advantages of the State's mass
40 transit assets, higher education assets, and other economic
41 development assets in attracting or retaining both employers and
42 skilled workers generally or in targeted industries.

43 A "transformative project" shall not include a redevelopment
44 project at which more than 50 percent of the premises is occupied
45 by one or more businesses engaged in final point of sale retail.

46 b. (1) The authority may award **【an】** incentive **【award to no**
47 **more than ten**】** awards to transformative projects in accordance**

1 with the provisions of sections **[59]** 55 through 67 of P.L.2020,
2 c.156 (**[C.34:1B-327]** C.34:1B-323 through C.34:1B-335) **;**
3 provided, however, a transformative project shall not be subject to
4 the competitive application procedure set forth in section 59 of
5 P.L.2020, c.156 (C.34:1B-327)].

6 (2) (a) For transformative projects completed in phases, the
7 developer shall enter into a transformative phase agreement with the
8 authority.

9 (b) As used in this subsection, “transformative phase
10 agreement” shall mean a sub-agreement of the incentive award
11 agreement that governs the timing, capital investment, and other
12 applicable details of the respective phase of a phased project.

13 (3) Notwithstanding the provisions of section 57 of P.L.2020,
14 c.156 (C.34:1B-325), or any other section of P.L.2020, c.156
15 (C.34:1B-269 et al.), to the contrary, for transformative projects
16 completed in phases, the transformative project shall be completed,
17 and the developer shall be issued certificates of occupancy for all
18 phases of the transformative project facilities by the applicable
19 enforcing agency, within eight years of executing either the
20 incentive award agreement or the first transformative phase
21 agreement corresponding to the transformative project.

22 (4) Notwithstanding the provisions of sections 55 and 60 of
23 P.L.2020, c.156 (C.34:1B-323 and C.34:1B-328), or any other
24 section of P.L.2020, c.156 (C.34:1B-269 et al.), to the contrary,
25 each phase of a transformative project completed in phases shall
26 have a separate eligibility period. After completing each phase, the
27 developer shall submit a certification that the phase is completed.
28 If the authority approves the certification, the tax credit allowed to
29 the developer shall be increased by the tax credit amount
30 corresponding to that phase. Notwithstanding the different
31 eligibility periods for each phase, all conditions and requirements
32 applicable during an eligibility period pursuant to sections 55
33 through 67 of P.L.2020, c.156 (C.34:1B-323 through C.34:1B-335)
34 shall apply to the entire transformative project until the end of the
35 eligibility period for the last phase.

36 (5) Notwithstanding the provisions of section 60 of P.L.2020,
37 c.156 (C.34:1B-328), or any other section of P.L.2020, c.156
38 (C.34:1B-269 et al.), to the contrary, for a transformative project
39 completed in phases, a review of the project financing gap shall be
40 performed at the certification of completion of each phase, and the
41 authority shall re-evaluate the developer’s rate of return in the
42 seventh year and at the end of the eligibility period for the last
43 phase, provided that the authority may also re-evaluate the
44 developer’s rate of return during the fifth year of any earlier phase.

45 (6) A transformative project receiving an incentive award
46 pursuant to this section, other than a project that includes 250,000
47 or more square feet of film studios, professional stages, television
48 studios, recording studios, screening rooms or other infrastructure

1 for film production, shall be located in an incentive area, a
2 distressed municipality, a government-restricted municipality, or an
3 **【urban transit hub municipality】** an enhanced area. A
4 transformative project receiving an incentive award pursuant to this
5 section that includes 250,000 or more square feet of film studios,
6 professional stages, television studios, recording studios, screening
7 rooms or other infrastructure for film production may be located
8 anywhere in the State. No more than two transformative projects
9 receiving an incentive award pursuant to this section shall be
10 located in the same municipality. The authority shall not consider
11 an application for a transformative project unless the applicant
12 submits with its application a letter evidencing support for the
13 transformative project from the governing body of the municipality
14 in which the transformative project is located.

15 c. The authority shall review the transformative project cost,
16 evaluate and validate the project financing gap estimated by the
17 developer, and conduct a State fiscal impact analysis to ensure that
18 the overall public assistance provided to the transformative project
19 will result in a net positive benefit to the State. In determining
20 whether a transformative project will result in a net positive benefit
21 to the State, the authority shall not consider the value of any taxes
22 exempted, abated, rebated, or retained under the "Five-Year
23 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et
24 seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431
25 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act,"
26 P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the
27 effect of lowering or eliminating the developer's State or local tax
28 liability. The determination made pursuant to this subsection shall
29 be based on the potential tax liability of the developer without
30 regard for potential tax losses if the developer were to locate in
31 another state. The authority shall assess the cost of these reviews to
32 the applicant. A developer shall pay to the authority the full
33 amount of the direct costs of an analysis concerning the developer's
34 application for an incentive award that a third party retained by the
35 authority performs, if the authority deems such retention to be
36 necessary. The authority shall evaluate the net economic benefits
37 on a present value basis under which the requested tax credit
38 allocation amount is discounted to present value at the same
39 discount rate as the projected benefits from the implementation of
40 the proposed transformative project for which an award of tax
41 credits is being sought. Projects that are predominantly residential
42 shall be excluded from the calculation of the net benefit test
43 required pursuant to this subsection.

44 d. In determining net benefits for any business or person
45 considering locating in a transformative project and applying to
46 receive from the authority any other economic development
47 incentive subsequent to the award of transformative project tax
48 credits pursuant to section 65 of P.L.2020, c.156 (C.34:1B-333), the

1 authority shall not credit the business or person with any benefit
2 that was previously credited to the transformative project pursuant
3 to section 65 of P.L.2020, c.156 (C.34:1B-333).

4 e. The authority shall administer the credits awarded pursuant
5 to this section in accordance with the provisions of sections 62 and
6 63 of P.L.2020, c.156 (C.34:1B-330 and C.34:1B-331).

7 f. Prior to allocating an incentive award to a developer, the
8 authority shall confirm with the Department of Labor and
9 Workforce Development, the Department of Environmental
10 Protection, and the Department of the Treasury **【**shall each report to
11 the chief executive officer of the authority whether the developer
12 and each contractor and subcontractor performing work at the
13 transformative project**】** that the developer is in substantial good
14 standing with the respective department, or the developer has
15 entered into an agreement with the respective department that
16 includes a practical corrective action plan, and the developer shall
17 certify that each contractor or subcontractor performing work at the
18 transformative project: (1) is registered as required by “The Public
19 Works Contractor Registration Act,” P.L.1999, c.238 (C.34:11-
20 56.48 et seq.); (2) has not been debarred by Department of Labor
21 and Workforce Development from engaging in or bidding on Public
22 Works Contracts in the State; and (3) possesses a tax clearance
23 certificate issued by the Division of Taxation in the Department of
24 the Treasury. The authority may also contract with an independent
25 third party to perform a background check on the **【applicant】**
26 developer.

27 g. Notwithstanding the limitation on incentive awards set forth
28 in subsection b. of section 61 and section 98 of P.L.2020, c.156
29 (C.34:1B-329 and C.34:1B-362) to the contrary, the authority may
30 allow a developer of a transformative project a tax credit, as
31 reimbursement for certain project financing gap costs, in an amount
32 not to exceed **【30】** 40 percent of the total project cost, the total
33 value of the project financing gap, or **【\$250,000,000】** \$350,000,000
34 whichever is less; provided, however, that for a transformative
35 project that is developed in phases, the \$350,000,000 limitation on
36 incentive awards set forth in this subsection shall apply to the total
37 aggregate award for all phases of the transformative project.

38 (cf: P.L.2020, c.156, s.65)

39
40 30. Section 69 of P.L.2020, c.156 (C.34:1B-337) is amended to
41 read as follows:

42 69. As used in sections 68 through 81 of P.L.2020, c.156
43 (C.34:1B-336 et al.):

44 "Affiliate" means an entity that directly or indirectly controls, is
45 under common control with, or is controlled by the 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

1 1563 of the Internal Revenue Code of 1986 (26 U.S.C. s.1563), or
2 the entity is an organization in a group of organizations under
3 common control, as defined pursuant to subsection (c) of section
4 414 of the Internal Revenue Code of 1986 (26 U.S.C. s.414). A
5 taxpayer may establish by clear and convincing evidence, as
6 determined by the Director of the Division of Taxation in the
7 Department of the Treasury, that control exists in situations
8 involving lesser percentages of ownership than required by sections
9 1563 and 414 of the Internal Revenue Code of 1986 (26 U.S.C.
10 ss.1563 and 414).

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 "Aviation district" means all areas within the boundaries of the
14 Atlantic City International Airport, established pursuant to section
15 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation
16 Administration William J. Hughes Technical Center and the area
17 within a one-mile radius of the outermost boundary of the Atlantic
18 City International Airport and the Federal Aviation Administration
19 William J. Hughes Technical Center.

20 "Board" means the Board of the New Jersey Economic
21 Development Authority, established by section 4 of P.L.1974, c.80
22 (C.34:1B-4).

23 "Building services" means any cleaning or routine building
24 maintenance work, including but not limited to sweeping,
25 vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse
26 or trash, window cleaning, securing, patrolling, or other work in
27 connection with the care or securing of an existing building,
28 including services typically provided by a door-attendant or
29 concierge. "Building services" shall not include any skilled
30 maintenance work, professional services, or other public work for
31 which a contractor is required to pay the "prevailing wage" as
32 defined in section 2 of P.L.1963, c.150 (C.34:11-56.26).

33 "Business" means an applicant proposing to own or lease
34 premises in a qualified business facility that is: a corporation that is
35 subject to the tax imposed pursuant to section 5 of P.L.1945, c.162
36 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and
37 C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or
38 N.J.S.17B:23-5, or is a partnership, S corporation, limited liability
39 company, or non-profit corporation. A business shall include an
40 affiliate of the business if that business applies for a credit based
41 upon any capital investment made by or full-time employees of an
42 affiliate. If the business or tenant is a cooperative or part of a
43 cooperative, then the cooperative may qualify for credits by
44 counting the full-time employees and capital investments of its
45 member organizations, and the cooperative may distribute credits to
46 its member organizations. If the business or tenant is a cooperative
47 that leases to its member organizations, the lease shall be treated as
48 a lease to an affiliate or affiliates. [A business shall include an

1 affiliate of the business if that business applies for a credit based
2 upon any capital investment made by full-time employees of an
3 affiliate.】

4 "Capital investment" means expenses that a business or an
5 affiliate of the business incurs, or is incurred on behalf of the
6 business or affiliate by its landlord, following its submission of an
7 application to the authority pursuant to section 72 of P.L.2020,
8 c.156 (C.34:1B-340), but prior to the project completion date, as
9 shall be defined in the project agreement, for: a. site preparation and
10 construction, repair, renovation, improvement, equipping, or
11 furnishing on real property or of a building, structure, facility, or
12 improvement to real property; b. obtaining and installing
13 furnishings and machinery, apparatus, or equipment, including but
14 not limited to material goods subject to bonus depreciation under
15 sections 168 and 179 of the federal Internal Revenue Code (26
16 U.S.C. ss.168 and 179), for the operation of a business on real
17 property or in a building, structure, facility, or improvement to real
18 property; or any combination of the foregoing.

19 "College or university" means a county college, an independent
20 institution of higher education, a public research university, or a
21 State college.

22 "Commitment period" means a period that is 1.5 times the
23 eligibility period specified in the project agreement entered into
24 pursuant to section 73 of P.L.2020, c.156 (C.34:1B-341), rounded
25 up, for each applicable phase agreement.

26 "County college" means an educational institution established by
27 one or more counties, pursuant to chapter 64A of Title 18A of the
28 New Jersey Statutes.

29 "Director" means the Director of the Division of Taxation in the
30 Department of the Treasury.

31 "Distressed municipality" means a municipality that is qualified
32 to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a
33 municipality under the supervision of the Local Finance Board
34 pursuant to the provisions of the "Local Government Supervision
35 Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality
36 identified by the Director of the Division of Local Government
37 Services in the Department of Community Affairs to be facing
38 serious fiscal distress, a SDA municipality, or a municipality in
39 which a major rail station is located.

40 "Doctoral university" means a university located within New
41 Jersey that is classified as a doctoral university under the Carnegie
42 Classification of Institutions of Higher Education's Basic
43 Classification methodology on the effective date of P.L.2017, c.221.

44 "Eligibility period" means the period in which an eligible
45 business may claim a tax credit under the program for a given
46 project phase, beginning with the tax period in which the authority
47 accepts certification of the eligible business that it has met the
48 capital investment and employment requirements of the program for

1 the respective project phase, and extending thereafter for a term of
2 not more than seven years, with the term to be determined at the
3 discretion of the applicant, provided that the term of the eligibility
4 period may consist of nonconsecutive tax years if the applicant
5 elects at any time after the end of the first tax period of the
6 eligibility period to defer the continuation of the eligibility period to
7 a subsequent tax period. The authority may extend the eligibility
8 period one additional tax period to accommodate a prorated
9 payment pursuant to paragraph (2) of subsection a. of section 77 of
10 P.L.2020, c.156 (C.34:1B-345).

11 "Eligible business" means any business that satisfies the criteria
12 set forth in section 71 of P.L.2020, c.156 (C.34:1B-339) at the time
13 of application for tax credits under the program.

14 "Eligible position" or "full-time job" means a full-time position
15 in a business in this State which the business has filled with a full-
16 time employee. An eligible position shall not include an
17 independent contractor or a consultant.

18 "Employment and Investment Corridor" means the portions of
19 the qualified incentive area that are not located within a distressed
20 municipality and which:

21 a. are designated pursuant to the "State Planning Act,"
22 P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1
23 (Metropolitan), Planning Area 2 (Suburban), a designated center
24 under the State Development and Redevelopment Plan, or a
25 designated growth center in an endorsed plan **【until June 30, 2013,】**
26 or until the State Planning Commission revises and readopts New
27 Jersey's State **【Strategic】** Development and Redevelopment Plan
28 and adopts regulations to revise this definition;

29 b. intersect with portions of: a port district, a qualified
30 incentive tract, or federally-owned land approved for closure under
31 a federal Commission on Base Realignment and Closure action;

32 c. are the proposed site of a qualified incubator facility, a
33 tourism destination project, or transit oriented development; or

34 d. contain: a vacant commercial building having over 400,000
35 square feet of office, laboratory, or industrial space, or any
36 combination 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 "Enhanced area" means (1) a municipality that contains an urban
42 transit hub as defined in section 2 of P.L.2007, c.346 (C.34:1B-
43 208), (2) the five municipalities with the highest poverty rates
44 according to the 2017 Municipal Revitalization Index, and (3) the
45 three municipalities with the highest percentage of SNAP recipients
46 according to the 2017 Municipal Revitalization Index.

47 "Full-time employee" means a person:

- 1 a. who is employed by a business for consideration for at least
2 35 hours a week, or who renders any other standard of service
3 generally accepted by custom or practice as full-time employment,
4 and whose wages are subject to withholding as provided in the
5 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.;
- 6 b. who is employed by a professional employer organization
7 pursuant to an employee leasing agreement between the business
8 and the professional employer organization, pursuant to P.L.2001,
9 c.260 (C.34:8-67 et seq.) for at least 35 hours a week, or who
10 renders any other standard of service generally accepted by custom
11 or practice as full-time employment, and whose wages are subject
12 to withholding as provided in the "New Jersey Gross Income Tax
13 Act," N.J.S.54A:1-1 et seq.; or
- 14 c. who is a resident of another State, but whose income is not
15 subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
16 et seq., due to a reciprocity agreement with the other state, or who
17 is a partner of a business who works for the partnership for at least
18 35 hours a week, or who renders any other standard of service
19 generally accepted by custom or practice as full-time employment,
20 and whose distributive share of income, gain, loss, or deduction, or
21 whose guaranteed payments, or any combination thereof, is subject
22 to the payment of estimated taxes, as provided in the "New Jersey
23 Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to a reciprocity
24 agreement with the other state.

25 **【A "full time employee" further means a person who, except for**
26 **purposes of the Statewide workforce, is provided, by the business,**
27 **with employee health benefits under a health benefits plan**
28 **authorized pursuant to State or federal law and who is paid no less**
29 **than \$15 per hour or 120 percent of the minimum wage fixed under**
30 **subsection a. of section 5 of P.L.1966, c.113 (C.34:11-56a4),**
31 **whichever is higher.】**

32 With respect to a logistics, manufacturing, energy, defense,
33 aviation, or maritime business, excluding primarily warehouse or
34 distribution operations, located in a port district having a container
35 terminal, the requirement that employee health benefits are to be
36 provided shall be deemed to be satisfied if the benefits are provided
37 in accordance with industry practice by a third party obligated to
38 provide such benefits pursuant to a collective bargaining agreement.

39 A "full-time employee" shall include, but shall not be limited to,
40 an employee that has been hired by way of a labor union hiring hall
41 or its equivalent. 35 hours of employment per week **【per qualified**
42 **business facility】** in the State shall constitute one "full-time
43 employee," regardless of whether or not the hours of work were
44 performed by one or more persons.

45 "Full-time employee" shall not include any person who works as
46 an independent contractor or on a consulting basis for the business
47 or a contract worker whose income is subject to withholding as
48 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1

1 et seq., except that any person working as an independent contractor
2 or contract worker whose income is subject to withholding as
3 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
4 et seq., for the business shall be deemed a full-time employee if the
5 business demonstrates to the authority that: (a) the person working
6 as an independent contractor for the business works at least 35
7 hours per week or renders any other standard service generally
8 accepted by custom or practice as full-time employment, and the
9 person is provided with employee health benefits under a health
10 benefits plan authorized pursuant to State or federal law; and (b) the
11 business provides documentation to the authority to permit the
12 authority to verify the compensation paid to, and the time worked
13 by, the person working as an independent contractor. The business
14 shall provide to the authority an annual report that identifies the
15 number of persons working as independent contractors for the
16 business and their contractual or partnering relationship with the
17 business.

18 "Full-time employee" shall not include any person who, at the
19 time of project application, works in New Jersey for consideration
20 for at least 35 hours per week for the business, or who renders any
21 other standard of service generally accepted by custom or practice
22 as full-time employment, but who, prior to project application, was
23 not provided, by the business, with employee health benefits under
24 a health benefits plan authorized pursuant to State or federal law.

25 "Government-restricted municipality" means a municipality in
26 this State with a municipal revitalization index distress score of at
27 least 75, that met the criteria for designation as an urban aid
28 municipality in the 2019 State fiscal year, and that, on the effective
29 date of P.L.2020, c.156 (C.34:1B-269 et al.), is subject to financial
30 restrictions imposed pursuant to the "Municipal Stabilization and
31 Recovery Act," P.L.2016, c.4 (C.52:27BBBB-1 et seq.), or is
32 restricted in its ability to levy property taxes on property in that
33 municipality as a result of the State of New Jersey owning or
34 controlling property representing at least 25 percent of the total land
35 area of the municipality or as a result of the federal government of
36 the United States owning or controlling at least 50 acres of the total
37 land area of the municipality, which is dedicated as a national
38 natural landmark.

39 **["Incentive agreement" means the contract between the business
40 and the authority, which sets forth the terms and conditions under
41 which the business shall be eligible to receive the incentives
42 authorized pursuant to the program.]**

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 "Incentive area" means:

- 47 a. an aviation district;
- 48 b. a port district;

- 1 c. a distressed municipality or **【transit hub municipality】**
2 enhanced area;
- 3 d. an area designated pursuant to the "State Planning Act,"
4 P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1
5 (Metropolitan), Planning Area 2 (Suburban), Planning Area 3
6 (Fringe Planning Area); or a Designated Center under the State
7 Development and Redevelopment Plan **【**, provided an area
8 designated as Planning Area 2 (Suburban) or Planning Area 3
9 (Fringe Planning Area) or a Designated Center shall be located
10 within a one-half mile radius of the mid-point, with bicycle and
11 pedestrian connectivity, of a New Jersey Transit Corporation, Port
12 Authority Transit Corporation, or Port Authority Trans-Hudson
13 Corporation rail, bus, or ferry station, including all light rail
14 stations, or a high frequency bus stop as certified by the New Jersey
15 Transit Corporation.**】**;
- 16 e. an area located within a smart growth area and planning area
17 designated in a master plan adopted by the New Jersey
18 Meadowlands Commission pursuant to subsection (i) of section 6 of
19 P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan
20 adopted by the New Jersey Meadowlands Commission pursuant to
21 section 20 of P.L.1968, c.404 (C.13:17-21);
- 22 f. an area located within any land owned by the New Jersey
23 Sports and Exposition Authority, established pursuant to P.L.1971,
24 c.137 (C.5:10-1 et seq.), within the boundaries of the Hackensack
25 Meadowlands District as delineated in section 4 of P.L.1968, c.404
26 (C.13:17-4);
- 27 g. an area located within a regional growth area, rural
28 development area zoned for industrial use as of the effective date of
29 P.L.2016, c.75, or town, village, or a military and federal
30 installation area designated in the comprehensive management plan
31 prepared and adopted by the Pinelands Commission pursuant to the
32 "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.);
- 33 h. an area located within a government-restricted municipality;
- 34 i. an area located within land approved for closure under any
35 federal Commission on Base Realignment and Closure action;
- 36 j. an area located within an area designated pursuant to the
37 "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as
38 Planning Area 4A (Rural Planning Area), Planning Area 4B
39 (Rural/Environmentally Sensitive), or Planning Area 5
40 (Environmentally Sensitive), so long as that area designated as
41 Planning Area 4A (Rural Planning Area), Planning Area 4B
42 (Rural/Environmentally Sensitive), or Planning Area 5
43 (Environmentally Sensitive) is located within: (1) a designated
44 center under the State Development and Redevelopment Plan; (2) a
45 designated growth center in an endorsed plan until the State
46 Planning Commission revises and readopts New Jersey's State
47 **【Strategic】** Development and Redevelopment Plan and adopts
48 regulations to revise this definition as it pertains to Statewide

1 planning areas; (3) any area determined to be in need of
2 redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79
3 (C.40A:12A-5 and C.40A:12A-6) or in need of rehabilitation
4 pursuant to section 14 of P.L.1992, c.79 (C.40A:12A-14); (4) any
5 area on which a structure exists or previously existed including any
6 desired expansion of the footprint of the existing or previously
7 existing structure provided the expansion otherwise complies with
8 all applicable federal, State, county, and local permits and
9 approvals; or (5) any area on which an existing tourism destination
10 project is located; or

11 k. an area located in a qualified opportunity zone.

12 **["Incentive phase agreement" means a sub-agreement of the**
13 **incentive agreement that governs the timing, capital investment,**
14 **employment levels, and other applicable details of the respective**
15 **phase.]**

16 "Independent institution of higher education" means a college or
17 university incorporated and located in New Jersey, which by virtue
18 of law, character, or license is a nonprofit educational institution
19 authorized to grant academic degrees and which provides a level of
20 education that is equivalent to the education provided by the State's
21 public institutions of higher education, as attested by the receipt of
22 and continuation of regional accreditation by the Middle States
23 Association of Colleges and Schools, and which is eligible to
24 receive State aid under the provisions of the Constitution of the
25 United States and the Constitution of the State of New Jersey, but
26 does not include any educational institution dedicated primarily to
27 the education or training of ministers, priests, rabbis, or other
28 professional persons in the field of religion.

29 "Industrial premises" or "industrial space" means premises or
30 space in which at least 51 percent of the square footage will be or
31 has been used for the assembling, processing, manufacturing, or any
32 combination thereof, of finished or partially finished products from
33 materials or fabricated parts, including, but not limited to, factories
34 or as a warehouse if the business uses the warehouse as part of the
35 chain of distribution for products assembled, processed,
36 manufactured, or any combination thereof, by the business at the
37 qualified business facility; for the breaking or demolishing of
38 finished or partially finished products; or for the production of oil
39 or gas or the generation or transformation of electricity.

40 "Industrial use" means assembling, processing, manufacturing, or
41 any combination thereof, of finished or partially finished products
42 from materials or fabricated parts; the breaking or demolishing of
43 finished or partially finished products; or the production of oil or
44 gas or the generation or transformation of electricity. "Industrial
45 use" includes farming purposes as that term is defined under 26
46 U.S.C. s.6420(c)(3)(A), undertaken in an industrial space.

1 "Infrastructure Fund" means the Recovery Infrastructure Fund
2 established pursuant to section 79 of P.L.2020, c.156 (C.52:27D-
3 520) to fund local infrastructure improvements.

4 "Labor harmony agreement" means an agreement between a
5 business that serves as the owner or operator of a retail
6 establishment or distribution center and one or more labor
7 organizations, which requires, for the duration of the agreement:
8 that any participating labor organization and its members agree to
9 refrain from picketing, work stoppages, boycotts, or other economic
10 interference against the business; and that the business agrees to
11 maintain a neutral posture with respect to efforts of any
12 participating labor organization to represent employees at an
13 establishment or other unit in the retail establishment or distribution
14 center, agrees to permit the labor organization to have access to the
15 employees, and agrees to guarantee to the labor organization the
16 right to obtain recognition as the exclusive collective bargaining
17 representatives of the employees in an establishment or unit at the
18 retail establishment or distribution center by demonstrating to the
19 New Jersey State Board of Mediation, Division of Private
20 Employment Dispute Settlement, or a mutually agreed-upon,
21 neutral, third-party, that a majority of workers in the unit have
22 shown their preference for the labor organization to be their
23 representative by signing authorization cards indicating that
24 preference. The labor organization or organizations shall be from a
25 list of labor organizations which have requested to be on the list and
26 which the Commissioner of Labor and Workforce Development has
27 determined represent substantial numbers of retail or distribution
28 center employees in the State.

29 "Major rail station" means a railroad station that is located within
30 a qualified incentive area and that provides to the public access to a
31 minimum of six rail passenger service lines operated by the New
32 Jersey Transit Corporation.

33 "Mega project" means a project of special economic importance,
34 as determined pursuant to regulations adopted by the board, as
35 measured by the level of new jobs, new capital investment, and
36 opportunities to leverage leadership in a high-priority targeted
37 industry, as determined by the authority pursuant to rules and
38 regulations promulgated to implement sections 68 through 81 of
39 P.L.2020, c.156 (C.34:1B-336 et al.).

40 "Minimum environmental and sustainability standards" means
41 standards established by the authority in accordance with the green
42 building manual prepared by the Commissioner of Community
43 Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6),
44 regarding the use of renewable energy, energy-efficient technology,
45 and non-renewable resources to reduce environmental degradation
46 and encourage long-term cost reduction.

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 "New full-time job" means an eligible position created by a
5 business **【at a qualified business facility】** that did not previously
6 exist in this State. For the purposes of determining the number of
7 new full-time jobs, the eligible positions of an affiliate shall be
8 considered eligible positions of the business.

9 "Other eligible area" means the portions of the incentive area
10 that are not located within a distressed municipality, or the
11 employment and investment corridor.

12 "Partnership" means an entity classified as a partnership for
13 federal income tax purposes.

14 "Port district" means the portions of an incentive area that are
15 located within the "Port of New York District" of the Port Authority
16 of New York and New Jersey, as defined in Article II of the
17 Compact Between the States of New York and New Jersey of 1921;
18 or a 15-mile radius of the outermost boundary of each marine
19 terminal facility established, acquired, constructed, rehabilitated, or
20 improved by the South Jersey Port District established pursuant to
21 "The South Jersey Port Corporation Act," P.L.1968, c.60
22 (C.12:11A-1 et seq.).

23 "Professional employer organization" means an employee leasing
24 company registered with the Department of Labor and Workforce
25 Development pursuant to P.L.2001, c.260 (C.34:8-67 et seq.).

26 "Program" means the Emerge Program established by section 70
27 of P.L.2020, c.156 (C.34:1B-338).

28 "Project" means the capital investment **【and the employment**
29 **commitment】** at a qualified business facility and the employment
30 commitment pursuant to the project agreement.

31 "Project agreement" means the contract executed between an
32 eligible business and the authority pursuant to section 73 of
33 P.L.2020, c.156 (C.34:1B-341), which sets forth the terms and
34 conditions under which the eligible business may receive the
35 incentives authorized pursuant to the program.

36 "Project labor agreement" means a form of pre-hire collective
37 bargaining agreement covering terms and conditions of a specific
38 project that satisfies the requirements set forth in section 5 of
39 P.L.2002, c.44 (C.52:38-5).

40 "Project phase agreement" means a sub-agreement of the project
41 agreement that governs the timing, capital investment, employment
42 levels, and other applicable details of the respective phase.

43 "Public research university" means a public research university
44 as defined in section 3 of P.L.1994, c.48 (C.18A:3B-3).

45 "Qualified business facility" means any building, complex of
46 buildings, or structural components of buildings, and all machinery
47 and equipment located therein, used in connection with the
48 operation of a business that is not engaged in final point of sale

1 retail business at that location, unless the building, complex of
2 buildings or structural components of buildings, and all machinery
3 and equipment therein, are used in connection with the operation of
4 a tourism destination project located in the Atlantic City Tourism
5 District as established pursuant to section 5 of P.L.2011, c.18
6 (C.5:12-219).

7 "Qualified incentive tract" means: a. a population census tract
8 having a poverty rate of 20 percent or more; or b. a census tract in
9 which the median family income for the census tract does not
10 exceed 80 percent of the greater of the Statewide median family
11 income or the median family income of the metropolitan statistical
12 area in which the census tract is situated.

13 "Qualified incubator facility" means a commercial building
14 located within an incentive area: that contains 5,000 or more square
15 feet of office, laboratory, or industrial space; that is located near,
16 and presents opportunities for collaboration with, a research
17 institution, teaching hospital, college, or university; and within
18 which at least 50 percent of the gross leasable area is restricted for
19 use by one or more technology startup companies during the
20 commitment period.

21 "Qualified opportunity zone" means a federal population census
22 tract in this State that was eligible to be designated as a qualified
23 opportunity zone pursuant to 26 U.S.C. s.1400Z-1.

24 "Quality child care facility" is a child care center licensed by the
25 Department of Children and Families or a registered family child
26 care home with the Department of Human Services, operating
27 continuously, which has not been subject to an enforcement action,
28 and which has and maintains a **【total】** licensed capacity **【of at least**
29 **60】** for children age 【6】 13 years or younger who attend for less
30 than 24 hours a day.

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
33 which, because of a potential relocation by the business **【, 】** or is at
34 risk of being lost to another state or country 【or of being
35 eliminated】. For the purposes of determining the number of
36 retained full-time jobs, the eligible positions of an affiliate shall be
37 considered eligible positions 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
43 targeted industry with fewer than 100 employees, as determined at
44 the time of application.

45 "State college" means a State college or university established
46 pursuant to chapter 64 of Title 18A of the New Jersey Statutes.

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, non-retail food and
8 beverage businesses including food innovation, and other
9 innovative industries that disrupt current technologies or business
10 models.

11 "Technology startup company" means a for-profit business that
12 has been in operation fewer than seven years at the time that it
13 initially occupies or expands in a qualified business facility and is
14 developing or possesses a proprietary technology or business
15 method of a high technology or life science-related product,
16 process, or service, which proprietary technology or business
17 method the business intends to move to commercialization. The
18 business shall be deemed to have begun operation on the date that
19 the business first hired at least one employee in a full-time position.

20 "Tourism destination project" means a qualified non-gaming
21 business facility that will be among the most visited privately
22 owned or operated tourism or recreation sites in the State, and
23 which is located within the incentive area and has been determined
24 by the authority to be in an area appropriate for development and in
25 need of economic development incentive assistance, including a
26 non-gaming business within an established tourism district with a
27 significant impact on the economic viability of that tourism district.

28 "Transit oriented development" means a qualified business
29 facility located within a 1/2-mile radius, or one-mile radius for
30 projects located in a Government-restricted municipality,
31 surrounding the mid-point of a New Jersey Transit Corporation,
32 Port Authority Transit Corporation, or Port Authority Trans-Hudson
33 Corporation rail, bus, or ferry station platform area, including all
34 light rail stations.

35 "Transit hub" means an urban transit hub, as defined in section 2
36 of P.L.2007, c.346 (C.34:1B-208), that is located within an eligible
37 municipality, as defined in section 2 of P.L.2007, c.346 (C.34:1B-
38 208), and that is also located within an incentive area.

39 "Transit hub municipality" means a Transit Village or a
40 municipality: a. which qualifies for State aid pursuant to P.L.1978,
41 c.14 (C.52:27D-178 et seq.), or which has continued to be a
42 qualified municipality thereunder pursuant to P.L.2007, c.111; and
43 b. in which 30 percent or more of the value of real property was
44 exempt from local property taxation during tax year 2006. The
45 percentage of exempt property shall be calculated by dividing the
46 total exempt value by the sum of the net valuation which is taxable
47 and that which is tax exempt.

1 "Transit Village" means a municipality that has been designated
2 as a transit village by the Commissioner of Transportation and the
3 Transit Village Task Force.
4 (cf: P.L.2020, c.156, s.69)
5

6 31. Section 71 of P.L.2020, c.156 (C.34:1B-339) is amended to
7 read as follows:

8 71. a. Beginning on the effective date of P.L.2020, c.156
9 (C.34:1B-269 et al.), but prior to March 1, 2027, to be eligible for
10 tax credits under the program, a business's chief executive officer,
11 or equivalent officer, shall demonstrate to the authority at the time
12 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 the State in an amount
18 equal to or greater than the applicable number set forth in
19 subsection c. of this section;

20 (3) the qualified business facility is located in a qualified
21 incentive area;

22 (4) the award of tax credits will be a material factor in the
23 business's decision to create or retain the number of new and
24 retained full-time jobs set forth in its application;

25 (5) the award of tax credits, the capital investment resultant
26 from the award of tax credits, and the resultant creation and
27 retention of new and retained full-time jobs will yield a net positive
28 benefit to the State equaling at least 400 percent of the requested
29 tax credit allocation amount, or for a phased project the requested
30 tax credit allocation amount for the initial phase, and on a
31 cumulative basis each phase thereafter, which determination shall
32 be calculated prior to considering the value of the requested tax
33 credit under the program and shall be based on the benefits
34 generated during the period of time from approval through the end
35 of the commitment period, or through the end of the longer period
36 of extended commitment that the business may elect for purposes of
37 receiving credit for benefits projected to occur after the expiration
38 of the commitment period, except that:

39 (a) an award of tax credits to a business for a qualified business
40 facility located in a distressed municipality or **【transit hub**
41 **municipality】** an enhanced area shall yield a net positive benefit to
42 the State, based on the benefits generated during the period of time
43 from approval through the end of the commitment period, that
44 equals at least 300 percent of the requested tax credit amount;

45 (b) an award of tax credits to a business for a qualified business
46 facility located in a government-restricted municipality, or for a
47 mega project, shall yield a net positive benefit to the State, based on
48 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
4 value basis with the requested tax credit allocation amount
5 discounted to present value at the same discount rate as the benefits
6 from capital investment resultant from the award of tax credits and
7 the resultant retention and creation of full-time jobs as provided in
8 subparagraph (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 beyond the commitment period for which time the
13 economic benefits shall be creditable to the determination of the net
14 economic benefit of the project, and a business electing a period of
15 extended commitment and failing to maintain the project through
16 the expiration of that extended commitment period shall be
17 obligated to repay a proportion of the incremental benefits received
18 on account of having extended the commitment period, taking into
19 consideration the number of years of extended commitment during
20 which the business maintained the 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 (f) If, during the term of the program, the methodology used by
36 the authority in projecting benefits of a project in making the
37 determination required pursuant to this paragraph is modified, the
38 respective percentages by which the benefits must exceed the
39 requested tax credit allocation amount set forth pursuant to this
40 paragraph (5) may be adjusted to ensure consistent application of
41 the respective thresholds in this paragraph (5) applied to each
42 application;

43 (6) the qualified business facility shall be in compliance with
44 minimum environmental and sustainability standards;

45 (7) the project shall comply with the authority's affirmative
46 action requirements, adopted pursuant to section 4 of P.L.1979,
47 c.303 (C.34:1B-5.4); and

1 (8) (a) each worker employed to perform construction work or
2 building services work at the qualified business facility shall be
3 paid not less than the prevailing wage rate for the worker's craft or
4 trade, as determined by the Commissioner of Labor and Workforce
5 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.)
6 and P.L.2005, c.379 (C.34:11-56.58 et seq.), unless:

7 (i) the work performed under the contract is performed at a
8 qualified business facility owned by a landlord that is not a business
9 receiving authority assistance;

10 (ii) the landlord is a party to the construction contract, building
11 services contract, or both; and

12 (iii) the qualified business facility constitutes a lease of less than
13 35 percent of the **qualified business** entire facility at the time of
14 contract and under any agreement to subsequently lease the
15 qualified business facility.

16 (b) In accordance with section 1 of P.L.1979, c.303 (C.34:1B-
17 5.1), nothing in this paragraph shall be construed as requiring the
18 payment of prevailing wage for construction commencing more
19 than two years after **a business has executed with the authority a**
20 **commitment letter regarding authority financial assistance and the**
21 **first payment or other provision of the assistance is received** the
22 authority has issued the first certificate of compliance pursuant to
23 paragraph (2) of subsection a. of section 77 of P.L.2020, c.156
24 (C.34:1B-345).

25 b. (1) The minimum capital investment required to be eligible
26 under the program shall be as follows:

27 (a) for the rehabilitation, improvement, fit-out, or retrofit of an
28 existing industrial, warehousing, logistics, or research and
29 development portion of the premises for continued similar use by
30 the business, a minimum investment of \$20 per square foot of gross
31 leasable area;

32 (b) for the new construction of an industrial, warehousing,
33 logistics, or research and development portion of the premises for
34 use by the business, a minimum investment of \$60 per square foot
35 of gross leasable area;

36 (c) for the rehabilitation, improvement, fit-out, or retrofit of
37 existing portion of the premises that does not qualify pursuant to
38 subparagraph (a) or (b) of this paragraph, a minimum investment of
39 \$40 per square foot of gross leasable area;

40 (d) for the new construction of a portion of the premises that
41 does not qualify pursuant to subparagraph (a) or (b) of this
42 paragraph, a minimum investment of \$120 per square foot of gross
43 leasable area; and

44 (e) for a small business, no new minimum capital investment
45 shall be required, provided the applicant has demonstrated evidence
46 satisfactory to the authority of its intent to remain in the State for
47 the commitment period.

1 (2) In the event the business invests less than that amount set
2 forth in paragraph (1) of this subsection in the qualified business
3 facility, the business shall donate the uninvested balance to the
4 infrastructure fund established pursuant to section 79 of P.L.2020,
5 c.156 (C.52:27D-520).

6 (3) Notwithstanding the provisions of paragraphs (1) and (2) of
7 this subsection, the authority may adopt, pursuant to the provisions
8 of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
9 1 et seq.), rules and regulations adjusting the minimum capital
10 investment amounts required under the program when necessary to
11 respond to the prevailing economic conditions in the State.

12 c. (1) The minimum number of new or retained full-time jobs
13 required to be eligible under the program shall be as follows:

14 (a) for a small business, 25 percent growth of its workforce with
15 new full-time jobs within the eligibility period in accordance with
16 subsection e. of section 76 of P.L.2020, c.156 (C.34:1B-344);

17 (b) for a business engaged primarily in a targeted industry which
18 does not qualify as a small business, 25 new full-time jobs;

19 (c) for any other business, a minimum of 35 new full-time jobs;

20 (d) for a business eligible for new full-time jobs under
21 subparagraphs (b) or (c) of this paragraph, the business shall also be
22 eligible for retained full-time jobs in addition to the new full-time
23 jobs if the business will retain 150 retained full-time jobs when
24 locating in a government-restricted municipality, 250 retained full-
25 time jobs when locating in a qualified incentive tract or enhanced
26 area municipality, or 500 retained full-time jobs when locating
27 anywhere else in the State;

28 (e) for a business **【located】** not eligible under subparagraphs
29 (b), (c), or (d) of this paragraph and locating in a qualified incentive
30 tract, enhanced area, or government-restricted municipality that will
31 retain 500 or more retained full-time jobs, a minimum of the
32 business's retained full-time jobs at the time of application **【and**
33 new construction or rehabilitation, improvement, fit-out, or retrofit
34 of an existing portion of the premises equal in size to the space
35 occupied by the business's retained full-time jobs at the time of
36 application】;

37 **【(e)】** (f) for a business not eligible under subparagraphs (b), (c),
38 (d), or (e) of this paragraph and located in the State that will retain
39 1,000 or more retained full-time jobs, a minimum of the business's
40 retained full-time jobs at the time of application **【and new**
41 construction or rehabilitation, improvement, fit-out, or retrofit of an
42 existing portion of the premises equal in size to the space occupied
43 by the business's retained full-time jobs at the time of application】.

44 (2) Notwithstanding the provisions of paragraph (1) of this
45 subsection, the authority may adopt, pursuant to the provisions of
46 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
47 seq.), rules and regulations adjusting the minimum number of new

1 or retained full-time jobs required under the program when
2 necessary to respond to the prevailing economic conditions in the
3 State.

4 d. A business **【shall provide and adhere】** that provides and
5 adheres to a plan that demonstrates that the qualified business
6 facility is capable of accommodating more than half of the
7 business's new **【or】** and retained full-time employees as approved
8 and **【shall certify】** that certifies, under the penalty of perjury, that
9 not less than 80 percent of the withholdings of new **【or】** and
10 retained full-time jobs are subject to the "New Jersey Gross Income
11 Tax Act," N.J.S.54A:1-1 et seq. shall be eligible. The requirements
12 set forth in this subsection may be modified by the authority to
13 respond to an emergency, disaster, or other factors that result in
14 employees of an eligible business having to work from a location
15 other than the qualified business facility.

16 e. The **【owner】** chief executive officer of the business, or an
17 **【authorized agent of the owner】** equivalent officer, shall certify that
18 all factual representations made by the business to the authority
19 pursuant to subsection a. of this section are true under the penalty of
20 perjury.

21 f. A business eligible pursuant to this section may submit an
22 application to the authority in accordance with the provisions of
23 section 72 of P.L.2020, c.156 (C.34:1B-340) on or after the
24 effective date of P.L.2020, c.156 (C.34:1B-269 et al.) but prior to
25 March 1, 2027.

26 (cf: P.L.2020, c.156, s.71)

27

28 32. Section 72 of P.L.2020, c.156 (C.34:1B-340) is amended to
29 read as follows:

30 72. a. A business that meets the eligibility criteria in section 71
31 of P.L.2020, c.156 (C.34:1B-339) and is seeking a grant of tax
32 credits for a project under the program shall submit an application
33 for approval of the project to the authority in a form and manner
34 prescribed in regulations adopted by the authority pursuant to the
35 provisions of the "Administrative Procedure Act," P.L.1968, c.410
36 (C.52:14B-1 et seq.).

37 b. (1) Before the board may consider an eligible business's
38 application for tax credits, the authority shall confirm with 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 eligible business is in **【compliance】** substantial good
43 standing with the respective department, or, if necessary, has
44 entered into an agreement with the respective department that
45 includes a practical corrective action plan for the eligible business.
46 The business entity shall certify that contractors or subcontractors
47 that will perform work at the qualified business facility: (1) are

1 registered as required by “The Public Works Contractor
2 Registration Act,” P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have
3 not been debarred by Department of Labor and Workforce
4 Development from engaging in or bidding on Public Works
5 Contracts in the State; and (3) possess a tax clearance certificate
6 issued by the Division of Taxation in the Department of the
7 Treasury. The authority may also contract with an independent
8 third party to perform a background check on the eligible business.
9 Provided that the eligible business is in substantial good standing,
10 or has entered into such an agreement, and each contractor and
11 subcontractor is in compliance with this paragraph, before the board
12 may approve an eligible business's application for tax credits, the
13 eligible business shall execute a non-binding letter of intent with
14 the chief executive officer of the authority, specifying the amount
15 and terms and conditions of tax credits that the authority is prepared
16 to propose for board approval and that are intended to be a material
17 factor in the decision by the eligible business to create or retain the
18 proposed number of new and retained full-time jobs, and in which
19 the eligible business certifies such tax credits are a material factor
20 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
29 the eligible business's **【current】** proposed in-State locations; and all
30 lease 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
42 in 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.2020, c.156 (C.34:1B-338 et
48 al.). The **【owner】** chief executive officer of the eligible business,

1 or an **【authorized agent of the owner】** equivalent officer, shall
2 certify that all factual representations made by the business to the
3 authority pursuant to this paragraph are true under the penalty of
4 perjury.

5 c. An eligible business shall pay to the authority the full
6 amount of the direct costs of an analysis concerning the eligible
7 business's application for a tax credit, which a third party retained
8 by the authority performs, if the authority deems such retention to
9 be necessary. The authority shall have the discretion to waive all or
10 a portion of the costs of application for a small business.

11 d. If at any time during the eligibility period the authority
12 determines that the eligible business made a material
13 misrepresentation on the eligible business's application, the eligible
14 business shall forfeit all tax credits awarded under the program,
15 which shall be in addition to any other criminal or civil penalties to
16 which the business and the officer may be subject.

17 e. If circumstances require an eligible business to amend its
18 application to the authority, then the **【owner】** chief executive
19 officer of the eligible business, or an **【authorized agent of the**
20 **owner】** equivalent officer, shall certify to the authority that the
21 information provided in its amended application is true under the
22 penalty of perjury.

23 f. Nothing shall preclude a business from applying for tax
24 credits under the program for more than one project pursuant to one
25 or more applications.

26 (cf: P.L.2020, c.156, s.72)

27

28 33. Section 73 of P.L.2020, c.156 (C.34:1B-341) is amended to
29 read as follows:

30 73. a. Following approval by the board, but before the issuance
31 of tax credits, the authority shall require an eligible business to
32 enter into a project agreement. The terms of the project agreement
33 shall be consistent with the eligibility requirements of section 71 of
34 P.L.2020, c.156 (C.34:1B-339), as applicable, and shall include, but
35 shall not be limited to, the following:

36 (1) (a) a detailed description of the proposed project which will
37 result in job creation or retention, and the number of new and
38 retained full-time jobs that are approved for tax credits;

39 (b) for a phased project, **【an incentive】** a project phase
40 agreement for which each phase identifies a description of the
41 phase, the expected capital investment and number of new full-time
42 jobs, and the time following acceptance of the **【incentive】** project
43 agreement when each phase is to begin and be completed, with the
44 awarding of tax credits under the **【incentive】** project agreement to
45 be predicated on the number of full-time jobs created through the
46 fulfillment of each **【incentive】** project phase agreement;

- 1 (2) the eligibility period of the tax credits or, for a phased
2 project, the eligibility period of the tax credits for each phase;
- 3 (3) personnel information that will enable the authority to
4 administer the program;
- 5 (4) a requirement that the eligible business maintain the project
6 at a location in New Jersey for the commitment period, with at least
7 the minimum number of full-time jobs as required by this program,
8 and a provision to permit the authority to recapture all or part of any
9 tax credits awarded, at its discretion, if the eligible business does
10 not remain in compliance with this provision for the required term
11 or significantly reduces the number of full-time employees, or the
12 salaries thereof, to which the eligible business certified at the
13 commencement of the eligibility period;
- 14 (5) a method for the eligible business to certify that it has met
15 the capital investment and employment requirements of the program
16 set forth in subsections b. and c. of section 71 of P.L.2020, c.156
17 (C.34:1B-339) and to report annually to the authority the number of
18 new and retained full-time employees, and the salaries thereof, for
19 which the tax credits are to be allowed;
- 20 (6) representations that the eligible business is in substantial
21 good standing with the Department of Environmental Protection,
22 the Department of Labor and Workforce Development, and the
23 Department of the Treasury or **【meets the agreement requirements**
24 **described in paragraph (1) of subsection b. of section 71 of**
25 **P.L.2020, c.156 (C.34:1B-339)】** has entered into an agreement with
26 the departments that includes a practical corrective action plan, and
27 the project complies with all applicable laws, and specifically, that
28 the project does not violate any environmental law;
- 29 (7) a provision permitting an audit of the payroll records of the
30 business from time to time, as the authority deems necessary;
- 31 (8) a provision that the chief executive officer of the authority
32 receives annual reports from the eligible business and that allows
33 the authority to confirm that the eligible business is in substantial
34 good standing with the Department of Environmental Protection,
35 the Department of Labor and Workforce Development, and the
36 Department of the Treasury **【demonstrating that the eligible**
37 **business and each contractor and subcontractor performing work at**
38 **the qualified business facility is in compliance with the respective**
39 **department】** , or has entered into an agreement with the respective
40 department that includes a practical corrective action plan **【**, and a
41 provision providing that if the eligible business is not in compliance
42 with its legal obligations of rules administered by these departments
43 and has been given formal notice thereof, **】** . As part of the annual
44 reports required by this paragraph, the eligible business shall
45 confirm that each contractor or subcontractor performing work at
46 the qualified business facility: (1) is registered as required by “The
47 Public Works Contractor Registration Act,” P.L.1999, c.238

1 (C.34:11-56.48 et seq.); (2) has not been debarred by Department of
2 Labor and Workforce Development from engaging in or bidding on
3 Public Works Contracts in the State; and (3) possesses a tax
4 clearance certificate issued by the Division of Taxation in the
5 Department of the Treasury. If the eligible business does not
6 submit the report required under this paragraph, if the Department
7 of Environmental Protection, the Department of Labor and
8 Workforce Development, and the Department of the Treasury
9 advises that the eligible business is neither in substantial good
10 standing nor has entered into a practical corrective action plan, or if
11 the eligible business fails to confirm that each contractor or
12 subcontractor is in compliance with this paragraph, then the
13 **【authority】** eligible business may 【suspend】 forfeit the issuance of
14 tax credits, pending resolution of the 【dispute】 underlying
15 violations or other issues;

16 (9) a requirement for the eligible business to engage in on-site
17 consultations with the Division of Workplace Safety and Health in
18 the Department of Health;

19 (10) a provision permitting the authority to amend the
20 agreement;

21 and

22 (11) a provision establishing the conditions under which the
23 authority, the eligible business, or both, may terminate the
24 agreement.

25 b. (1) For a project whose total project cost equals or exceeds
26 \$10 million, in addition to the project agreement, an eligible
27 business shall enter into a community benefits agreement with the
28 authority and the county or municipality in which the qualified
29 business facility is located. The agreement may include, but shall
30 not be limited to, requirements for training, employment, and youth
31 development and free services to underserved communities in and
32 around the community in which the qualified business facility is
33 located. Prior to entering a community benefits agreement, the
34 governing body of the county or municipality in which the qualified
35 business facility is located shall hold at least one public hearing at
36 which the governing body shall hear testimony from residents,
37 community groups, and other stakeholders on the needs of the
38 community that the agreement should address.

39 (2) The community benefits agreement shall provide for the
40 creation of a community advisory committee to oversee the
41 implementation of the agreement, monitor successes, ensure
42 compliance with the terms of the agreement, and produce an annual
43 public report. The community advisory committee created pursuant
44 to this paragraph shall be comprised of representatives from
45 community groups and residents of the county or municipality in
46 which the qualified business facility is located.

47 (3) At the time the eligible business submits the annual report
48 required pursuant to section 77 of P.L.2020, c.156 (C.34:1B-345) to

1 the authority, the eligible business shall certify, under the penalty of
2 perjury, that it is in compliance with the terms of the community
3 benefits agreement. If the eligible business fails to provide the
4 certification required pursuant to this paragraph or the authority
5 determines that the eligible business is not in compliance with the
6 terms of the community benefits agreement based on the reports
7 submitted by the community advisory committee pursuant to
8 paragraph (2) of this subsection, then the authority may rescind the
9 award or recapture all or part of any tax credits awarded.

10 (4) An eligible business shall not be required to enter into a
11 community benefits agreement pursuant to this subsection if the
12 eligible business submits to the authority a copy of the either
13 eligible business's [project agreement that] approval letter from the
14 authority or a redevelopment agreement applicable to the qualified
15 business facility, provided that the approval letter or redevelopment
16 agreement is certified by the municipality in which the project is
17 located and includes provisions that meet or exceed the standards
18 required for a community benefits agreement in this subsection, as
19 determined by the chief executive officer pursuant to rules adopted
20 by the authority.

21 (cf: P.L.2020, c.156, s.73)

22

23 34. Section 74 of P.L.2020, c.156 (C.34:1B-342) is amended to
24 read as follows:

25 74. a. **[Commencing with the date six months following the**
26 **date]** Following board approval within a time established by the
27 authority and prior to the authority and an eligible business
28 **[execute]** executing a project agreement, the eligible business shall
29 demonstrate that it has obtained site plan approval and has
30 committed financing for, and site control of, the qualified business
31 facility. If the eligible business obtained site control of the
32 qualified business facility prior to the execution of the letter of
33 intent pursuant to section 72 of P.L.2020, c.156 (C.34:1B-340), then
34 the authority may rescind approval of the award of tax credits,
35 unless the eligible business disclosed the fact that the eligible
36 business had obtained the site prior to executing the letter of intent
37 and the authority determines that the award of tax credits was still a
38 material factor in the eligible business's decision to create or retain
39 the minimum number of new and retained full-time jobs for
40 eligibility under the program. The eligible business shall provide
41 an estimated date of completion and shall submit periodic progress
42 reports. The authority may rescind an award of tax credits if an
43 eligible business fails to provide the information required under this
44 section within the period indicated in the approval of the tax credits
45 by the board. The authority may rescind an award of tax credits
46 under the program if a project fails to advance in accordance with
47 the project agreement.

1 b. Upon completion of the capital investment and employment
2 requirements of the program, an eligible business shall submit to
3 the 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
10 two six-month extensions of the deadline; provided that the date of
11 **[completion]** certification shall not occur later than four years
12 following the date of approval of the application by the authority;
13 provided further that the authority may grant one additional
14 extension not to exceed one year upon a finding by the authority
15 that: (1) the project is delayed due to unforeseeable acts related to
16 the project beyond the eligible business's control and without its
17 fault or negligence; (2) the eligible business is using best efforts,
18 with all due diligence, to proceed with the completion of the project
19 and the submission of the certification; and (3) the eligible business
20 has made, and continues to make, all reasonable efforts to prevent,
21 avoid, mitigate, and overcome the delay. To qualify for the one-
22 year extension, the eligible business shall provide timely notice to
23 the authority of the delay within 30 days after the eligible business
24 has actual or constructive knowledge of the delay, and shall provide
25 periodic reports, not less than every 30 days, of the status of the
26 delay and the steps the eligible business is taking to mitigate or
27 overcome the delay.

28 c. If the Governor declares an emergency, then the chief
29 executive officer of the authority shall have the discretion to grant
30 an extension for the duration of the emergency and the board of the
31 authority, upon recommendation of the chief executive officer, may
32 grant two additional six-month extensions; provided, however, that:
33 (i) the extensions are due to the economic disruption caused by the
34 emergency; (ii) the project is delayed due to unforeseeable acts
35 related to the project beyond the eligible business's control and
36 without its fault or negligence; (iii) the eligible business is using
37 best efforts, with all due diligence, to proceed with the completion
38 of the project and the submission of the certification; and (iv) the
39 eligible business has made, and continues to make, all reasonable
40 efforts to prevent, avoid, mitigate, and overcome the delay.

41 d. The **[owner]** chief executive officer of the eligible business,
42 or an **[authorized agent of the owner]** equivalent officer, shall
43 certify that the information provided pursuant to this section is true
44 under the penalty of perjury.

45 (cf: P.L.2020, c.156, s.74)

46

47 35. Section 75 of P.L.2020, c.156 (C.34:1B-343) is amended to
48 read as follows:

1 75. a. The total amount of the tax credit for an eligible business
2 for each new or retained full-time job shall be as set forth in
3 subsections b. through g. of this section. The total tax credit
4 amount shall be calculated and credited to the business annually for
5 each year of the eligibility period, notwithstanding any other
6 provisions of P.L.2020, c.156 (C.34:1B-269 et al.) to the contrary.

7 b. The base amount of the tax credit for each new or retained
8 full-time job for an eligible business shall be as follows:

9 (1) for **an eligible** a qualified business facility located within
10 a government-restricted municipality, or which is a mega project,
11 \$4,000 per year;

12 (2) for a qualified business facility located within an enhanced
13 area, \$3,500 per year;

14 (3) for a qualified business facility located within a distressed
15 municipality, \$3,000 per year;

16 (4) for a project in a qualified opportunity zone or an
17 employment and investment corridor, \$2,500 per year; and

18 (5) for a project in other eligible areas, \$500 per year.

19 c. (1) In addition to the base amount of the tax credit, the
20 amount of the tax credit to be awarded for each new or retained full-
21 time job shall be increased with the following bonuses:

22 (a) for an eligible business with a qualified business facility
23 located in a municipality with a Municipal Revitalization Index
24 distress score greater than 50, an increase of \$1,000 per year;

25 (b) for an eligible business with a qualified business facility at
26 which the capital investment in industrial or research and
27 development premises for industrial or research and development
28 use by the business is in excess of the minimum capital investment
29 required for eligibility pursuant to subsection b. of section 71 of
30 P.L.2020, c.156 (C.34:1B-339), an increase of **[\$1,000]** \$500 per
31 year for each additional amount of investment that exceeds the
32 minimum amount required for eligibility by 40 percent, with a
33 maximum increase of **[\$3,000]** \$1,500 per year, unless the project
34 qualifies as a mega project or the qualified business facility is
35 located in a government-restricted municipality, in which case the
36 maximum increase is \$5,000 per year;

37 (c) for an eligible business with large numbers of new full-time
38 jobs during the **commitment** eligibility period, the increases shall
39 be in accordance with the following schedule:

40 (i) if the number of new full-time jobs is between 251 and 400,
41 \$500 per year;

42 (ii) if the number of new full-time jobs is between 401 and 600,
43 \$750 per year;

44 (iii) if the number of new full-time jobs is between 601 and 800,
45 **[\$1000]** \$1,000 per year;

46 (iv) if the number of new full-time jobs is between 801 and
47 1,000, \$1,250 per year;

- 1 (v) if the number of new full-time jobs is in excess of 1,000,
2 \$1,500 per year;
- 3 (d) for an eligible business that annually funds an industry-
4 specific training program, which has the capacity to enroll 10
5 percent or more of the eligible business's full-time workforce, or
6 pays a State educational institution to provide to the public an
7 industry-specific training program, an increase of \$500 per year;
8 provided, however, that if the training program is provided by a
9 State educational institution that is within 10 miles of the qualified
10 business facility, then the increase shall be \$1,000 per year;
- 11 (e) for an eligible business that qualifies as a small business, an
12 increase of \$500 per year;
- 13 (f) for an eligible business with new full-time jobs and retained
14 full-time jobs at the qualified business facility with a median salary
15 in excess of the existing median salary for the county in which the
16 project is located, or, in the case of a project in a government-
17 restricted municipality, a business **【that employs】** with employees
18 in full-time positions at the project with a median salary in excess
19 of the median salary for the government-restricted municipality, an
20 increase of **【\$250】** \$200 per year during the eligibility period for
21 each 35 percent by which the project's median salary levels exceeds
22 the county or government-restricted municipality median salary,
23 with a maximum increase of **【\$1,500】** \$1,000 per year;
- 24 (g) **【for an eligible business with a qualified business facility**
25 **located in a qualified incentive tract, an increase of \$500 per year】**
26 (Deleted by amendment, P.L. , c.) (pending before the
27 Legislature as this bill);
- 28 (h) for an eligible business engaged primarily in a targeted
29 industry, an increase of \$500 per year;
- 30 (i) for an eligible business with a qualified business facility
31 located in a qualified incubator facility, an increase of \$500 per
32 year;
- 33 (j) for an eligible business that enters into a labor harmony
34 agreement in accordance with section 69 of P.L.2020, c.156
35 (C.34:1B-337), an increase of \$2,000 per year for the portion of the
36 project subject to that labor harmony agreement; provided further
37 that an eligible business receiving a bonus under this subparagraph
38 may exceed the limitation applicable to the eligible business
39 pursuant to subsection d. of this section by an amount not to exceed
40 \$1,000;
- 41 (k) for an eligible business that provides its employees access to
42 child care either through an on-site quality child care facility free of
43 charge to its employees or through reimbursements paid by the
44 eligible business to its employees for the cost of child care in
45 accordance with standards adopted by the authority, an increase of
46 \$1,000 per year;

- 1 (l) for an eligible business that enters, or has previously
2 entered, into **[a]** an active partnership with a **[prisoner]** re-entry
3 program for the purpose of identifying and promoting employment
4 opportunities at the eligible business for former inmates and current
5 inmates leaving the corrections system, and that hires at least one
6 active participant in the re-entry program as a full-time employee,
7 an increase of \$500 per year.
- 8 (m) for an eligible business with a qualified business facility that
9 exceeds the Leadership in Energy and Environmental Design's
10 "Silver" rating standards but does not exceed "Gold" rating
11 standards or completes substantial environmental remediation, an
12 additional increase of \$250 per year, or for an eligible business with
13 a qualified business facility that exceeds the Leadership in Energy
14 and Environmental Design's "Gold" rating standards, an additional
15 increase of \$500 per year;
- 16 (n) for an eligible business in a targeted industry with a
17 qualified business facility that is used by the eligible business to
18 conduct a full time collaborative relationship with a college or
19 university, including, but not limited to, a doctoral university, an
20 increase of \$1,000 per year;
- 21 (o) for an eligible business with a project that generates solar ,
22 geo-thermal, wind, or any other renewable or distributed energy on
23 site for use within the qualified business facility of an amount that
24 equals at least 50 percent of the qualified business facility electric
25 supply service needs, an increase of \$500 per year;
- 26 (p) for an eligible business with a marine terminal project in a
27 municipality located outside a government-restricted municipality,
28 but within the geographical boundaries of the South Jersey Port
29 District, an increase of \$1,500 per year;
- 30 (q) for an eligible business with a qualified business facility
31 located in a qualified opportunity zone, an increase of \$1,000 per
32 year; and
- 33 (r) for an eligible business if one-third or more of the members
34 of the eligible business's governing board or other governing body
35 self-identify as members of an underrepresented community, which
36 may include Black, African American, Hispanic, Latino, Asian,
37 Pacific Islander, Native American, Native Hawaiian, Alaska Native
38 or gay, lesbian, bisexual or transgender, an increase of \$2,000 per
39 year for each new or retained full-time job. The authority shall work
40 with the Chief Diversity Officer or other State entities to ensure that
41 the bonus provided under this subparagraph is implemented
42 faithfully and in compliance with law.
- 43 (2) The authority shall not award a bonus to an eligible business
44 with full-time jobs at the qualified business facility that pay less
45 than \$15 per hour or 120 percent of the minimum wage fixed under
46 subsection a. of section 5 of P.L.1966, c.113 (C.34:11-56a4),
47 whichever is higher.

1 (3) The authority may adopt, pursuant to the provisions of the
2 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
3 seq.), criteria in addition to, or in place of, the criteria set forth in
4 paragraph (1) of this subsection in response to the prevailing
5 economic conditions in the State.

6 d. The gross amount of the tax credit available to an eligible
7 business for each new or retained full-time job shall be the sum of
8 the base amount set forth in subsection b. of this section and the
9 various additional bonus amounts for which the business is eligible
10 pursuant to subsection c. of this section, subject to the following
11 limitations:

12 (1) for a mega project or a project in a government-restricted
13 municipality, the gross amount for each new or retained full-time
14 job shall not exceed \$8,000 per year;

15 (2) for a qualified business facility located within an enhanced
16 area, the gross amount for each new or retained full-time job shall
17 not exceed \$6,000 per year;

18 (3) for a qualified business facility within a distressed
19 municipality, the gross amount for each new or retained full-time
20 job shall not exceed \$5,000 per year;

21 (4) for a qualified business facility in a qualified opportunity
22 zone or an employment and investment corridor, the gross amount
23 for each new or retained full-time job shall not exceed \$4,000 per
24 year; and

25 (5) for a qualified business facility in other eligible areas, the
26 gross amount for each new or retained full-time job shall not exceed
27 \$3,000 per year.

28 e. The authority shall reduce the gross amount of tax credits
29 per full-time job: (1) if the median salary of new full-time jobs and
30 retained full-time jobs [at the qualified business facility] subject to
31 the project agreement is less than the existing median salary for the
32 county in which the qualified business facility is located; or (2) for
33 a project located in a government-restricted municipality, if the
34 median salary of new full-time jobs and retained full-time jobs
35 subject to the project agreement is less than the existing median
36 salary for the municipality in which the qualified business facility is
37 located. The authority shall reduce the gross amount of tax credits
38 per full-time job by an amount, in percentage points, equal to the
39 percentage the median salary of new full-time jobs and retained
40 full-time jobs [at the qualified business facility] subject to the
41 project agreement is below the existing median salary for the
42 county or government-restricted municipality in which the qualified
43 business facility is located. The authority shall not award a tax
44 credit to an eligible business if the median salary of new full-time
45 jobs and retained full-time jobs [at the qualified business facility]
46 that would otherwise be subject to the project agreement is 30
47 percent or more below the relevant existing median salary for the

1 county or government-restricted municipality in which the qualified
2 business facility is located.

3 f. After the determination by the authority of the gross amount
4 of tax credits for which an eligible business is eligible pursuant to
5 subsection d. of this section, the final total tax credit amount shall
6 be calculated as follows: (1) for each new full-time job, the eligible
7 business shall be allowed tax credits equaling **【the lesser of】** 100
8 percent of the gross amount of tax credits for each new full-time
9 job; and (2) for each retained full-time job, the eligible business
10 shall be allowed tax credits equaling 50 percent of the gross amount
11 of tax credits for each retained full-time job.

12 g. Notwithstanding the provisions of subsections a. through f.
13 of this section to the contrary, for each application approved by the
14 board, the amount of tax credits available to be applied by the
15 business annually shall not exceed an amount determined by the
16 authority to be necessary to induce the project to be sited in New
17 Jersey as determined by the board. The authority shall determine
18 the amount necessary to complete the project through staff analysis
19 of all locations under consideration by the eligible business and all
20 lease agreements, ownership documents, or substantially similar
21 documentation for the eligible business's **【current】** proposed in-
22 State locations and potential out-of-State location alternatives,
23 competitive proposals from other states, the prevailing economic
24 conditions, and any other information that the authority deems
25 relevant.

26 (cf: P.L.2020, c.156, s.75)

27

28 36. Section 76 of P.L.2020, c.156 (C.34:1B-344) is amended to
29 read as follows:

30 76. a. (1) If, in any tax period, an eligible business reduces the
31 total number of full-time employees in its Statewide workforce by
32 more than 20 percent from the number of full-time employees in its
33 Statewide workforce in the last tax period prior to the credit amount
34 approval under the program, then the eligible business shall forfeit
35 its credit amount for that tax period and each subsequent tax period,
36 until the first tax period for which documentation demonstrating the
37 restoration of the eligible business's Statewide workforce to the
38 threshold levels required by this subsection has been reviewed and
39 approved by the authority, for which tax period and each
40 subsequent tax period the full amount of the credit shall be allowed.

41 (2) If the annual report filed by an eligible business pursuant to
42 section 77 of P.L.2020, c.156 (C.34:1B-345) provides that the
43 number of new full-time employees employed by the eligible
44 business **【at the qualified business facility】** subject to the project
45 agreement, or the salaries thereof, was reduced by more than 10
46 percent of the number of new full-time employees, or salaries
47 thereof, in the annual report of the prior year, or the project
48 agreement if the annual report is the first such report filed, then the

1 authority may reevaluate the net positive economic benefit of the
2 project and reduce the size of the award accordingly. This reduction
3 shall not affect any recapture under subsection f. of this section.

4 b. If, in any tax period, the number of full-time employees
5 employed by the eligible business **[at the qualified business**
6 **facility]** subject to the project agreement, or the salaries thereof,
7 drops below 80 percent of the number of new and retained full-time
8 jobs, and the salaries thereof, specified in the project agreement or
9 the **[incentive]** project phase agreement, then the eligible business
10 shall forfeit its tax credit amount for that tax period and each
11 subsequent tax period, until the first tax period for which
12 documentation demonstrating the restoration of the number of full-
13 time employees employed by the eligible business **[at the qualified**
14 **business facility]** subject to the project agreement to 80 percent of
15 the number of jobs specified in the project agreement or **[incentive]**
16 project phase agreement or the restoration of 80 percent of the
17 salaries specified in the project agreement is reviewed and approved
18 by the authority.

19 c. Except for an eligible business that is a small business
20 engaged primarily in a targeted industry **[with less than 50**
21 **employees at application]**:

22 (1) If the qualified business facility is sold in whole or in part
23 during the eligibility period, the new owner shall not acquire the
24 capital investment of the seller, provided, however, that any tax
25 credits of tenants shall remain unaffected. The seller shall forfeit
26 all tax credits for the tax period in which the sale occurs and all
27 subsequent tax periods, provided, however, that an eligible business
28 may change the location of the qualified business facility if **[**:

29 **(a)]** the new facility:

30 **[(i)]** **(a)** meets all applicable location qualifying criteria and has
31 gross leasable area not less than the gross leasable area of the
32 qualified business facility initially approved by the authority and
33 the alternate qualified business facility meets the minimum capital
34 investment and sustainability requirements of the program; or

35 **[(ii)]** **(b)** does not meet all applicable location qualifying
36 criteria or has less gross leasable area than the gross leasable area of
37 the qualified business facility initially approved by the authority, if
38 the alternate qualified business facility meets the minimum capital
39 investment and sustainability requirements of the program, provided
40 that the authority shall require a **[new cost benefit analysis]** cost
41 comparison of the originally approved location and the alternate
42 qualified business facility illustrating the respective economics of
43 the project which reflect occupancy at the alternate proposed
44 qualified business facility location for the remaining duration of the
45 commitment period and shall re-calculate the net economic benefit
46 of the project to reflect the economics of occupancy at the alternate
47 proposed location for the remaining duration of the net benefit test

1 period in lieu of the economics of continuing occupancy at the
2 qualified business facility proposed to be vacated, and provided
3 further that the award of tax credits shall be reduced consistent with
4 the variations in qualifying criteria for the alternate qualified
5 business facility location as well as in a manner consistent with the
6 revised net economic benefit calculation.

7 **[(b) in]** In the event that the modified project economics
8 materially deviate from the economics of the initial approval in a
9 manner that undermines the recommendation of approval made by
10 the staff of the authority at the time of the initial approval, then the
11 business requesting to re-locate a qualified business facility shall be
12 required to obtain the approval of the members of the authority.

13 (2) If a tenant subleases its tenancy in whole or in part during
14 the eligibility period, the new tenant shall not acquire the tax credits
15 of the sublessor, and the sublessor shall forfeit all tax credits for
16 any tax period of its sublease in which the sublessor, in continued
17 occupation of a portion of the qualified business facility, fails to
18 maintain the number of jobs required for the sublessor to earn tax
19 credits for the tax period or fails to independently satisfy the
20 minimum capital investment or sustainability requirements for the
21 program as set forth in section 71 of P.L.2020, c.156 (C.34:1B-
22 339). Provided, however, if the capital investment of the sublessor
23 in the occupied portion of the qualified business facility is below
24 the project minimum capital investment as set forth in section 71 of
25 P.L.2020, c.156 (C.34:1B-339), the sublessor may include capital
26 investment made by or on behalf of the new tenant in the subleased
27 portion of the qualified business facility, so long as that capital
28 investment is not the subject of an independent application under an
29 incentive program with the authority.

30 d. A small business may move its qualified business facility
31 provided that the business remains in New Jersey during the
32 commitment period.

33 e. The authority may require a small business to submit a
34 growth plan, which specifies the number of new full-time
35 employees **[at the qualified business facility]** in the State that the
36 eligible business will hire each year of the eligibility period;
37 provided that by the end of the eligibility period, the eligible
38 business shall have a minimum of 25 percent growth of its
39 workforce with new full-time jobs. If the eligible business meets
40 the number of new full-time employees specified in the growth plan
41 each year of the eligibility period, then the eligible business shall be
42 entitled to an increased credit amount for that tax period, and each
43 subsequent tax period, for each additional full-time employee added
44 above the number of full-time employees certified, until the full-
45 time employees number the maximum number projected for the
46 final year of the eligibility period. Failure to meet the projections
47 in any year shall not constitute a default but shall cause the

1 authority to reduce the award in accordance with a schedule
2 attached to the project agreement.

3 f. (1) The authority may recapture all or part of a tax credit
4 awarded if an eligible business does not remain in compliance with
5 the requirements of a project agreement for the duration of the
6 commitment period. A recapture pursuant to this subsection may
7 include interest on the recapture amount, at a rate equal to the
8 statutory rate for corporate business or insurance premiums tax
9 deficiencies, plus any statutory penalties, and all costs incurred by
10 the authority and the Division of Taxation in the Department of the
11 Treasury in connection with the pursuit of the recapture, including,
12 but not limited to, counsel fees, court costs, and other costs of
13 collection. Failure of the eligible business to meet any program
14 criteria shall constitute a default and shall result in the recapture of
15 all or part of the tax credit awarded.

16 (2) If all or part of a tax credit sold or assigned pursuant to
17 section 78 of P.L.2020, c.156 (C.34:1B-346) is subject to recapture,
18 then the authority shall pursue recapture from the eligible business
19 and not from the purchaser or assignee of the tax credit transfer
20 certificate. The purchaser or assignee of a tax credit transfer
21 certificate shall be subject to any limitations and conditions that
22 apply to the use of the tax credits by the eligible business.

23 (3) Any funds, net of costs incurred by the authority, recaptured
24 pursuant to this subsection, including penalties and interest, shall be
25 deposited into the General Fund of the State.

26 g. A business may include an affiliate for any period, provided
27 that the business provides a valid tax clearance certificate for the
28 affiliate and a verification of the nature of the affiliate relationship
29 during the relevant period, and provided further that the affiliate
30 provides acceptable responses to the authority's legal disclosures
31 inquiries, as determined by the authority. A formal modification of
32 the authority's approval of the **【incentive】** project agreement shall
33 not be necessary to add or remove an affiliate after approval or
34 execution of the **【incentive】** project agreement.

35 h. A business may change its name filed with the authority by
36 providing a copy of the filed amendment to the certificate of
37 incorporation or formation, as the case may be, of the business and
38 a valid tax clearance certificate with the business's new name. A
39 formal modification of the authority's approval shall not be
40 necessary to change a business's name after approval or execution
41 of the **【incentive】** project agreement.

42 (cf: P.L.2020, c.156, s.76)

43

44 37. Section 77 of P.L.2020, c.156 (C.34:1B-345) is amended to
45 read as follows:

46 77. a. (1) An eligible business which is awarded tax credits
47 under the program shall submit annually, no later than the date
48 indicated in the project agreement, commencing in the year in

1 which the grant of tax credits is issued and for the remainder of the
2 commitment period, a report that indicates that the eligible business
3 continues to maintain the number of new and retained full-time
4 jobs, and the salaries thereof, specified in the project agreement.
5 As part of the annual report required pursuant to this subsection, an
6 eligible business shall provide to the authority a copy of its
7 applicable New Jersey tax return showing business income and
8 withholdings as a condition of its continuation in the program, and
9 the quarterly wage report required under R.S.43:21-14 submitted to
10 the Department of Labor and Workforce Development together with
11 an annual payroll report showing: (a) the new full-time jobs which
12 were created in accordance with the project agreement, and (b) the
13 new full-time jobs created during each subsequent year of the
14 commitment period. The failure of an eligible business to submit to
15 the authority a copy of its annual payroll report or submit the
16 quarterly wage report in accordance with the provisions of this
17 subsection during the eligibility period shall result in the forfeiture
18 of the award for that year. An eligible business shall explain, in the
19 reports required by this subsection, the reason for any discrepancies
20 between the annual payroll report submitted by the eligible business
21 and the quarterly wage report. The **owner** chief executive officer
22 of the eligible business, or an **authorized agent of the owner**
23 equivalent officer, shall certify that the information provided
24 pursuant to this paragraph is true under the penalty of perjury.
25 Claims, records, or statements submitted by an eligible business to
26 the authority in order to receive tax credits shall not be considered
27 claims, records, or statements made in connection with State tax
28 laws.

29 (2) Upon receipt and review of each report submitted during the
30 eligibility period, the authority shall provide to the eligible business
31 and the director a certificate of compliance indicating the amount of
32 tax credits that the eligible business may apply against its tax
33 liability. The authority shall pro rate the tax credit for the first and
34 last years of the eligibility period based on the number of full
35 months the project was certified in the year the eligible business
36 first certifies.

37 b. (1) In conducting its annual review, the authority may
38 require a business to submit any information determined by the
39 authority to be necessary and relevant to its review.

40 (2) An eligible business shall forfeit the credit amount for any
41 tax period for which the eligible business's documentation remains
42 uncertified as of the date for certification indicated in the project
43 agreement, although credit amounts for the remainder of the years
44 of the eligibility period shall remain available to the eligible
45 business.

46 c. Full-time employment for an accounting or privilege period
47 shall be determined as the average of the monthly full-time
48 employment for the period.

1 d. (1) Upon receipt by the director of the certificate of
2 compliance, the director shall allow the eligible business a tax
3 credit. The eligible business may apply the credit allowed by the
4 director against the eligible business's tax liability for the tax period
5 in which the director allowed the tax credit or may carry forward
6 the credit for use by the eligible business in any of the next seven
7 successive tax periods, which credit shall expire thereafter.

8 (2) (a) The amount of credit allowed may be applied against the
9 tax liability otherwise due pursuant to section 5 of P.L.1945, c.162
10 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and
11 C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or
12 N.J.S.17B:23-5.

13 (b) Credits granted to a partnership shall be passed through to
14 the partners, members, or owners, respectively, pro-rata, or
15 pursuant to an executed agreement among the partners, members, or
16 owners documenting an alternate distribution method provided to
17 the director accompanied by any additional information as the
18 director may prescribe. With respect to credits passed through to a
19 person subject to tax liability due pursuant to section 2 or 3 of
20 P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), the person shall be
21 allowed to apply credits against the person's tax liability without the
22 provision of a tax credit certificate to the Division of Taxation in
23 the Department of the Treasury for the tax period accompanying the
24 person's tax return and the person shall be considered the tax
25 certificate holder and be subject to subparagraph (c) of this
26 paragraph. The authority may recapture all or part of any tax
27 credits claimed by a person pursuant to subparagraph (b) of this
28 paragraph with penalties and interest from the person or the
29 business in the event the Division of Taxation in the Department of
30 the Treasury does not issue a tax credit certificate in an amount at
31 least equal to the tax credit amount claimed on the person's tax
32 return for the applicable tax period.

33 (3) The director shall prescribe the order of priority of the
34 application of the credit allowed under this section and any other
35 credits allowed by law against the tax imposed under section 5 of
36 P.L.1945, c.162 (C.54:10A-5). The amount of a credit applied
37 under this section against the tax imposed pursuant to section 5 of
38 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with
39 any other credits allowed by law, shall not reduce the tax liability to
40 an amount less than the statutory minimum provided in subsection
41 (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

42 (4) In lieu of applying any credit certificate or credit transfer
43 certificate against tax liability otherwise due pursuant to section 5
44 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945,
45 c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231
46 (C.17:32-15), or N.J.S.17B:23-5, the credit certificate or credit
47 transfer certificate may be surrendered to the Division of Taxation
48 in the Department of the Treasury for a cash payment equal to 90

1 percent of the amount of tax credits evidenced by the certificate,
2 provided that the issuance date of the credit certificate or credit
3 transfer certificate to the taxpayer surrendering such certificate
4 occurred at least two years prior to the date of surrender and the
5 credit certificate or credit transfer certificate has not been sold or
6 assigned previously.

7 (cf: P.L.2020, c.156, s.77)

8

9 38. Section 79 of P.L.2020, c.156 (C.52:27D-520) is amended to
10 read as follows:

11 79. a. The authority shall establish a dedicated fund to be
12 known as the "Recovery Infrastructure Fund." Money in the fund
13 shall be dedicated to the purpose of funding local infrastructure,
14 which shall include:

15 (1) buildings and structures, such as schools, fire houses, police
16 stations, recreation centers, public works garages, and water and
17 sewer treatment and pumping facilities;

18 (2) sidewalks, streets, roads, ramps, and jug handles;

19 (3) open space with improvements such as athletic fields,
20 playgrounds, and planned parks;

21 (4) open space without improvements;

22 (5) public transportation facilities such as train stations and
23 public parking facilities; and

24 (6) the purchase of equipment considered vital to public safety.

25 b. The fund shall be credited with money remitted by eligible
26 businesses pursuant to paragraph (2) of subsection b. of section 71
27 of P.L.2020, c.156 (C.34:1B-339).

28 c. Money remitted to the fund by an eligible business pursuant
29 to paragraph (2) of subsection b. of section 71 of P.L.2020, c.156
30 (C.34:1B-339) shall be earmarked for use on local infrastructure
31 projects in the municipality in which the eligible business's project
32 is located.

33 d. A municipality shall apply to the authority, in a form and
34 manner prescribed by the authority, for disbursements from the
35 Recovery Infrastructure Fund. The authority, in consultation with
36 the Department of Community Affairs, shall review and approve
37 applications for disbursements of money from the fund pursuant to
38 the provisions of this section and the rules and regulations
39 promulgated by the authority pursuant to paragraph (1) of
40 subsection f. of this section.

41 e. The Department of Community Affairs shall coordinate with
42 the authority and other boards, commissions, institutions,
43 departments, agencies, State officers, and employees to carry out
44 the local infrastructure projects funded through the Recovery
45 Infrastructure Fund.

46 f. (1) **【The】** 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

1 **【shall】** may adopt, immediately upon filing with the Office of
2 Administrative Law, rules and regulations that the chief executive
3 officer deems necessary to effectuate the purposes of subsections a.
4 through d. of this section, which rules and regulations shall be
5 effective for a period not to exceed 360 days from the date of the
6 filing. The chief executive officer shall thereafter amend, adopt, or
7 readopt the rules and regulations 【pursuant to the "Administrative
8 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate
9 the purposes of subsections a. through d. of this section】 in
10 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
11 et seq.).

12 (2) **【The】** 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 Commissioner of the Department of
15 Community Affairs 【shall】 may adopt, immediately upon filing
16 with the Office of Administrative Law, rules and regulations that
17 the commissioner deems necessary to effectuate the purposes of
18 subsection e. of this section, which rules and regulations shall be
19 effective for a period not to exceed 360 days from the date of the
20 filing. The commissioner shall thereafter amend, adopt, or readopt
21 the rules and regulations 【pursuant to the "Administrative
22 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate
23 the purposes of subsection e. of this section】 in accordance with the
24 requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

25 (cf: P.L.2020, c.156, s.79)

26

27 39. Section 83 of P.L.2020, c.156 (C.34:1B-350) is amended to
28 read as follows:

29 83. As used in sections 82 through 88 of P.L.2020, c.156
30 (C.34:1B-349 et al.):

31 "Authority" means the New Jersey Economic Development
32 Authority established by section 4 of P.L.1974, c.80 (C.34:1B-4).

33 "Board" means the Board of the New Jersey Economic
34 Development Authority, established by section 4 of P.L.1974, c.80
35 (C.34:1B-4).

36 "Eligible microbusiness" means a business enterprise located in
37 the State that produces goods or provides services and has fewer
38 than 10 full-time **【equivalent】** employees and annual gross revenue
39 of less than **【\$1,000,000】** \$1,500,000 at the time of application for
40 a loan under the program.

41 "Eligible small business" means any business that satisfies the
42 criteria set forth in subsection b. of section 85 of P.L.2020, c.156
43 (C.34:1B-352) at the time of application for a grant under the
44 program.

45 "Program" means the Main Street Recovery Finance Program
46 established pursuant to section 84 of P.L.2020, c.156 (C.34:1B-
47 351).

1 "Small business" means a business engaged in the conduct of a
2 trade or business in this State that qualifies as a "small business
3 concern" within the meaning of the federal "Small Business Act,"
4 Pub.L.85-536 (15 U.S.C. § 631 et seq.) for the purpose of the small
5 business's eligibility assistance from the United States Small
6 Business Administration.
7 (cf: P.L.2020, c.156, s.83)
8

9 40. Section 84 of P.L.2020, c.156 (C.34:1B-351) is amended to
10 read as follows:

11 84. The Main Street Recovery Finance Program is hereby
12 established as a program under the jurisdiction of the New Jersey
13 Economic Development Authority. The authority shall administer
14 the program for the purpose of providing grants, loans, and loan
15 guarantees to eligible small businesses in accordance with the
16 provisions of sections 82 through 88 of P.L.2020, c.156 (C.34:1B-
17 349 et al.). A business seeking a grant, loan, or loan guarantee
18 under the program shall submit an application to the authority. The
19 authority shall adopt eligibility criteria for the program and may
20 consider a business's benefit to the community in which it is
21 situated and the degree to which the business enhances [and
22 promotes job creation and] economic development in communities
23 that have been severely impacted by the COVID-19 pandemic when
24 making awards under the program.
25 (cf: P.L.2020, c.156, s.84)
26

27 41. Section 85 of P.L.2020, c.156 (C.34:1B-352) is amended to
28 read as follows:

29 85. a. As part of the Main Street Recovery Finance Program,
30 the authority shall provide grants to eligible small businesses from
31 the Main Street Recovery Fund, subject to appropriation or the
32 availability of federal funds, provided that [not less than 40 percent
33 of such funds shall be made available to eligible microbusinesses
34 certified by the State as a "minority business" or a "women's
35 business" pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.)] the
36 authority shall undertake a disparity study of the relative
37 availability of capital and related banking resources for small
38 businesses and microbusiness that are women- and minority-owned
39 business enterprises in this State and the authority's historic support
40 of such businesses, and, as recommended by the study, shall
41 establish policies, practices, protocols, and, if appropriate,
42 minimum percentages of the fund to be set aside for eligible small
43 businesses and microbusinesses that are minority-owned business
44 enterprises or women-owned business enterprises. Grants awarded
45 pursuant to the program may be used by an eligible small business
46 for capital improvements or to cover operating expenses. The
47 authority may dedicate up to 10 percent of [any] the amount

1 appropriated for the purposes of this section to provide technical
2 assistance grants to for-profit or non-profit entities that are
3 experienced in providing technical assistance services or to eligible
4 microbusinesses to help such eligible microbusinesses in applying
5 for the grants authorized under this section.

6 b. (1) A small business shall be eligible to receive a grant
7 pursuant to this section if the small business demonstrates to the
8 authority that:

9 (a) the small business has complied with all requirements for
10 filing tax and information returns and for paying or remitting
11 required State taxes and fees by submitting, as a part of the
12 application, a tax clearance certificate, as described in section 1 of
13 P.L.2007, c.101 (C.54:50-39); and

14 (b) each worker employed by the small business shall be paid
15 not less than \$15 per hour or 120 percent of the minimum wage
16 fixed under subsection a. of section 5 of P.L.1966, c.113 (C.34:11-
17 56a4), whichever is higher, except an employee who customarily
18 and regularly receives gratuities or tips shall be paid not less than
19 120 percent of the minimum wage.

20 (2) In addition to the requirements of paragraph (1) of this
21 subsection, a small business shall be eligible to receive a grant
22 pursuant to this subsection for capital improvements only if the
23 small business demonstrates to the authority at the time of
24 application that:

25 (a) any capital improvement in excess of \$50,000 and
26 undertaken with grant funds shall comply with standards established
27 by the authority in accordance with the green building manual
28 prepared by the Commissioner of Community Affairs pursuant to
29 section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding the use of
30 renewable energy, energy-efficient technology, and non-renewable
31 resources to reduce environmental degradation and encourage long-
32 term cost reduction; and

33 (b) each worker employed to perform construction work in
34 connection with a capital improvement undertaken with grant funds
35 in excess of \$50,000 shall be paid not less than the prevailing wage
36 rate for the worker's craft or trade, as determined by the
37 Commissioner of Labor and Workforce Development pursuant to
38 P.L.1963, c.150 (C.34:11-56.25 et seq.).

39 c. **【Prior to March 1, 2025, an】** An eligible small business
40 seeking a grant pursuant to this section shall submit an application
41 for approval to the authority in the form and manner prescribed in
42 regulations adopted by the authority pursuant to the provisions of
43 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
44 seq.). Before the board may consider an eligible small business's
45 application for grants, the authority shall confirm with the
46 Department of Labor and Workforce Development, the Department
47 of Environmental Protection, and the Department of the Treasury
48 **【shall each report to the chief executive officer of the authority】**

1 whether the eligible small business is in substantial good standing
2 with the respective department, or has entered into an agreement
3 with the respective department that includes a practical corrective
4 action plan for the eligible small business. The authority may also
5 contract with an independent third party to perform a background
6 check on the eligible small business. The eligible small business, or
7 an authorized agent thereof, shall certify under the penalty of
8 perjury that any information provided in the application required
9 pursuant to this subsection is true.

10 d. Following approval **【by the board】** of an application, but
11 before the disbursement of grant funds, the authority shall require
12 an eligible small business to enter into a grant agreement. The
13 grant agreement shall specify the amount of the grant to be awarded
14 the eligible small business and the frequency of payments. If the
15 authority determines that an eligible small business made a material
16 misrepresentation on the eligible small business's grant application
17 or the eligible small business has **【filed】** failed to comply with any
18 requirement set forth in **【paragraphs (1) through (4) of】** subsection
19 b. of this section, then the small business shall return to the
20 authority any grant awarded pursuant to this section.

21 (cf: P.L.2020, c.156, s.85)

22

23 42. Section 86 of P.L.2020, c.156 (C.34:1B-353) is amended to
24 read as follows:

25 86. a. As part of the Main Street Recovery Finance Program,
26 the authority shall make loans and grants available from the Main
27 Street Recovery Fund, subject to annual appropriation and the
28 availability of funds, to eligible community development finance
29 institutions, minority depository institutions, and other eligible
30 lenders pursuant to subsection b. of this section and to eligible
31 microbusinesses pursuant to subsection c. of this section, provided
32 that **【not less than 40 percent of such】** funds shall be made
33 available to eligible microbusinesses certified by the State as a
34 "minority business" or a "women's business" pursuant to P.L.1986,
35 c.195 (C.52:27H-21.17 et seq.) in a manner consistent with
36 authority requirements within paragraph a. of section 85 of
37 P.L.2020, c.156 (C.34:1B-352). The authority may dedicate up to
38 10 percent of **【any】** the amount appropriated for the purposes of
39 this section to provide technical assistance grants to for-profit or
40 non-profit entities that are experienced in providing technical
41 assistance services or to eligible microbusinesses to help such
42 eligible microbusinesses in applying for loan packaging services
43 under the programs authorized to receive grants and loans pursuant
44 to this section.

45 b. The authority shall provide loans and grants to eligible
46 community development finance institutions, minority depository
47 institutions, and other eligible lenders in accordance with this

1 subsection. Loans and grants made available to eligible community
2 development finance institutions, minority depository institutions,
3 and other eligible lenders pursuant to this paragraph shall be used to
4 strengthen capital structures, leverage additional debt capital, and
5 increase lending and investing in economically disadvantaged
6 communities. The authority shall require an eligible community
7 development finance institution, minority depository institution, or
8 other eligible lender that receives a grant or loan pursuant to this
9 subsection to enter into an agreement with the authority.

10 As used in this section, "other eligible lender" means a zone
11 development corporation as defined in section 3 of P.L.1983, c.303
12 (C.52:27H-62) that is located in a municipality with a population
13 greater than 100,000 or another nonprofit lender with at least 10
14 years experience lending to microbusinesses.

15 c. The authority shall provide loans to eligible microbusinesses
16 in accordance with this subsection. Loans made available to
17 eligible microbusinesses pursuant to this subsection may be used for
18 capital improvements, employee training, salaries for new positions,
19 and to pay for day-to-day operating expenditures, including payroll,
20 rent, utilities, insurance, and purchases of goods and services. The
21 authority shall require an eligible microbusiness to enter into a loan
22 agreement. Loans made pursuant to this subsection shall have a
23 term and an interest rate determined by the authority based on
24 conditions currently prevailing in the market. The authority may
25 forgive loans provided to eligible microbusinesses pursuant to this
26 subsection at the authority's discretion. The authority may, through
27 the terms of the loan agreement, establish terms governing the
28 incidence of default by an eligible microbusiness.

29 d. Prior to March 1, 2025, an eligible community development
30 finance institution, minority depository institution, or other eligible
31 lender seeking a loan or a grant pursuant to subsection b. of this
32 section or an eligible microbusiness seeking a loan pursuant to
33 subsection c. of this section shall submit an application for approval
34 to the authority in the form and manner prescribed in regulations
35 adopted by the authority pursuant to the provisions of the
36 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
37 seq.). Before the authority may **【consider】** approve an application,
38 the authority shall confirm with 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 the applicant is
42 in substantial good standing with the respective department, or has
43 entered into an agreement with the respective department that
44 includes a practical corrective action plan for the applicant. The
45 authority may also contract with an independent third party to
46 perform a background check on the applicant. The applicant, or an
47 authorized agent thereof, shall certify under the penalty of perjury

1 that any information provided in the application required pursuant
2 to this subsection is true.

3 (cf: P.L.2020, c.156, s.86)

4

5 43. Section 87 of P.L.2020, c.156 (C.52:18A-262) is amended to
6 read as follows:

7 87. a. To aid in the economic recovery of those communities
8 most impacted by the COVID-19 pandemic and to better ensure
9 their long-term economic growth, there is created the "Main Street
10 Recovery Fund" to be held by the State Treasurer and administered
11 by the authority. All moneys deposited in the fund shall be held
12 and disbursed in the amounts necessary to fulfill the purposes of
13 providing grants and loans related to an identified program that is
14 administered by the authority pursuant to sections 85 and 86 of
15 P.L.2020, c.156 (C.34:1B-352 and C.34:1B-353) **[and]** , for the
16 purposes enumerated in subsection b. of this section, and for
17 reasonable administrative costs of implementing sections 82
18 through 88 of P.L.2020, c.156 (C.34:1B-349 et al.). The fund may
19 be credited with pay backs; bonuses; entitlements; money received
20 from the federal government; transfers; grants; gifts; bequests;
21 moneys appropriated by the Legislature; or any other money made
22 available from any source. The State Treasurer, in consultation
23 with the authority, may invest and reinvest any moneys in the fund
24 in the State Treasurer's discretion. Any income from, interest on, or
25 increment to moneys so invested or reinvested shall be included in
26 the fund.

27 b. Upon application to the **[State Treasurer, and in consultation**
28 **with the]** Chief Executive Officer of the New Jersey Economic
29 Development Authority, the **[State Treasurer shall]** the authority
30 may make loan guarantees from the fund to leverage private and
31 public lending to help finance small businesses, real estate
32 developments, and manufacturers that are creditworthy but not
33 receiving the financing needed to expand and create jobs. In
34 making loan guarantees under this section, the **[State Treasurer]**
35 chief executive officer of the authority shall give due consideration
36 to small businesses and real estate developments in underserved
37 communities throughout the State that have been deeply impacted
38 by the COVID-19 pandemic.

39 c. (1) The **[State Treasurer]** chief executive officer of the
40 authority shall monitor the activities of the beneficiaries of the loan
41 guarantees issued pursuant to this section on an annual basis to
42 ensure compliance with the terms and conditions imposed on the
43 recipient by the chief executive officer.

44 (2) An entity receiving a loan guarantee and the beneficiaries of
45 such loan guarantee under this section shall provide the **[State**
46 **Treasurer]** authority with an annual accounting of how the benefit it
47 received from the fund was applied.

1 (3) The authority, at the time the annual accounting required
2 under paragraph (2) of this [section] subsection is provided, shall
3 [include certifications by] confirm with the Department of Labor
4 and Workforce Development, the Department of Environmental
5 Protection, and the Department of the Treasury that the entity and
6 the beneficiaries are in substantial good standing with the respective
7 departments, or have entered into an agreement with the respective
8 department that includes a practical corrective action plan.

9 (4) The entity and beneficiary, or an authorized agent thereof,
10 shall certify under the penalty of perjury that the information
11 provided pursuant to this subsection is true.

12 (cf: P.L.2020, c.156, s.87)

13
14 44. Section 90 of P.L.2020, c.156 (C.34:1B-355) is amended to
15 read as follows:

16 90. a. There is established in the New Jersey Economic
17 Development Authority a Working Group on Entrepreneur Zones
18 for the purpose of making recommendations for the establishment
19 of entrepreneur zones throughout the State. The working group
20 shall consider whether the establishment of entrepreneur zones in
21 which the State provides the tax incentives, regulation relief, and
22 financial support to local entrepreneurs is the most effective way to
23 create jobs in the State. The working group shall identify census
24 tracts within the State that are suitable for designation as an
25 entrepreneur zone.

26 b. The working group shall consist of ~~seven~~ 14 members
27 appointed by the chief executive officer of the New Jersey
28 Economic Development Authority.

29 c. Appointments to the working group shall be made within 30
30 days after the effective date of ~~this act~~ P.L. , c. (pending
31 before the Legislature as this bill). Vacancies in the membership of
32 the working group shall be filled in the same manner as the original
33 appointments were made.

34 d. Members of the working group shall serve without
35 compensation, but the authority shall reimburse such members for
36 actual expenses necessarily incurred in the discharge of their duties.

37 e. Members of the working group shall be subject to the
38 provisions of subsection l. of section 4 of P.L.1974, c.80 (C.34:1B-
39 4).

40 (cf: P.L.2020, c.156, s.90)

41
42 45. Section 93 of P.L.2020, c.156 (C.34:1B-357) is amended to
43 read as follows:

44 93. As used in sections 92 through 97 of P.L.2020, c.156
45 (C.34:1B-356 through C.34:1B-361):

46 "Authority" means the New Jersey Economic Development
47 Authority established pursuant to section 4 of P.L.1974, c.80
48 (C.34:1B-4).

1 "Authority commitment period" means the period for which the
2 authority commits to provide a start-up rent grant for the payment
3 of rent in a collaborative workspace.

4 "Collaborative workspace" means a business facility certified
5 pursuant to section 95 of P.L.2020, c.156 (C.34:1B-359), located in
6 this State, developed to provide flexible workspaces for early stage
7 innovation economy businesses, and designed to encourage
8 community and collaboration within an inter-connected
9 environment in which multiple start-up businesses have access to
10 shared community events and shared workplace accommodations
11 including, but not limited to, kitchens and makerspaces.

12 "Collaborative workspace commitment period" means a period of
13 months equal to one-half the number of months of the authority
14 commitment period.

15 "Community event" means an event hosted by a collaborative
16 workspace and accessible to start-up tenant or member businesses,
17 without charge or with nominal charge, organized to support an
18 innovation ecosystem, as defined in section 21 of P.L.2020, c.156
19 (C.34:1B-289), at the collaborative workspace, including, but not
20 limited to, events such as meet-ups, speaker series, and office hours
21 for lawyers, accountants, consultants, or investors.

22 "Early stage innovation economy business" means a business
23 that operates within a targeted industry with at least one full-time
24 employee, who is assigned to the collaborative workspace, and
25 fewer than 10 employees overall and with less than \$1,000,000 in
26 gross sales over the 12-month period immediately prior to
27 submitting an application for tenancy at a collaborative workspace.
28 To be considered an "early stage innovation economy business" the
29 earliest date of formation for the business must have been not more
30 than **[three]** seven years prior to utilizing or renting space in, or
31 access to, the collaborative workspace under the program, and the
32 business shall not have previously utilized or rented space in, or
33 access to, another collaborative workspace in the State.

34 "Full time employee" means a person who is: employed by the
35 start-up tenant or member business for at least 35 hours a week;
36 working as an independent contractor providing critical capabilities
37 to the start-up tenant or member business for at least 35 hours a
38 week; or an owner or partner of the start-up tenant or member
39 business who works for at start-up tenant or member business for at
40 least 35 hours a week.

41 "Grant agreement" means an agreement between the authority
42 and the owner and operator of a collaborative workspace which
43 memorializes the terms and conditions of the collaborative
44 workspace's participation in the program.

45 "Program" means the New Jersey Ignite Program established
46 pursuant to section 94 of P.L.2020, c.156 (C.34:1B-358).

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,
5 professional services, film and digital media, non-retail food and
6 beverage businesses including food innovation, and other
7 innovative industries that disrupt current technologies or business
8 models.

9 "Start-up rent grant" means a grant provided by the authority to a
10 collaborative workspace for the rent that would otherwise be due to
11 the collaborative workspace from a start-up tenant or member
12 business for the period of the authority commitment period.

13 "Start-up tenant or member business" means an early stage
14 innovation economy business that is registered to do business in
15 New Jersey, rents space in, or access to, a collaborative workspace
16 under the program, and enters into an agreement with the owner and
17 operator of the collaborative workspace to rent space in, or access
18 to, the collaborative workspace for an agreed upon period, which
19 shall include the authority commitment period, collaborative
20 workspace commitment period, and start-up tenant or member
21 business commitment period.

22 "Start-up tenant or member business commitment period" means
23 a period of months equal to the sum of the authority commitment
24 period and the collaborative workspace commitment period.

25 (cf: P.L.2020, c.156, s.93)

26

27 46. Section 96 of P.L.2020, c.156 (C.34:1B-360) is amended to
28 read as follows:

29 96. a. Up to the limits established in this subsection and in
30 accordance with the grant agreement, the authority shall provide
31 start-up rent grants to the owner and operator of a collaborative
32 workspace through a series of scheduled payments as set forth in
33 the grant agreement. The owner and operator of the collaborative
34 workspace shall utilize the grant funding to provide rent-free space
35 to a start-up tenant or member business that agrees to continue
36 renting space in, or access to, the collaborative workspace for the
37 start-up tenant or member business commitment period. The
38 maximum start-up rent grant that the authority may provide to a
39 collaborative workspace for the tenancy of a single start-up tenant
40 or member business shall not exceed \$25,000, including bonus
41 months. The maximum aggregate amount of start-up rent grants
42 that the authority may provide to an approved collaborative
43 workspace in a calendar year shall not exceed \$100,000.

44 b. The authority may provide a start-up rent grant for the
45 payment of rent for space in, or access to, a collaborative workspace
46 for up to six months; provided, however, if a collaborative
47 workspace or start-up tenant or member business satisfies any of the
48 bonuses set forth in paragraphs (1) through (5) of this subsection,

1 then the authority may provide an additional month of rent for each
2 bonus satisfied by the collaborative workspace or start-up tenant or
3 member business. Additional months of rent provided by the
4 authority for bonus criteria satisfied by a collaborative workspace
5 or start-up tenant or member business shall first be applied to the
6 start-up tenant or member business commitment period, followed by
7 the collaborative workspace commitment period. Any bonus
8 months provided in excess of the combined commitment periods
9 shall be forfeited. The authority may award a bonus **【to the owner**
10 **and operator of a collaborative workspace】** month if:

11 (1) the collaborative workspace is located in a qualified
12 opportunity zone designated pursuant to 26 U.S.C. s.1400Z-1;

13 (2) the collaborative workspace is affiliated with a hospital
14 system or a New Jersey university;

15 (3) the collaborative workspace has been open less than 90 days
16 from the date on which the owner and operator of the collaborative
17 workspace applied to the authority to participate in the program and
18 the collaborative workspace is not in the same location as an
19 existing facility;

20 (4) the start-up tenant or member business for which the start-up
21 rent grant is paid is certified by the State as a "minority business" or
22 a "women's business" pursuant to P.L.1986, c.195 (C.52:27H-21.17
23 et seq.); or

24 (5) the start-up tenant or member business for which the start-up
25 rent grant is paid is the first presence of a foreign company entering
26 into the United States.

27 c. (1) The owner and operator of a collaborative workspace
28 shall annually certify to the authority, under the penalty of perjury,
29 that it is in compliance with the grant agreement.

30 (2) In addition to the certification required pursuant to
31 paragraph (1) of this subsection, the authority shall conduct an
32 annual inspection and review of the collaborative workspace and
33 may request documentation evidencing that the collaborative
34 workspace utilized the start-up rent grant it received from the
35 authority in accordance with the requirements of the program and
36 the grant agreement.

37 d. (1) If a start-up tenant or member business stops occupying or
38 accessing a collaborative workspace before the end of the start-up
39 tenant or member business commitment period, then the
40 collaborative workspace shall refund to the authority that portion of
41 the start-up rent grant covering any period in which the start-up
42 tenant or member business did not have space in, or access to, the
43 collaborative workspace.

44 (2) If the authority determines that a collaborative workspace is
45 not in compliance with the requirements of the program or of the
46 grant agreement, then the authority **【shall】** may rescind the
47 business facility's certification as a collaborative workspace and bar

1 the business facility from further participation in the program.
2 (cf: P.L.2020, c.156, s.96)

3

4 47. Section 98 of P.L.2020, c.156 (C.34:1B-362) is amended to
5 read as follows:

6 98. a. The combined value of all tax credits awarded under the
7 "Historic Property Reinvestment Act," sections 1 through 8 of
8 P.L.2020, c.156 (C.34:1B-269 through C.34:1B-276), the
9 "Brownfield Redevelopment Incentive Program Act," sections 9
10 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287),
11 the "New Jersey Innovation Evergreen Act," sections 20 through 34
12 of P.L.2020, c.156 (C.34:1B-288 through C.34:1B-302), the "Food
13 Desert Relief Act," sections 35 through 42 of P.L.2020, c.156
14 (C.34:1B-303 through C.34:1B-310), the "New Jersey Community-
15 Anchored Development Act," sections 43 through 53 of P.L.2020,
16 c.156 (C.34:1B-311 through C.34:1B-321); the "New Jersey Aspire
17 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
18 322 through C.34:1B-335); **[and]** the "Emerge Program Act,"
19 sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.); and
20 section 6 of P.L.2010, c.57 (C.34:1B-209.4) shall not exceed an
21 overall cap of \$11.5 billion over a seven-year period, subject to the
22 conditions and limitations set forth in this section. Of this \$11.5
23 billion, \$2.5 billion shall be reserved for transformative projects
24 approved under the Aspire Program **[or the Emerge Program]**.

25 b. (1) The total value of tax credits awarded under any
26 constituent program of the "New Jersey Economic Recovery Act of
27 2020," P.L.2020, c.156 (C.34:1B-269 et al.) shall be subject to the
28 following annual limitations, except as otherwise provided in
29 subsection c. of this section:

30 (a) for tax credits awarded under the "Historic Property
31 Reinvestment Act," sections 1 through 8 of P.L.2020, c.156
32 (C.34:1B-269 through C.34:1B-276), the total value of tax credits
33 annually awarded during each of the first six years of the seven-year
34 period shall not exceed \$50 million;

35 (b) for tax credits awarded under the "Brownfield
36 Redevelopment Incentive Program Act," sections 9 through 19 of
37 P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287), the total
38 value of tax credits annually awarded during each of the first six
39 years of the seven-year period shall not exceed \$50 million;

40 (c) for tax credits awarded under the "New Jersey Innovation
41 Evergreen Act," sections 20 through 34 of P.L.2020, c.156
42 (C.34:1B-288 through C.34:1B-302), the total value of tax credits
43 annually awarded during each of the first six years of the seven-year
44 period shall not exceed \$60 million and the total value of tax credits
45 awarded over the entirety of the seven-year program shall not
46 exceed \$300,000,000;

47 (d) for tax credits awarded under the "Food Desert Relief Act,"
48 sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through

1 C.34:1B-310), the total value of tax credits annually awarded during
2 each of the first six years of the seven-year period shall not exceed
3 \$40 million;

4 (e) for tax credits awarded under the "New Jersey Community-
5 Anchored Development Act," sections 43 through 53 of P.L.2020,
6 c.156 (C.34:1B-311 through C.34:1B-321), the total value of tax
7 credits annually awarded during each of the first six years of the
8 seven-year period shall not exceed \$200 million, except that during
9 each of the first six years of the seven-year period, the authority
10 shall annually award tax credits valuing no greater than \$130
11 million for projects located in the 13 northern counties of the State,
12 and the authority shall annually award tax credits valuing no greater
13 than \$70 million for projects located in the eight southern counties
14 of the State. If during any of the first six years of the seven-year
15 period, the authority awards tax credits in an amount less than the
16 annual limitation for projects located in northern counties or
17 southern counties, as applicable, the uncommitted portion of the
18 annual limitation shall be available to be deployed by the authority
19 in a subsequent year, provided that the uncommitted portion of tax
20 credits shall be awarded for projects located in the applicable
21 geographic area, except that (i) after the completion of the third
22 year of the seven-year period, the authority may deploy 50 percent
23 of the uncommitted portion of tax credits from any previous year
24 without consideration to the county in which a project is located;
25 and (ii) after the completion of the sixth year of the seven-year
26 period, the authority may deploy all available tax credits, including
27 the uncommitted portion of the annual limitation for any previous
28 year, without consideration to the county in which a project is
29 located;

30 (f) for tax credits awarded under the "New Jersey Aspire
31 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
32 322 through C.34:1B-335), and the "Emerge Program Act," sections
33 68 through 81 of P.L.2020, c.156 **[(C.34:1B-34:1B-336 et al.)]**
34 (C.34:1B-336 et al.), not including tax credits awarded for
35 transformative projects, the total value of tax credits annually
36 awarded during each of the first six years of the seven-year period
37 shall not exceed \$1.1 billion **[, except that during]** . If the authority
38 awards tax credits in an amount less than the annual limitation, then
39 the uncommitted portion of the annual limitation shall be made
40 available for qualified offshore wind projects awarded under section
41 6 of P.L.2010, c.57 (C.34:1B-209.4), pursuant to subparagraph (h)
42 of this paragraph, or New Jersey studio partners awarded under
43 sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-
44 12b), pursuant to subparagraph (i) of this paragraph. During each
45 of the first six years of the seven-year period, the authority shall
46 annually award tax credits valuing no greater than \$715 million for
47 projects located in the northern counties of the State, and the
48 authority shall annually award tax credits valuing no greater than

1 \$385 million for projects located in the southern counties of the
2 State under the "New Jersey Aspire Program Act," sections 54
3 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335),
4 and the "Emerge Program Act," sections 68 through 81 of P.L.2020,
5 c.156 (C.34:1B-336 et al.). If during any of the first six years of the
6 seven-year period, the authority awards tax credits under the "New
7 Jersey Aspire Program Act," sections 54 through 67 of P.L.2020,
8 c.156 (C.34:1B-322 through C.34:1B-335), and the "Emerge
9 Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-
10 336 et al.), in an amount less than the annual limitation for projects
11 located in northern counties or southern counties, as applicable, the
12 uncommitted portion of the annual limitation shall be available to
13 be deployed by the authority in a subsequent year, provided that the
14 uncommitted portion of tax credits shall be awarded for projects
15 located in the applicable geographic area, except that (i) after the
16 completion of the third year of the seven-year period, the authority
17 may deploy 50 percent of the uncommitted portion of tax credits for
18 any previous year without consideration to the county in which a
19 project is located; and (ii) after the completion of the sixth year of
20 the seven-year period, the authority may deploy all available tax
21 credits, including the uncommitted portion of the annual limitation
22 for any previous year, without consideration to the county in which
23 a project is located; **[and]**

24 (g) for tax credits awarded for transformative projects under the
25 "New Jersey Aspire Program Act," sections 54 through 67 of
26 P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335) **],** and the
27 "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156
28 (C.34:1B-336 et al.)**],** the total value of tax credits awarded during
29 the seven-year period shall not exceed \$2.5 billion. The total value
30 of tax credits awarded for transformative projects in a given year
31 shall not be subject to an annual limitation, except that **[no more**
32 **than 10 transformative projects shall be awarded tax credits during**
33 **the seven-year period, and]** the total value of tax credits awarded to
34 any transformative project shall not exceed **[\$250] \$350 million;**

35 (h) from the tax credits made available, pursuant to
36 subparagraph (f) of this paragraph, to the "New Jersey Aspire
37 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
38 322 through C.34:1B-335), and the "Emerge Program Act," sections
39 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not
40 including tax credits awarded for transformative projects, an
41 amount not to exceed \$350,000,000 shall be made available for
42 qualified offshore wind projects awarded a credit pursuant to
43 section 6 of P.L.2010, c.57 (C.34:1B-209.4) during the first three
44 years of the seven-year period; and

45 (i) beginning in fiscal year 2025, from the tax credits made
46 available, pursuant to subparagraph (f) of this paragraph, to the
47 "New Jersey Aspire Program Act," sections 54 through 67 of

1 P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the
2 "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156
3 (C.34:1B-336 et al.), not including tax credits awarded for
4 transformative projects, additional amounts shall be made available
5 for New Jersey studio partners pursuant to sections 1 and 2 of
6 P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b).

7 (2) The authority may in any given year determine that it is in
8 the State's interest to approve an amount of tax credits in excess of
9 the annual limitations set forth in paragraph (1) of this subsection,
10 but in no event more than \$200,000,000 in excess of the annual
11 limitation, upon a determination by the authority board that such
12 increase is warranted based on specific criteria that may include:

13 (i) the increased demand for opportunities to create or retain
14 employment and investment in the State as indicated by the volume
15 of project applications and the amount of tax credits being sought
16 by those applications;

17 (ii) the need to protect the State's economic position in the event
18 of an economic downturn;

19 (iii) the quality of project applications and the net economic
20 benefit to the State and municipalities associated with those
21 applications;

22 (iv) opportunities for project applications to strengthen or protect
23 the competitiveness of the state under the prevailing market
24 conditions;

25 (v) enhanced access to employment and investment for
26 underserved populations in distressed municipalities and qualified
27 incentives tracts;

28 (vi) increased investment and employment in high-growth
29 technology sectors and in projects that entail collaboration with
30 education institutions in the State;

31 (vii) increased development proximate to mass transit facilities;

32 (viii) any other factor deemed relevant by the authority.

33 c. In the event that the authority in any year approves projects
34 for tax credits in an amount less than the annual limitations set forth
35 in paragraph (1) of subsection b. of this section, then the
36 uncommitted portion of the annual limitation shall be available to
37 be deployed by the authority in future years for projects under the
38 same program; provided however, that in no event shall the
39 aggregate amount of tax credits approved be in excess of the overall
40 cap of \$11.5 billion, and in no event shall the uncommitted portion
41 of the annual limitation for any previous year be deployed after the
42 conclusion of the seven-year period.

43 (cf: P.L.2020, c.156, s.98)

44

45 48. Section 101 of P.L.2020, c.156 (C.34:1B-365) is amended to
46 read as follows:

47 101. a. The New Jersey Economic Development Authority shall
48 employ a Chief Compliance Officer, who shall be appointed by the

1 Chief Executive Officer of the authority **【**to manage the Division of
2 Portfolio Management and Compliance in the authority**】**.

3 b. The Chief Compliance Officer shall:

4 (1) create, maintain, monitor, and coordinate procedures to
5 ensure that all economic development incentive programs, authority
6 employees, and economic development incentive program
7 applicants and recipients comply fully with the requirements of the
8 corresponding economic development incentive program;

9 (2) **【**conduct,**】** on such periodic basis as determined by the
10 authority, arrange for systematic audits of economic development
11 incentive programs for compliance with the laws, regulations,
12 codes, orders, procedures, advisory opinions and rulings concerning
13 those programs;

14 (3) maintain a central database of information concerning the
15 management of all economic development incentive programs and
16 information on economic development incentive program applicants
17 and recipients to provide for the regular and ongoing reporting,
18 verification, and monitoring of the State's economic development
19 incentive programs;

20 (4) prior to the adoption of any rule or regulation by the
21 authority or the board related to the general administration of the
22 programs administered by the authority pursuant to section 6 of
23 P.L.2020, c.156 (C.34:1B-274), section 19 of P.L.2020, c.156
24 (C.34:1B-287), section 29 of P.L.2020, c.156 (C.34:1B-297),
25 section 34 of P.L.2020, c.156 (C.34:1B-302), section 41 of
26 P.L.2020, c.156 (C.34:1B-309), section 52 of P.L.2020, c.156
27 (C.34:1B-320), section 67 of P.L.2020, c.156 (C.34:1B-335),
28 section 79 of P.L.2020, c.156 (C.52:27D-520), section 88 of
29 P.L.2020, c.156 (C.34:1B-354), and section 97 of P.L.2020, c.156
30 (C.34:1B-361), or any other regulation specifically related to the
31 recapture of economic development incentive award values, review
32 and certify that the provisions of program rules or regulations
33 provide the authority with adequate procedures to pursue the
34 recapture of the value of an economic development incentive in the
35 case of substantial noncompliance, fraud, or abuse by the economic
36 development incentive recipient, and that program rules and
37 regulations are sufficient to ensure against economic development
38 incentive fraud, waste, and abuse; and

39 (5) refer, to the Economic Development Inspector General and
40 to the Attorney General, information on suspected fraud or abuse
41 identified by the Division of Portfolio Management and
42 Compliance.

43 c. The Chief Compliance Officer, in consultation with the
44 Department of Labor and Workforce Development and the
45 Department of the Treasury, shall:

46 Develop, adopt, and implement a corrective action plan **【**, within
47 one year of the effective date of sections 99 through 105 of

1 P.L.2020, c.156 (C.34:1B-363 through C.34:1B-369) and**】** within
2 six months of receiving notice of any program deficiency issued by
3 the Economic Development Inspector General, that is designed to
4 enable the authority to properly manage the economic development
5 incentive programs administered by the authority **【**, and adopt rules
6 and regulations concerning the administration and enforcement of
7 the Division of Portfolio Management and Compliance's duties in a
8 manner that is most compatible with ensuring against fraud and
9 abuse in the State's economic development incentive programs**】**.

10 d. To ensure against economic development incentive fraud,
11 waste, and abuse, the authority may recapture all or any portion of
12 the value of an economic development incentive awarded pursuant
13 to any of the authority's economic development incentive programs
14 in the case of substantial noncompliance, fraud, or abuse by the
15 economic development incentive recipient. The authority may
16 incorporate provisions in the regulations for each economic
17 development incentive program that the authority deems necessary
18 to implement this subsection.

19 (cf: P.L.2020, c.156, s.101)

20

21 49. Section 102 of P.L.2020, c.156 (C.34:1B-366) is amended to
22 read as follows:

23 102. a. There is established, in but not of the **【authority】**
24 Department of the Treasury, the Office of the Economic
25 Development Inspector General, which shall operate independent of
26 the oversight or management of the Chief Executive Officer **【of】**
27 and the authority. The Office of the Economic Development
28 Inspector General shall operate under the Economic Development
29 Inspector General, who shall be a retired member of the Judicial
30 Branch of the State, to be appointed by the Governor with the
31 advice and consent of the Senate for a term of four years. The
32 Economic Development Inspector General shall direct the work of
33 the Office of the Economic Development Inspector General and
34 have the following general functions, duties, powers, and
35 responsibilities:

36 (1) to appoint such deputies, directors, assistants, and other
37 officers and employees as may be needed for the Office of the
38 Economic Development Inspector General to meet its
39 responsibilities, and to prescribe their duties and fix their
40 compensation within the amounts appropriated therefor;

41 (2) to conduct and supervise State government activities relating
42 to State economic development incentive integrity, fraud, and
43 abuse;

44 (3) to call upon any department, office, division, or agency of
45 State government to provide such information, resources, or other
46 assistance as the Economic Development Inspector General deems
47 necessary to discharge the duties and functions and to fulfill the

1 responsibilities of the Economic Development Inspector General
2 under sections 99 through 105 of P.L.2020, c.156 (C.34:1B-363
3 through C.34:1B-369). Each department, office, division, and
4 agency of this State shall cooperate with the Economic
5 Development Inspector General and furnish the Office of the
6 Economic Development Inspector General with the assistance
7 necessary to accomplish the purposes of sections 99 through 105 of
8 P.L.2020, c.156 (C.34:1B-363 through C.34:1B-369);

9 (4) to coordinate activities to prevent, detect, and investigate
10 economic development incentive fraud and abuse among the
11 following: the authority, State and local government officials, and
12 all economic development incentive applicants and recipients;

13 (5) to recommend and implement policies relating to economic
14 development incentive integrity, fraud, and abuse, and monitor the
15 implementation of any recommendations made by the Office of the
16 Economic Development Inspector General to the authority for the
17 administration of economic development incentives;

18 (6) to perform any other functions that are necessary or
19 appropriate in furtherance of the mission of the Office of the
20 Economic Development Inspector General; and

21 (7) to direct an economic development incentive applicant or
22 recipient to cooperate with the Office of the Economic
23 Development Inspector General and provide such information or
24 assistance as shall be reasonably required by the Office of the
25 Economic Development Inspector General.

26 b. As it relates to ensuring compliance with applicable
27 economic development incentive standards and requirements,
28 identifying and reducing fraud and abuse, and improving the
29 efficiency and effectiveness of economic development incentives,
30 the functions, duties, powers, and responsibilities of the Economic
31 Development Inspector General shall include, but not be limited to,
32 the following:

33 (1) to establish, in consultation with the authority and the
34 Attorney General, guidelines under which the withholding of
35 payments or exclusion from economic development incentive
36 programs shall be imposed on an economic development incentive
37 applicant or recipient;

38 (2) to review the utilization of economic development incentives
39 to ensure that economic development incentive funds are
40 appropriately spent to meet the goals and purposes of an individual
41 economic development incentive program;

42 (3) to review and audit contracts, reports, documentation,
43 claims, and all awards of economic development incentives to
44 determine compliance with applicable laws, regulations, guidelines,
45 and standards, and enhance program integrity;

46 (4) to consult with the authority to optimize the economic
47 development incentive management information system in
48 furtherance of the mission of the Office of the Economic

1 Development Inspector General. The authority shall consult with
2 the Economic Development Inspector General on matters that
3 concern the operation, upgrade, and implementation of the
4 economic development incentive management information system;

5 (5) to coordinate the implementation of information technology
6 relating to economic development incentive integrity, fraud, and
7 abuse;

8 (6) to conduct educational programs for economic development
9 incentive for State and local government officials and economic
10 development incentive recipients designed to limit economic
11 development incentive fraud and abuse; and

12 (7) to provide notice to the Chief Compliance Officer, appointed
13 pursuant to section 101 of P.L.2020, c.156 (C.34:1B-365) if the
14 Economic Development Inspector General determines that a
15 program deficiency exists in an economic development incentive
16 program administered by the authority and to provide notice to the
17 Chief Executive Officer of the Authority of pending investigations
18 if the Economic Development Inspector General determines that
19 such disclosure is consistent with the public interest in maintaining
20 the integrity of an economic development incentive program
21 administered by the authority or to abate the continuation of fraud
22 or abuse.

23 c. As it relates to investigating allegations of economic
24 development incentive fraud and abuse and enforcing applicable
25 laws, rules, regulations, and standards, the functions, duties,
26 powers, and responsibilities of the Economic Development
27 Inspector General shall include, but not be limited to, the following:

28 (1) to conduct economic development investigations concerning
29 any acts of misconduct within economic development incentive
30 programs;

31 (2) to provide information concerning the economic
32 development investigations of the Office of the Economic
33 Development Inspector General to the Attorney General, law
34 enforcement authorities, and any prosecutor of competent
35 jurisdiction, and endeavor to develop these economic development
36 investigations in a manner that expedites and facilitates criminal
37 prosecutions and the recovery of improperly expended economic
38 development incentives, including the maintenance of detailed
39 records for cases processed by the Economic Development
40 Inspector General. The records shall include: information on the
41 total number of cases processed and, for each case, the agency and
42 division to which the case is referred for an economic development
43 investigation; the date on which the case is referred; and the nature
44 of the suspected fraud or abuse.

45 (3) to provide information and evidence relating to suspected
46 criminal acts that the Economic Development Inspector General
47 may obtain in carrying out its duties to law enforcement officials
48 when appropriate, and to provide such information to the Attorney

1 General and county prosecutors in order to facilitate criminal
2 economic development investigations and prosecutions;

3 (4) to refer complaints alleging criminal conduct to the Attorney
4 General or other appropriate prosecutorial authority. The Economic
5 Development Inspector General shall maintain a record of all
6 matters referred to the Attorney General and shall be authorized to
7 disclose information received, as appropriate and as may be
8 necessary to resolve the matter referred, to the extent consistent
9 with the public interest in disclosure, the need for protecting the
10 confidentiality of complainants and informants, and preserving the
11 confidentiality of ongoing criminal economic development
12 investigations. Notwithstanding any referral made pursuant to this
13 subsection, the Economic Development Inspector General may
14 pursue any administrative or civil remedy under the law. A referral
15 by the inspector general to the Attorney General or a prosecutorial
16 authority shall in no way preclude the inspector general from
17 performing its own separate, independent investigation; and

18 (5) in furtherance of an economic development investigation, to
19 compel at a specific time and place, by subpoena, the appearance
20 and sworn testimony of any person whom the Economic
21 Development Inspector General reasonably believes may be able to
22 give information relating to a matter subject to an economic
23 development investigation:

24 (a) for this purpose, the Economic Development Inspector
25 General is empowered to administer oaths and examine witnesses
26 under oath, and compel any person to produce at a specific time and
27 place, by subpoena, any documents, books, records, papers, objects,
28 or other evidence that the Economic Development Inspector
29 General reasonably believes may relate to a matter subject to an
30 economic development investigation; and

31 (b) if any person to whom a subpoena is issued fails to appear
32 or, having appeared, refuses to give testimony, or fails to produce
33 the books, papers, or other documents required, the Economic
34 Development Inspector General may apply to the Superior Court
35 and the court may order the person to appear and give testimony or
36 produce the books, papers, or other documents, as applicable. Any
37 person failing to obey that order may be held by the court in
38 contempt;

39 (6) subject to applicable State law, to have full and unrestricted
40 access to all records, reports, audits, reviews, documents, papers,
41 data, recommendations, tax information provided to the authority
42 pursuant to subsection r. of R.S.54:50-9, or other material available
43 to the authority and other State and local government agencies with
44 respect to which the Office of the Economic Development Inspector
45 General has responsibilities under sections 102 through 105 of
46 P.L.2020, c.156 (C.34:1B-366 through C.34:1B-369);

47 (7) to solicit, receive, and investigate complaints related to
48 economic development incentive integrity, fraud, and abuse; and

1 (8) to prepare cases, provide expert testimony, and support
2 administrative hearings and other legal proceedings.

3 d. As it relates to recovering improperly obtained economic
4 development incentives, imposing administrative sanctions,
5 damages, or penalties, and negotiating settlements to assure that all
6 governmental resources have been properly expended, the
7 functions, duties, powers, and responsibilities of the Economic
8 Development Inspector General shall include, but not be limited to,
9 the following:

10 (1) to pursue civil and administrative enforcement actions
11 against those who engage in fraud, abuse, or illegal acts perpetrated
12 under economic development incentive programs. These civil and
13 administrative enforcement actions shall include the imposition of
14 administrative sanctions, penalties, suspension of fraudulent or
15 illegal awards, and actions for civil recovery and seizure of property
16 or other assets connected with such economic incentive awards;

17 (2) to initiate civil suits consistent with the provisions of
18 sections 99 through 105 of P.L.2020, c.156 (C.34:1B-363 through
19 C.34:1B-369), maintain actions for civil recovery on behalf of the
20 State, and enter into civil settlements;

21 (3) to require that the authority withhold payments to an
22 economic development incentive applicant or recipient if the
23 applicant or recipient unreasonably fails to produce complete and
24 accurate records related to an economic development investigation
25 that is initiated by the Office of the Economic Development
26 Inspector General with reasonable cause; and

27 (4) to monitor and pursue the recoupment of economic
28 development incentive awards or portions thereof, damages,
29 penalties, and sanctions.

30 (cf: P.L.2020, c.156, s.102)

31

32 50. Section 106 of P.L.2020, c.156 (C.54:10A-5.47) is amended
33 to read as follows:

34 106. a. For privilege periods ending in 2020, 2021, and 2022, a
35 taxpayer, upon approval of an application to the authority, shall be
36 allowed a credit against the tax imposed pursuant to section 5 of
37 P.L.1945, c.162 (C.54:10A-5) in the amount of \$10,000 for each
38 qualifying **new hire** full-time job involved in the manufacture of
39 personal protective equipment in a qualified facility in which the
40 taxpayer made a capital investment during the privilege period.

41 b. The minimum capital investment in a qualified facility
42 required to be eligible for a credit under this section shall be as
43 follows:

44 (1) for the rehabilitation, improvement, fit-out, or retrofit of an
45 existing premises in Atlantic County, Burlington County, Cape May
46 County, Cumberland County, Gloucester County, Ocean County, or
47 Salem County, a minimum investment of \$10 per square foot of
48 gross leasable area;

1 (2) for the rehabilitation, improvement, fit-out, or retrofit of an
2 existing premises in counties in the State not listed in paragraph (1)
3 of this subsection, a minimum investment of \$20 per square foot of
4 gross leasable area;

5 (3) for the new construction of a premises in Atlantic County,
6 Burlington County, Cape May County, Cumberland County,
7 Gloucester County, Ocean County, or Salem County, a minimum
8 investment of \$100 per square foot of gross leasable area; or

9 (4) for the new construction of a premises in counties in the
10 State not listed in paragraph (3) of this subsection, a minimum
11 investment of \$120 per square foot of gross leasable area.

12 c. The minimum number of new or retained qualifying full-
13 time jobs required to be eligible for a credit under this section shall
14 be as follows:

15 (1) for a qualified facility in Atlantic County, Burlington
16 County, Cape May County, Cumberland County, Gloucester
17 County, Ocean County, or Salem County, a minimum of five new or
18 15 retained qualifying full-time jobs; or

19 (2) for a qualified facility in counties in the State not listed in
20 paragraph (1) of this subsection, a minimum of ten new or 25
21 retained qualifying full-time jobs.

22 d. In addition to the amount of credit allowed pursuant to
23 subsection a. of this section, a taxpayer shall be allowed the
24 following tax credits for privilege periods ending in 2020, 2021,
25 and 2022:

26 (1) \$1,000 per qualifying full-time job in the privilege period at
27 a qualified facility that is a building vacant for not less than seven
28 years in need of rehabilitation with a minimum of 250,000 square
29 feet;

30 (2) \$1,500 per qualifying full-time job in the privilege period at
31 a qualified facility in which the manufacturing of personal
32 protective equipment is part of a research collaboration between the
33 taxpayer and a college or university located within the State; and

34 (3) \$1,000 per qualifying full-time job in the privilege period at
35 a qualified facility in which the taxpayer has established an
36 apprenticeship program or pre-apprenticeship program with a
37 technical school or county college located within the State.

38 e. The total credit allowed to a taxpayer pursuant to this section
39 during the privilege period shall not exceed \$500,000. A taxpayer
40 shall not be eligible for a tax credit under this section for the same
41 qualifying **new hire** full-time job for which the taxpayer is
42 receiving a tax credit incentive award under the Emerge Program
43 established by sections 68 through 81 of P.L.2020, c.156 (C.34:1B-
44 336 et al.).

45 f. Notwithstanding the minimum tax schedule imposed
46 pursuant to subsection (e) of section 5 of P.L.1945, c.162
47 (C.54:10A-5), if the amount of the tax credit allowed exceeds the
48 amount of corporation business tax otherwise due pursuant to

1 section 5 of P.L.1945, c.162 (C.54:10A-5), the amount of excess
2 shall be treated as a refundable overpayment except that interest
3 shall not be paid pursuant to section 7 of P.L.1992, c.175 (C.54:49-
4 15.1) on the amount of overpayment attributable to this credit
5 amount. The director shall determine the order of priority of the
6 application of the credit allowed pursuant to this section and any
7 other credits allowed by law.

8 g. The combined value of all tax credits approved by the
9 authority and the director pursuant to this section and pursuant to
10 section 2 of P.L.2020, c.156 (C.34:1B-270) shall not exceed
11 \$10,000,000 in any State fiscal year to apply against the tax
12 imposed pursuant to the "New Jersey Gross Income Tax Act,"
13 N.J.S.54A:1-1 et seq., and the tax imposed pursuant to section 5 of
14 P.L.1945, c.162 (C.54:10A-5).

15 h. An application for the tax credit shall be submitted to the
16 authority in a form and manner prescribed by the chief executive
17 officer of the authority. As a condition of receiving tax credits
18 under this section, an applicant shall be required to commit to
19 **[employ]** employing qualifying **[new hires]** full-time jobs for
20 which tax credits are awarded under this section for a period of five
21 years.

22 i. Notwithstanding any provision of the "Administrative
23 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
24 contrary, the **[director]** chief executive officer of the authority is
25 authorized to adopt immediately upon filing with the Office of
26 Administrative Law such rules and regulations shall be effective for
27 a period not to exceed 360 days following the date of filing and may
28 thereafter be amended, adopted, or readopted by the chief executive
29 officer of the authority in accordance with the requirements of
30 P.L.1968, c.410 (C.52:14B-1 et seq.). The chief executive officer
31 of the authority shall consult with the Commissioner of Health
32 related to any specification requirements for what manufactured
33 products are to qualify as personal protective equipment pursuant to
34 this section.

35 j. As used in this section:

36 "Authority" means the New Jersey Economic Development
37 Authority established pursuant to section 4 of P.L.1974, c.80
38 (C.34:1B-4).

39 "Director" means Director of the Division of Taxation in the
40 Department of the Treasury;

41 "Personal protective equipment" means coveralls, face shields,
42 gloves, gowns, masks, respirators, safeguard equipment, and other
43 equipment designed to protect the wearer from the spread of
44 infection or illness as may be modified from time to time by the
45 board of the authority.

46 "Qualified facility" means a facility that is:

47 (1) located in a redevelopment area or rehabilitation area as
48 defined in section 3 of P.L.1992, c.79 (C.40A:12A-3);

1 (2) located in a Smart Growth Area as identified by the Office
2 of Planning Advocacy;

3 (3) a facility in which the manufacturing of personal protective
4 equipment is part of a research collaboration between the taxpayer
5 and a college or university located within the State;

6 (4) a facility in which the taxpayer has established an
7 apprenticeship program or pre-apprenticeship program with a
8 technical school or community located within the State; or

9 (5) a building vacant for not less than seven years in need of
10 rehabilitation with a minimum of 250,000 square feet.

11 "Qualifying full-time job" means a full-time position in a
12 business in this State which the business has filled with a full-time
13 employee for the manufacturing of personal protective equipment in
14 this State. The employee shall be employed for at least 35 hours a
15 week and shall be paid employee wages at a rate of not less than
16 \$15 per hour, or render any other standard of service generally
17 accepted by custom or practice as full-time employment, whose
18 wages are subject to withholding as provided in the "New Jersey
19 Gross Income Tax Act," N.J.S.54A:1-1 et seq. and is paid employee
20 wages at a rate of not less than \$15 per hour. **["Qualifying new
21 hire"]** "Qualifying full-time job" shall not include any person who
22 works as an independent contractor or on a consulting basis for the
23 business. **["Qualifying new or retained job"]** "Qualifying full-time
24 job" includes only a position for which the taxpayer provides
25 employee health benefits under a health benefits plan authorized
26 pursuant to State or federal law.

27 (cf: P.L.2020, c.156, s.106)

28

29 51. Section 6 of P.L.2010, c.57 (C.34:1B-209.4) is amended to
30 read as follows:

31 6. a. (1) A business, upon application to and approval from
32 the authority, shall be awarded a credit of 100 percent of its capital
33 investment, made after the effective date of P.L.2010, c.57 (C.48:3-
34 87.1 et al.) but prior to its submission of documentation pursuant to
35 subsection c. of this section, in a qualified wind energy facility
36 located in the State, pursuant to the restrictions and requirements of
37 this section. The award of a tax credit pursuant to this section shall
38 be structured so that the **[authority]** award shall **[make]** consist of
39 up to [four awards] five compliance years, each equaling **[25]** 20
40 percent of the total value of the tax credit, to a qualified business
41 over four privilege periods or taxable years in which the business
42 meets the requirements for the minimum number of new, full-time
43 employees. Otherwise eligible businesses with between 150 and
44 300 new, full-time jobs may receive an award based on a prorated
45 formula developed by the authority, provided that the prorated
46 minimum number of new, full-time jobs required in the fifth year
47 shall be the same as the fourth year. To be eligible for any tax

1 credits authorized under this section, a business shall demonstrate to
2 the authority, at the time of application, that the State's financial
3 support of the proposed capital investment in a qualified wind
4 energy facility will yield a net positive benefit to the State. The
5 value of all credits approved by the authority pursuant to this
6 section **】**may be up to \$100,000,000, except as may be increased by
7 the authority if the chief executive officer of the authority judges
8 certain qualified offshore wind projects to be meritorious **】** shall not
9 exceed the \$350,000,000 made available under section 98 of
10 P.L.2020, c.156 (C.34:1B-362). Credits provided pursuant to this
11 section shall not be applicable to the cap on the credits provided in
12 section 3 of P.L.2007, c.346 (C.34:1B-209).

13 (2) (a) A business, other than a tenant eligible pursuant to
14 subparagraph (b) of this paragraph, shall make or acquire capital
15 investments totaling not less than \$50,000,000 in a qualified wind
16 energy facility, at which the business, including tenants at the
17 qualified wind energy facility, shall employ the minimum number
18 of new, full-time employees, to be eligible for a credit under this
19 section. A business that acquires a qualified wind energy facility
20 after the effective date of P.L.2010, c.57 (C.48:3-87.1 et al.) shall
21 also be deemed to have acquired the capital investment made or
22 acquired by the seller.

23 (b) A business that is a tenant in the qualified wind energy
24 facility, the owner of which has made or acquired capital
25 investments in the facility totaling more than \$50,000,000, shall
26 occupy a leased area of the qualified wind energy facility that
27 represents at least \$17,500,000 of the capital investment in the
28 qualified wind energy facility at which the minimum number of
29 new, full-time employees in the aggregate are employed, to be
30 eligible for a credit under this section. The amount of capital
31 investment in a facility that a leased area represents shall be equal
32 to that percentage of the owner's total capital investment in the
33 facility that the percentage of net leasable area leased by the tenant
34 is of the total net leasable area of the qualified business facility.
35 Capital investments made by a tenant shall be deemed to be
36 included in the calculation of the capital investment made or
37 acquired by the owner, but only to the extent necessary to meet the
38 owner's minimum capital investment of \$50,000,000. Capital
39 investments made by a tenant and not allocated to meet the owner's
40 minimum capital investment threshold of \$50,000,000 shall be
41 added to the amount of capital investment represented by the
42 tenant's leased area in the qualified wind energy facility.

43 (c) The calculation of the number of new, full-time employees
44 required pursuant to subparagraphs (a) and (b) of this paragraph
45 may include the number of new, full-time positions resulting from
46 an equipment supply coordination agreement with equipment
47 manufacturers, suppliers, installers and operators associated with

1 the supply chain required to support the qualified wind energy
2 facility.

3 For the purposes of this paragraph, "full time employee" shall
4 not include an employee who is a resident of another state and
5 whose income is not subject to the "New Jersey Gross Income Tax
6 Act," N.J.S.54A:1-1 et seq., unless that state has entered into a
7 reciprocity agreement with the State of New Jersey.

8 (3) A business shall not be awarded a tax credit pursuant to this
9 section if the business receives a business employment incentive
10 grant pursuant to the "Business Employment Incentive Program
11 Act," P.L.1996, c.26 (C.34:1B-124 et al.), relating to the same
12 capital and employees that qualify the business for this credit, or if
13 the business receives assistance pursuant to the "Business Retention
14 and Relocation Assistance Act," P.L.1996, c.25 (C.34:1B-112 et
15 seq.). A business that is awarded a tax credit under this section
16 shall not be eligible for incentives authorized pursuant to the
17 "Municipal Rehabilitation and Economic Recovery Act," P.L.2002,
18 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, 2025, and a
23 business shall submit its documentation for approval of its credit
24 amount by July 1, 2028.

25 c. The credit awarded pursuant to this section shall be
26 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 awarded pursuant to this section
33 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 five-year period, at the rate of one-fifth of the total amount of the
37 business's credit for each tax accounting or privilege period of the
38 business, beginning with the privilege period or taxable year in
39 which the business is first approved by the authority as having met
40 the investment capital and employment qualifications, subject to
41 any disqualification as determined by annual review by the
42 authority. In conducting its annual review, the authority may
43 require a business to submit any information determined by the
44 authority to be necessary and relevant to its review. The credit
45 amount for any privilege period or taxable year ending after the date
46 18 years after the effective date of P.L.2007, c.346 (C.34:1B-207 et
47 seq.) during which the documentation of a business's credit amount
48 remains unapproved shall be forfeited, although credit amounts for

1 the remainder of the years of the five-year credit period shall
2 remain available. The amount of the credit awarded for a privilege
3 period or taxable year to a business that is a tenant in a qualified
4 wind energy facility shall not exceed the business's total lease
5 payments for occupancy of the qualified wind energy facility for the
6 privilege period or taxable year.

7 e. The authority shall adopt rules and regulations pursuant to
8 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
9 seq.) as are necessary to implement this section, including, but not
10 limited to: examples of and the determination of capital investment;
11 the nature of businesses and employment positions constituting and
12 participating in an equipment supply coordination agreement; a
13 determination of the types of businesses that may be eligible and
14 expenses that may constitute capital improvements; the
15 promulgation of procedures and forms necessary to apply for a
16 credit; and provisions for applicants to be charged an initial
17 application fee, and ongoing service fees, to cover the
18 administrative costs related to the credit.

19 The rules and regulations established by the authority pursuant to
20 this subsection shall be effective immediately upon filing with the
21 Office of Administrative Law and shall be effective for a period not
22 to exceed 12 months and may, thereafter, be amended, adopted or
23 readopted in accordance with the provisions of the "Administrative
24 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

25 f. As used in this section: the terms "authority," "business,"
26 and "capital investment" shall have the same meanings as defined in
27 section 2 of the "Urban Transit Hub Tax Credit Act," P.L.2007,
28 c.346 (C.34:1B-208), except that all references therein to "qualified
29 business facility" shall be deemed to refer to "qualified wind energy
30 facility" as defined in this subsection.

31 In addition, as used in this section:

32 "Equipment supply coordination agreement" means an agreement
33 between a business and equipment manufacturer, supplier, installer,
34 and operator that supports a qualified offshore wind project, or
35 other wind energy project as determined by the authority, and that
36 indicates the number of new, full-time jobs to be created by the
37 agreement participants towards the employment requirement as set
38 forth in paragraph (2) of subsection a. of this section.

39 "Minimum number of new, full-time employees" means:

40 (1) for the first **[award]** year, at least a cumulative 100 new,
41 full-time employees compared to the number of full-time employees
42 at the time of application;

43 (2) **[for the second award,]** for a privilege period or taxable
44 year following the first **[award]** year, at least a cumulative 150
45 new, full-time employees compared to the number of full-time
46 employees at the time of application;

1 (3) **【for the third award,】** for a privilege period or taxable year
2 following the second **【award】** year, at least a cumulative 200 new,
3 full-time employees compared to the number of full-time employees
4 at the time of application; and

5 (4) **【for the fourth award,】** for a privilege period or taxable year
6 following the third **【award】** year and fourth year, at least a
7 cumulative 300 new, full-time employees compared to the number
8 of full-time employees at the time of application.

9 "Qualified offshore wind project" shall have the same meaning
10 as 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.

18 (cf: P.L.2020, c.156, s.109)

19

20 52. Section 1 of P.L.1997, c.334 (C.34:1B-7.42a) is amended to
21 read as follows:

22 1. a. The New Jersey Economic Development Authority shall
23 establish within the New Jersey Emerging Technology and
24 Biotechnology Financial Assistance Program established pursuant
25 to P.L.1995, c.137 (C.34:1B-7.37 et seq.), a corporation business
26 tax benefit certificate transfer program to allow new or expanding
27 emerging technology and biotechnology companies in this State
28 with unused amounts of research and development tax credits
29 otherwise allowable which cannot be applied for the credit's tax
30 year due to the limitations of subsection b. of section 1 of P.L.1993,
31 c.175 (C.54:10A-5.24) and unused prior net operating loss
32 conversion carryover or net operating loss carryover pursuant to
33 section 4 of P.L.1945, c.162 (C.54:10A-4), to surrender those tax
34 benefits for use by other corporation business taxpayers in this
35 State, provided that the taxpayer receiving the surrendered tax
36 benefits is not affiliated with a corporation that is surrendering its
37 tax benefits under the program established under P.L.1997, c.334.
38 For the purposes of this section, the test of affiliation is whether the
39 same entity directly or indirectly owns or controls five percent or
40 more of the voting rights or five percent or more of the value of all
41 classes of stock of both the taxpayer receiving the benefits and a
42 corporation that is surrendering the benefits. The tax benefits may
43 be used on the corporation business tax returns to be filed by those
44 taxpayers in exchange for private financial assistance to be provided
45 by the corporation business taxpayer that is the recipient of the
46 corporation business tax benefit certificate to assist in the funding
47 of costs incurred by the new or expanding emerging technology and
48 biotechnology company. For purposes of this subsection, a member

1 of a combined group may sell prior net operating loss conversion
2 carryover to other members of the combined group, if otherwise
3 applicable and allowable under section 2 of P.L.1997, c.334
4 (C.54:10A-4.2) and this section; provided, however, such sale of
5 prior net operating loss conversion carryover shall be made at arm's
6 length price at the same rate as though the sale was to an unrelated
7 taxpayer.

8 b. The authority, in cooperation with the Division of Taxation
9 in the Department of the Treasury, shall review and approve
10 applications by new or expanding emerging technology and
11 biotechnology companies in this State with unused but otherwise
12 allowable carryover of research and development tax credits
13 pursuant to section 1 of P.L.1993, c.175 (C.54:10A-5.24), and
14 unused but otherwise allowable prior net operating loss conversion
15 carryover or net operating loss carryover pursuant to section 4 of
16 P.L.1945, c.162 (C.54:10A-4), to surrender those tax benefits in
17 exchange for private financial assistance to be made by the
18 corporation business taxpayer that is the recipient of the corporation
19 business tax benefit certificate in an amount equal to at least **[80%]**
20 80 percent of the amount of the surrendered tax benefit. Provided
21 that the amount of the surrendered tax benefit for a surrendered
22 research and development tax credit carryover is the amount of the
23 credit, and provided that the amount of the surrendered tax benefit
24 for a surrendered prior net operating loss conversion carryover or
25 net operating loss carryover is that amount for the tax year in which
26 the benefit is transferred and subsequently multiplied by the
27 corporation business tax rate provided pursuant to subsection (c) of
28 section 5 of P.L.1945, c.162 (C.54:10A-5). The authority shall be
29 authorized to approve the transfer of no more than \$75,000,000 of
30 tax benefits in a State fiscal year. If the total amount of transferable
31 tax benefits requested to be surrendered by approved applicants
32 exceeds \$75,000,000 for a State fiscal year, the authority, in
33 cooperation with the Division of Taxation in the Department of the
34 Treasury, shall not be authorized to approve the transfer of more
35 than \$75,000,000 for that State fiscal year and shall allocate the
36 transfer of tax benefits by approved companies using the following
37 method:

38 (1) an eligible applicant with \$250,000 or less of transferable
39 tax benefits shall be authorized to surrender the entire amount of its
40 transferable tax benefits;

41 (2) an eligible applicant with more than \$250,000 of transferable
42 tax benefits shall be authorized to surrender a minimum of
43 \$250,000 of its transferable tax benefits;

44 (3) (Deleted by amendment, P.L.2009, c.90.)

45 (4) an eligible applicant with more than \$250,000 shall also be
46 authorized to surrender additional transferable tax benefits
47 determined by multiplying the applicant's transferable tax benefits
48 less the minimum transferable tax benefits that company is

1 authorized to surrender under paragraph (2) of this subsection by a
2 fraction, the numerator of which is the total amount of transferable
3 tax benefits that the authority is authorized to approve less the total
4 amount of transferable tax benefits approved under paragraphs (1),
5 (2), and (5) of this subsection and the denominator of which is the
6 total amount of transferable tax benefits requested to be surrendered
7 by all eligible applicants less the total amount of transferable tax
8 benefits approved under paragraphs (1), (2), and (5) of this
9 subsection;

10 (5) The authority shall establish the boundaries for three
11 innovation zones to be geographically distributed in the northern,
12 central, and southern portions of this State. Of the \$75,000,000 of
13 transferable tax benefits authorized for each State fiscal year,
14 ~~[\$10,000,000]~~ \$15,000,000 shall be allocated for the surrender of
15 transferable tax benefits exclusively by new and expanding
16 emerging technology and biotechnology companies that operate
17 within the boundaries of the innovation zones or opportunity zones,
18 or for new and expanding emerging technology and biotechnology
19 companies that are certified as a woman- or minority-owned
20 business at the time of program application, except that any portion
21 of the ~~[\$10,000,000]~~ \$15,000,000 that is not so approved shall be
22 available for that State fiscal year for the surrender of transferable
23 tax benefits by new and expanding emerging technology and
24 biotechnology companies that do not operate within the boundaries
25 of an innovation zone or opportunity zone, or for a new and
26 expanding emerging technology and biotechnology company that is
27 certified as a woman- or minority-owned business at the time of
28 program application.

29 If the total amount of transferable tax benefits that would be
30 authorized using the above method exceeds \$75,000,000 for a State
31 fiscal year, then the authority, in cooperation with the Division of
32 Taxation in the Department of the Treasury, shall limit the total
33 amount of tax benefits authorized to be transferred to \$75,000,000
34 by applying the above method on an apportioned basis.

35 For purposes of this section transferable tax benefits include an
36 eligible applicant's unused but otherwise allowable prior net
37 operating loss conversion carryover or net operating loss carryover
38 determined pursuant to section 4 of P.L.1945, c.162 (C.54:10A-4)
39 for the tax year in which the benefit is transferred and subsequently
40 multiplied by the corporation business tax rate as provided in
41 subsection (c) of section 5 of P.L.1945, c.162 (C.54:10A-5) plus the
42 total amount of the applicant's unused but otherwise allowable
43 carryover of research and development tax credits. An eligible
44 applicant's transferable tax benefits shall be limited to net operating
45 losses and research and development tax credits that the applicant
46 requests to surrender in its application to the authority and shall not,
47 in total, exceed the maximum amount of tax benefits that the
48 applicant is eligible to surrender.

1 No application for a corporation business tax benefit transfer
2 certificate shall be approved in which the new or expanding
3 emerging technology or biotechnology company (1) has
4 demonstrated positive net operating income in any of the two
5 previous full years of ongoing operations as determined on its
6 financial statements issued according to generally accepted
7 accounting standards endorsed by the Financial Accounting
8 Standards Board; or (2) is directly or indirectly at least 50 percent
9 owned or controlled by another corporation that has demonstrated
10 positive net operating income in any of the two previous full years
11 of ongoing operations as determined on its financial statements
12 issued according to generally accepted accounting standards
13 endorsed by the Financial Accounting Standards Board or is part of
14 a consolidated group of affiliated corporations, as filed for federal
15 income tax purposes, that in the aggregate has demonstrated
16 positive net operating income in any of the two previous full years
17 of ongoing operations as determined on its combined financial
18 statements issued according to generally accepted accounting
19 standards endorsed by the Financial Accounting Standards Board.

20 For purposes of this subsection, a member of a combined group
21 may sell prior net operating loss conversion carryover to other
22 members of the combined group, if otherwise applicable and
23 allowable under section 2 of P.L.1997, c.334 (C.54:10A-4.2) and
24 this section; provided, however, such sale of prior net operating loss
25 conversion carryover shall be made at arm's length price at the same
26 rate as though the sale was to an unrelated taxpayer.

27 The maximum lifetime value of surrendered tax benefits that a
28 corporation shall be permitted to surrender pursuant to the program
29 is \$20,000,000. Applications must be received on or before June 30
30 of each State fiscal year.

31 The authority, in consultation with the Division of Taxation,
32 shall establish rules for the recapture of all, or a portion of, the
33 amount of a grant of a corporation business tax benefit certificate
34 from the new or expanding emerging technology and biotechnology
35 company having surrendered tax benefits pursuant to this section in
36 the event the taxpayer fails to use the private financial assistance
37 received for the surrender of tax benefits as required by this section
38 or fails to maintain a headquarters or a base of operation in this
39 State during the five years following receipt of the private financial
40 assistance; except if the failure to maintain a headquarters or a base
41 of operation in this State is due to the liquidation of the new or
42 expanding emerging technology and biotechnology company.

43 c. The authority, in cooperation with the Division of Taxation
44 in the Department of the Treasury, shall review and approve
45 applications by taxpayers under the Corporation Business Tax Act
46 (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), to acquire
47 surrendered tax benefits approved pursuant to subsection b. of this
48 section which shall be issued in the form of corporation business

1 tax benefit transfer certificates, in exchange for private financial
2 assistance to be made by the taxpayer in an amount equal to at least
3 **【80%】 80 percent** of the amount of the surrendered tax benefit of an
4 emerging technology or biotechnology company in the State. A
5 corporation business tax benefit transfer certificate shall not be
6 issued unless the applicant certifies that as of the date of the
7 exchange of the corporation business tax benefit certificate it is
8 operating as a new or expanding emerging technology or
9 biotechnology company and has no current intention to cease
10 operating as a new or expanding emerging technology or
11 biotechnology company.

12 The managerial member of a combined group shall be the
13 member that acquires a corporation business tax benefit certificate
14 on behalf of the combined group for use on the combined return.

15 The private financial assistance shall assist in funding expenses
16 incurred in connection with the operation of the new or expanding
17 emerging technology or biotechnology company in the State,
18 including but not limited to the expenses of fixed assets, such as the
19 construction and acquisition and development of real estate,
20 materials, start-up, tenant fit-out, working capital, salaries, research
21 and development expenditures and any other expenses determined
22 by the authority to be necessary to carry out the purposes of the
23 New Jersey Emerging Technology and Biotechnology Financial
24 Assistance Program.

25 The authority shall require a corporation business taxpayer that
26 acquires a corporation business tax benefit certificate to enter into a
27 written agreement with the new or expanding emerging technology
28 or biotechnology company concerning the terms and conditions of
29 the private financial assistance made in exchange for the certificate.
30 The written agreement may contain terms concerning the
31 maintenance by the new or expanding emerging technology or
32 biotechnology company of a headquarters or a base of operation in
33 this State.

34 d. (Deleted by amendment, P.L.2009, c.90.)
35 (cf: P.L.2020, c.156, s.113)

36
37 53. Section 1 of P.L.1999, c.140 (C.34:1B-7.42b) is amended to
38 read as follows:

39 1. As used in P.L.1997, c.334 (C.34:1B-7.42a et al.):

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 "Biotechnology" means the continually expanding body of
44 fundamental knowledge about the functioning of biological systems
45 from the macro level to the molecular and sub-atomic levels, as
46 well as novel products, services, technologies and sub-technologies
47 developed as a result of insights gained from research advances that
48 add to that body of fundamental knowledge. This definition may be

1 modified by regulation to conform to definitions in other programs
2 administered by the authority.

3 "Biotechnology company" means an emerging corporation that
4 has its headquarters or base of operations in this State; that owns,
5 has filed for, or has a valid license to use protected, proprietary
6 intellectual property; and that is engaged in the research,
7 development, production, or provision of biotechnology for the
8 purpose of developing or providing products or processes for
9 specific commercial or public purposes, including but not limited
10 to, medical, pharmaceutical, nutritional, and other health-related
11 purposes, agricultural purposes, and environmental purposes. This
12 definition may be modified by regulation to conform to definitions
13 in other programs administered by the authority.

14 "Full-time employee" means a person employed by a new or
15 expanding emerging technology or biotechnology company for
16 consideration for at least 35 hours a week, or who renders any other
17 standard of service generally accepted by custom or practice as full-
18 time employment and whose wages are subject to withholding as
19 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
20 et seq., or who is a partner of a new or expanding emerging
21 technology or biotechnology company who works for the
22 partnership for at least 35 hours a week, or who renders any other
23 standard of service generally accepted by custom or practice as full-
24 time employment, and whose distributive share of income, gain,
25 loss, or deduction, or whose guaranteed payments, or any
26 combination thereof, is subject to the payment of estimated taxes, as
27 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
28 et seq. To qualify as a "full-time employee," an employee shall also
29 receive from the new or expanding emerging technology or
30 biotechnology company health benefits under a health benefits plan
31 authorized pursuant to State or federal law. "Full-time employee"
32 shall not include any person who works as an independent
33 contractor or on a consulting basis for the new or expanding
34 emerging technology or biotechnology company.

35 "New or expanding" means a technology or biotechnology
36 company that (1) on June 30 of the year in which the company files
37 an application for surrender of unused but otherwise allowable tax
38 benefits under P.L.1997, c.334 (C.34:1B-7.42a et al.) and on the
39 date of the exchange of the corporation business tax benefit
40 certificate, has fewer than 225 employees in the United States of
41 America; (2) on June 30 of the year in which the company files
42 such an application, has at least one full-time employee working in
43 this State if the company has been incorporated for less than three
44 years, has at least five full-time employees working in this State if
45 the company has been incorporated for more than three years but
46 less than five years, and has at least 10 full-time employees working
47 in this State if the company has been incorporated for more than
48 five years; and (3) on the date of the exchange of the corporation

1 business tax benefit certificate, the company has the requisite
2 number of full-time employees in New Jersey that were required on
3 June 30 as set forth in part (2) of this definition.

4 “Opportunity zone” means a federal population census tract in
5 this State that was eligible to be designated as a qualified
6 opportunity zone pursuant to 26 U.S.C. s.1400Z-1.

7 "Technology company" means an emerging corporation that has
8 its headquarters or base of operations in this State; that owns, has
9 filed for, or has a valid license to use protected, proprietary
10 intellectual property; and that employs some combination of the
11 following: highly educated or trained managers and workers, or
12 both, employed in this State who use sophisticated scientific
13 research service or production equipment, processes or knowledge
14 to discover, develop, test, transfer or manufacture a product or
15 service. This definition may be modified by regulation to conform
16 to definitions in other programs administered by the authority.

17 (cf: P.L.2020, c.156, s.114)

18

19 54. Section 5 of P.L.2009, c.90 (C.52:27D-489e) is amended to
20 read as follows:

21 5. a. The New Jersey Economic Development Authority, in
22 consultation with the State Treasurer, shall establish an Economic
23 Redevelopment and Growth Grant program for the purpose of
24 encouraging redevelopment projects in qualifying economic
25 redevelopment and growth grant incentive areas that do not qualify
26 as such areas solely by virtue of being a transit village, through the
27 provision of incentive grants to reimburse developers for certain
28 project financing gap costs.

29 b. (1) A developer shall submit an application for a State
30 incentive grant prior to July 1, 2019, except: (a) a developer of a
31 qualified residential project or a mixed use parking project seeking
32 an award of credits toward the funding of its incentive grant for a
33 project restricted under category (viii) of subparagraph (b) of
34 paragraph (3) of subsection b. of section 6 of P.L.2009, c.90
35 (C.52:27D-489f) shall submit an incentive grant application prior to
36 December 31, 2021 **【and】** ; (b) a developer of a qualified
37 residential project seeking an award of credits toward the funding of
38 its incentive grant under **【subparagraphs (f) and】** subparagraph (g)
39 of paragraph (3) of subsection b. of section 6 of P.L.2009, c.90
40 (C.52:27D-489f) shall submit an incentive grant application prior to
41 December 31, 2021; and (c) a developer of a commercial project
42 seeking a State incentive grant under subparagraph (b) of paragraph
43 (1) of subsection b. of section 6 of P.L.2009, c.90 (C.52:27D-489f)
44 shall submit an incentive grant application prior to December 31,
45 2021. A developer that submits an application for a State incentive
46 grant shall indicate on the application whether it is also applying for
47 a local incentive grant. Tax credits awarded to developers who
48 apply after the effective date of P.L.2020, c.156 (C.34:1B-269 et

1 al.) under **【subparagraphs (f) and】** subparagraph (g) of paragraph
2 (3) of subsection b. of section 6 of P.L.2009, c.90 (C.52:27D-489f)
3 shall not exceed **【\$200,000,000** subject to the limitations of
4 **subparagraphs (f) and (g) of that paragraph】** \$125,000,000.
5 Incentive grants awarded to developers who apply after the
6 effective date of P.L.2020, c.156 under subparagraph (b) of
7 paragraph (1) of subsection b. of section 6 of P.L.2009, c.90
8 (C.52:27D-489f) shall not exceed \$75,000,000.

9 (2) When an applicant indicates it is also applying for a local
10 incentive grant, the authority shall forward a copy of the application
11 to the municipality wherein the redevelopment project is to be
12 located for approval by municipal ordinance.

13 c. An application for a State incentive grant shall be reviewed
14 and approved by the authority. The authority shall not approve an
15 application for a State incentive grant unless the application was
16 submitted prior to July 1, 2019, except: (1) the authority shall not
17 approve an application for a State incentive grant by a developer of
18 a qualified residential project or a mixed use parking project
19 seeking an award of credits toward the funding of its incentive grant
20 for a project restricted under category (viii) of subparagraph (b) of
21 paragraph (3) of subsection b. of section 6 of P.L.2009, c.90
22 (C.52:27D-489f) unless the application was submitted prior to
23 December 31, 2021 and (2) the authority shall not approve an
24 application for a State incentive grant by a developer under
25 **【subparagraphs (f) and】** subparagraph (g) of paragraph (3) and
26 subparagraph (b) of paragraph (1) of subsection b. of section 6 of
27 P.L.2009, c.90 (C.52:27D-489f) unless the application was
28 submitted prior to December 31, 2021.

29 d. A developer shall not be required to purchase pinelands
30 development credits under the "Pinelands Protection Act,"
31 P.L.1979, c.111 (C.13:18A-1 et seq.), the pinelands comprehensive
32 management plan, or any other rule or regulation adopted pursuant
33 to that act in connection with any approval or relief obtained related
34 to a redevelopment project located in an aviation district on or after
35 the effective date of P.L.2018, c.120, except if seeking to develop in
36 permanently protected open space pursuant to the Pinelands
37 Protection Act. The provisions of this subsection shall not apply to
38 a developer of a qualified residential project.

39 (cf: P.L.2020, c.156, s.122)

40

41 55. Section 6 of P.L.2009, c.90 (C.52:27D-489f) is amended to
42 read as follows:

43 6. a. Up to the limits established in subsection b. of this
44 section and in accordance with a redevelopment incentive grant
45 agreement, beginning upon the receipt of occupancy permits for any
46 portion of the redevelopment project, or upon any other event
47 evidencing project completion as set forth in the incentive grant
48 agreement, the State Treasurer shall pay to the developer

1 incremental State revenues directly realized from businesses
2 operating at the site of the redevelopment project from the
3 following taxes: the Corporation Business Tax Act (1945),
4 P.L.1945, c.162 (C.54:10A-1 et seq.), the tax imposed on marine
5 insurance companies pursuant to R.S.54:16-1 et seq., the tax
6 imposed on insurers generally, pursuant to P.L.1945, c.132
7 (C.54:18A-1 et seq.), the public utility franchise tax, public utilities
8 gross receipts tax and public utility excise tax imposed on sewerage
9 and water corporations pursuant to P.L.1940, c.5 (C.54:30A-49 et
10 seq.), those tariffs and charges imposed by electric, natural gas,
11 telecommunications, water and sewage utilities, and cable television
12 companies under the jurisdiction of the New Jersey Board of Public
13 Utilities, or comparable entity, except for those tariffs, fees, or taxes
14 related to societal benefits charges assessed pursuant to section 12
15 of P.L.1999, c.23 (C.48:3-60), any charges paid for compliance
16 with the "Global Warming Response Act," P.L.2007, c.112
17 (C.26:2C-37 et seq.), transitional energy facility assessment unit
18 taxes paid pursuant to section 67 of P.L.1997, c.162 (C.48:2-21.34),
19 and the sales and use taxes on public utility and cable television
20 services and commodities, the tax derived from net profits from
21 business, a distributive share of partnership income, or a pro rata
22 share of S corporation income under the "New Jersey Gross Income
23 Tax Act," N.J.S.54A:1-1 et seq., the tax derived from a business at
24 the site of a redevelopment project that is required to collect the tax
25 pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-
26 1 et seq.), the tax imposed pursuant to P.L.1966, c.30 (C.54:32B-1
27 et seq.) from the purchase of furniture, fixtures and equipment, or
28 materials for the remediation, the construction of new structures at
29 the site of a redevelopment project, the hotel and motel occupancy
30 fee imposed pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1),
31 or the portion of the fee imposed pursuant to section 3 of P.L.1968,
32 c.49 (C.46:15-7) derived from the sale of real property at the site of
33 the redevelopment project and paid to the State Treasurer for use by
34 the State, that is not credited to the "Shore Protection Fund" or the
35 "Neighborhood Preservation Nonlapsing Revolving Fund" ("New
36 Jersey Affordable Housing Trust Fund") pursuant to section 4 of
37 P.L.1968, c.49 (C.46:15-8). Any developer shall be allowed to
38 assign their ability to apply for the tax credit under this subsection
39 to a non-profit organization with a mission dedicated to attracting
40 investment and completing development and redevelopment
41 projects in a Garden State Growth Zone. The non-profit
42 organization may make an application on behalf of a developer
43 which meets the requirements for the tax credit, or a group of non-
44 qualifying developers, such that these will be considered a unified
45 project for the purposes of the incentives provided under this
46 section.

47 b. (1) (a) Up to an average of 75 percent of the projected
48 annual incremental revenues or 85 percent of the projected annual

1 incremental revenues in a Garden State Growth Zone may be
2 pledged towards the State portion of an incentive grant.

3 (b) State incentive grants not to exceed an aggregate total value
4 of \$75,000,000 shall be made available by the authority for
5 applications submitted after the effective date of P.L.2020, c.156,
6 but prior to December 31, 2021, for projects that are predominantly
7 commercial and contain 100,000 or more square feet of office and
8 retail space, or industrial space for purchase or lease, and may
9 include a parking component. The developer of a project seeking
10 an award of credits for a project restricted under this subparagraph
11 shall submit an incentive grant application prior to December 31,
12 2021, and if approved after the effective date of P.L.2020, c.156,
13 shall submit a temporary certificate of occupancy for the project no
14 later than December 31, 2024. In addition to the requirements for
15 an incentive award set forth in P.L.2009, c.90 (C.52:27D-489a et
16 al.), a developer shall be eligible to receive an award of credits for a
17 project restricted under this subparagraph only if the developer
18 demonstrates to the authority at that time of application that: (i) the
19 project shall comply with minimum environmental and
20 sustainability standards; (ii) the 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); (iii) each worker
23 employed by the developer, or subcontractor of a developer
24 working at the project, shall be paid not less than \$15 per hour or
25 120 percent of the minimum wage fixed under subsection a. of
26 section 5 of P.L.1966, c.113 (C.34:11-56a4), whichever is higher;
27 and (iv) during the eligibility period, each worker employed to
28 perform construction work or building services work at the project
29 shall be paid not less than the prevailing wage rate for the worker's
30 craft or trade, as determined by the Commissioner of Labor and
31 Workforce Development pursuant to P.L.1963, c.150 (C.34:11-
32 56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.).

33 (2) In the case of a qualified residential project or a project
34 involving university infrastructure, if the authority determines that
35 the estimated amount of incremental revenues pledged towards the
36 State portion of an incentive grant is inadequate to fully fund the
37 amount of the State portion of the incentive grant, then in lieu of an
38 incentive grant based on the incremental revenues, the developer
39 shall be awarded tax credits equal to the full amount of the
40 incentive grant.

41 (3) In the case of a mixed use parking project, if the authority
42 determines that the estimated amount of incremental revenues
43 pledged towards the State portion of an incentive grant is
44 inadequate to fully fund the amount of the State portion of the
45 incentive grant, then, in lieu of an incentive grant based on the
46 incremental revenues, the developer shall be awarded tax credits
47 equal to the full amount of the incentive grant.

1 The value of all credits approved by the authority pursuant to
2 paragraphs (2) and (3) of this subsection shall not exceed
3 **[\$1,043,000,000]** \$968,000,000, of which:

4 (a) \$250,000,000 shall be restricted to qualified residential
5 projects within Atlantic, Burlington, Camden, Cape May,
6 Cumberland, Gloucester, Ocean, and Salem counties, of which
7 \$175,000,000 of the credits shall be restricted to the following
8 categories of projects: (i) qualified residential projects located in a
9 Garden State Growth Zone located within the aforementioned
10 counties; and (ii) mixed use parking projects located in a Garden
11 State Growth Zone or urban transit hub located within the
12 aforementioned counties; (iii) and \$75,000,000 of the credits shall
13 be restricted to qualified residential projects in municipalities with a
14 2007 Municipal Revitalization Index of 400 or higher as of the date
15 of enactment of the "New Jersey Economic Opportunity Act of
16 2013," P.L.2013, c.161 (C.52:27D-489p et al.) and located within
17 the aforementioned counties;

18 (b) **[\$395,000,000]** \$415,000,000 shall be restricted to the
19 following categories of projects: (i) qualified residential projects
20 located in urban transit hubs that are commuter rail in nature that
21 otherwise do not qualify under subparagraph (a) of this paragraph;
22 (ii) qualified residential projects located in Garden State Growth
23 Zones that do not qualify under subparagraph (a) of this paragraph;
24 (iii) mixed use parking projects located in urban transit hubs or
25 Garden State Growth Zones that do not qualify under subparagraph
26 (a) of this paragraph, provided however, an urban transit hub shall
27 be allocated no more than \$25,000,000 for mixed use parking
28 projects; (iv) qualified residential projects which are disaster
29 recovery projects that otherwise do not qualify under subparagraph
30 (a) of this paragraph; (v) qualified residential projects in SDA
31 municipalities located in Hudson County that were awarded State
32 Aid in State Fiscal Year 2013 through the Transitional Aid to
33 Localities program and otherwise do not qualify under
34 subparagraph (a) of this paragraph; (vi) \$25,000,000 of credits shall
35 be restricted to mixed use parking projects in Garden State Growth
36 Zones which have a population in excess of 125,000 and do not
37 qualify under subparagraph (a) of this paragraph; (vii) \$40,000,000
38 of credits shall be restricted to qualified residential projects that
39 include a theater venue for the performing arts and do not qualify
40 under subparagraph (a) of this paragraph, which projects are located
41 in a municipality with a population of less than 100,000 according
42 to the latest federal decennial census, and within which
43 municipality is located an urban transit hub and a campus of a
44 public research university, as defined in section 1 of P.L.2009,
45 c.308 (C.18A:3B-46); and (viii) \$125,000,000 of credits shall be
46 restricted to qualified residential projects and mixed use parking
47 projects in Garden State Growth Zones having a population in

1 excess of 125,000 and do not qualify under subparagraph (a) of this
2 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
9 (b) of this paragraph, and which are used by an independent
10 institution of higher education, a school of medicine, a nonprofit
11 hospital system, or any combination thereof; provided, however,
12 that \$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
17 redevelopment and growth grant incentive area otherwise not
18 qualifying under 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-
23 Up-To-Market Project from the United States Department of
24 Housing and Urban Development, and for which an application for
25 the award of tax credits under this subsection was submitted prior to
26 January 1, 2016;

27 (e) \$25,000,000 shall be restricted to projects involving
28 university infrastructure; and

29 (f) **【\$150,000,000 shall be restricted to applications submitted**
30 **after the effective date of P.L.2020, c.156 (C.34:1B-269 et al.) for**
31 **projects which are predominantly commercial and contain 100,000**
32 **or more square feet of office and retail space, or industrial space for**
33 **purchase or lease and may include a parking component; and**】**
34 (Deleted by amendment, P.L. , c.) (pending before the
35 Legislature as this bill)**

36 (g) **【\$50,000,000】** \$125,000,000 shall be restricted to
37 applications submitted after the effective date of P.L.2020, c.156
38 (C.34:1B-269 et al.) for residential projects in any county of the
39 State.

40 (h) For subparagraphs (a) through (d) of this paragraph, not
41 more than \$40,000,000 of credits shall be awarded to any qualified
42 residential project in a deep poverty pocket or distressed
43 municipality and not more than \$20,000,000 of credits shall be
44 awarded to any other qualified residential project. The developer of
45 a qualified residential project seeking an award of credits towards
46 the funding of its incentive grant shall submit an incentive grant
47 application prior to July 1, 2016 and if approved after September
48 18, 2013, the effective date of P.L.2013, c.161 (C.52:27D-489p et

1 al.) shall submit a temporary certificate of occupancy for the project
2 no later than December 31, 2023. The developer of a mixed use
3 parking project seeking an award of credits towards the funding of
4 its incentive grant pursuant to subparagraph (c) of this paragraph
5 and if approved after the effective date of P.L.2015, c.217, shall
6 submit a temporary certificate of occupancy for the project no later
7 than December 31, 2023. The developer of a qualified residential
8 project or a mixed use parking project seeking an award of credits
9 toward the funding of its incentive grant for a project restricted
10 under categories (vi) and (viii) of subparagraph (b) of this
11 paragraph shall submit an incentive grant application prior to July
12 1, 2019 or, in the case of a project restricted under category (viii) of
13 subparagraph (b) of this paragraph, December 31, 2021, and if
14 approved after the effective date of P.L.2017, c.59, shall submit a
15 temporary certificate of occupancy for the project no later than
16 December 31, 2023 provided that the municipality in which the
17 project is located shall have submitted to the chief executive officer
18 of the authority a letter of support identifying up to six projects
19 prior to July 1, 2018. The letter of support is to contain a project
20 scope for each of the projects and may be supplemented or amended
21 from time to time until July 1, 2019 or, in the case of a project
22 restricted under category (viii) of subparagraph (b) of this
23 paragraph, December 31, 2021. Applications for tax credits
24 pursuant to this subsection relating to an ancillary infrastructure
25 project or infrastructure improvement in the public right-of-way, or
26 both, shall be accompanied with a letter of support relating to the
27 project or improvement by the governing body or agency in which
28 the project is located. Credits awarded to a developer pursuant to
29 this subsection shall be subject to the same financial and related
30 analysis by the authority, the same term of the grant, and the same
31 mechanism for administering the credits, and shall be utilized or
32 transferred by the developer as if the credits had been awarded to
33 the developer pursuant to section 35 of P.L.2009, c.90 (C.34:1B-
34 209.3) for qualified residential projects thereunder. No portion of
35 the revenues pledged pursuant to the "New Jersey Economic
36 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.)
37 shall be subject to withholding or retainage for adjustment, in the
38 event the developer or taxpayer waives its rights to claim a refund
39 thereof.

40 (i) The developer of a project seeking an award of credits for a
41 project restricted under **【subparagraphs (f) and】** subparagraph (g)
42 of this paragraph shall submit an incentive grant application prior to
43 December 31, 2021, and if approved after the effective date of
44 P.L.2020, c.156 (C.34:1B-269 et al.), shall submit a temporary
45 certificate of occupancy for the project no later than December 31,
46 2024. In addition to the requirements for an award of credits set
47 forth in P.L.2009, c.90 (C.52:27D-489a et al.), a developer shall be
48 eligible to receive an award of credits for a project restricted under

1 **【subparagraphs (f) and】** subparagraph (g) of this paragraph only if
2 the developer demonstrates to the authority at that time of
3 application that: (i) the project shall comply with minimum
4 environmental and sustainability standards; (ii) the project shall
5 comply with the authority's affirmative action requirements,
6 adopted pursuant to section 4 of P.L.1979, c.303 (C.34:1B-5.4); (iii)
7 each worker employed by the developer or subcontractor of a
8 developer working at the project shall be paid not less than \$15 per
9 hour or 120 percent of the minimum wage fixed under subsection a.
10 of section 5 of P.L.1966, c.113 (C.34:11-56a4), whichever is
11 higher; and (iv) during the eligibility period, each worker employed
12 to perform construction work or building services work at the
13 project shall be paid not less than the prevailing wage rate for the
14 worker's craft or trade, as determined by the Commissioner of
15 Labor and Workforce Development pursuant to P.L.1963, c.150
16 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.).

17 Prior to the board considering an application submitted by a
18 developer for a project restricted under **【subparagraphs (f) and】**
19 subparagraph (g) of this paragraph, the authority shall confirm with
20 the Department of Labor and Workforce Development, the
21 Department of Environmental Protection, and the Department of the
22 Treasury **【shall each report to the chief executive officer of the**
23 **authority】** whether the developer is in substantial good standing
24 with the respective department, or has entered into an agreement
25 with the respective department that includes a practical corrective
26 action plan for the developer. The developer, or an authorized
27 agent of the developer, shall certify to the authority that all factual
28 assertions made in the developer's application are true under the
29 penalty of perjury. If at any time the authority determines that the
30 developer made a material misrepresentation on the developer's
31 application, the developer shall forfeit the award of credits and the
32 authority shall recapture any tax credits awarded to the developer.

33 (4) A developer may apply to the Director of the Division of
34 Taxation in the Department of the Treasury and the chief executive
35 officer of the authority for a tax credit transfer certificate, if the
36 developer is awarded a tax credit pursuant to paragraph (2) or
37 paragraph (3) of this subsection, covering one or more years, in lieu
38 of the developer being allowed any amount of the credit against the
39 tax liability of the developer. The tax credit transfer certificate,
40 upon receipt thereof by the developer from the director and the
41 chief executive officer of the authority, may be sold or assigned, in
42 full or in part, to any other person who may have a tax liability
43 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2
44 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1
45 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The certificate
46 provided to the developer shall include a statement waiving the
47 developer's right to claim that amount of the credit against the taxes
48 that the developer has elected to sell or assign. The sale or

1 assignment of any amount of a tax credit transfer certificate allowed
2 under this paragraph shall not be exchanged for consideration
3 received by the developer of less than 75 percent of the transferred
4 credit amount before considering any further discounting to present
5 value that may be permitted. Any amount of a tax credit transfer
6 certificate used by a purchaser or assignee against a tax liability
7 shall be subject to the same limitations and conditions that apply to
8 the use of the credit by the developer who originally applied for and
9 was allowed the credit.

10 c. All administrative costs associated with the incentive grant
11 shall be assessed to the applicant and be retained by the State
12 Treasurer from the annual incentive grant payments.

13 d. The incremental revenue for the revenues listed in
14 subsection a. of this section shall be calculated as the difference
15 between the amount collected in any fiscal year from any eligible
16 revenue source included in the State redevelopment incentive grant
17 agreement, less the revenue increment base for that eligible
18 revenue.

19 e. The municipality is authorized to collect any information
20 necessary to facilitate grants under this program and remit that
21 information in order to assist in the calculation of incremental
22 revenue.

23 (cf: P.L.2020, c.156, s.123)

24

25 56. Section 8 of P.L.2009, c.90 (C.52:27D-489h) is amended to
26 read as follows:

27 8. a. (1) The authority, in consultation with the State
28 Treasurer, shall promulgate an incentive grant application form and
29 procedure for the Economic Redevelopment and Growth Grant
30 program.

31 (2) (a) The Local Finance Board, in consultation with the
32 authority, shall develop a minimum standard incentive grant
33 application form for municipal Economic Redevelopment and
34 Growth Grant programs.

35 (b) Through regulation, the authority shall establish standards
36 for redevelopment projects seeking State or local incentive grants
37 based on the green building manual prepared by the Commissioner
38 of Community Affairs pursuant to section 1 of P.L.2007, c.132
39 (C.52:27D-130.6), regarding the use of renewable energy, energy-
40 efficient technology, and non-renewable resources in order to
41 reduce environmental degradation and encourage long-term cost
42 reduction.

43 b. Within each incentive grant application, a developer shall
44 certify information concerning:

- 45 (1) the status of control of the entire redevelopment project site;
46 (2) all required State and federal government permits that have
47 been issued for the redevelopment project, or will be issued pending
48 resolution of financing issues;

1 (3) local planning and zoning board approvals, as required, for
2 the redevelopment project;

3 (4) estimates of the revenue increment base, the eligible
4 revenues for the project, and the assumptions upon which those
5 estimates are made.

6 c. (1) With regard to State tax revenues proposed to be
7 pledged for an incentive grant the authority and the State Treasurer
8 shall review the project costs, evaluate and validate the project
9 financing gap estimated by the developer, and conduct a State fiscal
10 impact analysis to ensure that the overall public assistance provided
11 to the project, except with regards to a qualified residential project,
12 a mixed use parking project, or a project involving university
13 infrastructure, will result in net benefits to the State including,
14 without limitation, both direct and indirect economic benefits and
15 non-financial community revitalization objectives, including but not
16 limited to, the promotion of the use of public transportation in the
17 case of the ancillary infrastructure project portion of any transit
18 project.

19 (2) With regard to local incremental revenues proposed to be
20 pledged for an incentive grant the authority and the Local Finance
21 Board shall review the project costs, and except with respect to an
22 application by a municipal redeveloper, evaluate and validate the
23 project financing gap projected by the developer, and conduct a
24 local fiscal impact analysis to ensure that the overall public
25 assistance provided to the project, except with regards to a qualified
26 residential project, a mixed use parking project, or a project
27 involving university infrastructure, will result in net benefits to the
28 municipality wherein the redevelopment project is located
29 including, without limitation, both direct and indirect economic
30 benefits and non-financial community revitalization objectives,
31 including but not limited to, the promotion of the use of public
32 transportation in the case of the ancillary infrastructure project
33 portion of any transit project.

34 (3) The authority, State Treasurer, and Local Finance Board
35 may act cooperatively to administer and review applications, and
36 shall consult with the Office of State Planning on matters
37 concerning State, regional, and local development and planning
38 strategies.

39 (4) The costs of the aforementioned reviews shall be assessed to
40 the applicant as an application fee, except for applications
41 submitted on or after January 1, 2018, but before June 30, **[2018]**
42 2019, which are amended after the effective date of P.L.2020, c.156
43 (C.34:1B-269 et al.), the authority may waive fees.

44 (5) A developer who has already applied for an incentive grant
45 award prior to the effective date of the "New Jersey Economic
46 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.),
47 but who has not yet been approved for the grant, or has not
48 executed an agreement with the authority, may proceed under that

1 application or seek to amend the application or reapply for an
2 incentive grant award for the same project or any part thereof for
3 the purpose of availing himself or herself of any more favorable
4 provisions of the Economic Redevelopment and Growth Grant
5 program established pursuant to the "New Jersey Economic
6 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.),
7 except that projects with costs exceeding \$200,000,000 shall not be
8 eligible for revised percentage caps under subsection d. of section
9 19 of P.L.2013, c.161 (C.52:27D-489i).
10 (cf: P.L.2020, c.156, s.124)
11

12 57. Section 6 of P.L.2011, c.149 (C.34:1B-247) is amended to
13 read as follows:

14 6. a. (1) The combined value of all credits approved by the
15 authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) and
16 P.L.2011, c.149 (C.34:1B-242 et al.) prior to December 31, 2013
17 shall not exceed \$1,750,000,000, except as may be increased by the
18 authority as set forth in paragraph (5) of subsection a. of section 35
19 of P.L.2009, c.90 (C.34:1B-209.3). Following the enactment of the
20 "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161
21 (C.52:27D-489p et al.), there shall be no monetary cap on the value
22 of credits approved by the authority attributable to the program
23 pursuant to the "New Jersey Economic Opportunity Act of 2013,"
24 P.L.2013, c.161 (C.52:27D-489p et al.).

25 (2) (Deleted by amendment, P.L.2013, c.161)

26 (3) (Deleted by amendment, P.L.2013, c.161)

27 (4) (Deleted by amendment, P.L.2013, c.161)

28 (5) (Deleted by amendment, P.L.2013, c.161)

29 b. (1) A business shall submit an application for tax credits
30 prior to July 1, 2019. The authority shall not approve an application
31 for tax credits unless the application was submitted prior to July 1,
32 2019.

33 (2) (a) A business shall submit its documentation indicating
34 that it has met the capital investment and employment requirements
35 and all conditions of approvals specified in the incentive agreement
36 for certification of its tax credit amount, to the authority's
37 satisfaction, within three years following the date of approval of its
38 application by the authority. The authority shall have the discretion
39 to grant two six-month extensions of this deadline. If the authority
40 accepts the documentation, the authority shall request that the
41 Division of Taxation in the Department of the Treasury issue a tax
42 credit based on the approved documentation to be used by the
43 business during the eligibility period. Except as provided in
44 subparagraphs (b) and (c) of this paragraph, in no event shall the
45 incentive effective date occur later than four years following the
46 date of approval of an application by the authority.

47 (b) As of the effective date of P.L.2017, c.314, a business which
48 applied for the tax credit prior to July 1, 2014 under P.L.2011,

1 c.149 (C.34:1B-242 et al.), shall submit its documentation to the
2 authority no later than July 28, 2019, indicating that it has met the
3 capital investment and employment requirements specified in the
4 incentive agreement for certification of its tax credit amount.

5 (c) If the Governor declares an emergency, then the chief
6 executive officer of the authority shall have the discretion to grant
7 an extension for the duration of the emergency and the board of the
8 authority, upon recommendation of the chief executive officer, may
9 grant two additional six-month extensions; provided that (i) the
10 extensions are due to the economic disruption caused by the
11 emergency; (ii) the project is delayed due to unforeseeable acts
12 related to the project beyond the eligible business's control and
13 without its fault or negligence; (iii) the eligible business is using
14 best efforts, with all due diligence, to proceed with the completion
15 of the project and the submission of the certification; and (iv) the
16 eligible business has made, and continues to make, all reasonable
17 efforts to prevent, avoid, mitigate, and overcome the delay.

18 (3) Full-time employment for an accounting or privilege period
19 shall be determined as the average of the monthly full-time
20 employment for the period.

21 (4) A business seeking a credit for a mega project shall apply for
22 the credit within four years after the effective date of the "New
23 Jersey Economic Opportunity Act of 2013," P.L.2013, c.161
24 (C.52:27D-489p et al.).

25 c. (1) In conducting its annual review, the authority may
26 require a business to submit any information determined by the
27 authority to be necessary and relevant to its review.

28 The credit amount for any tax period for which the
29 documentation of a business's credit amount remains uncertified as
30 of a date three years after the closing date of that period shall be
31 forfeited, although credit amounts for the remainder of the years of
32 the eligibility period shall remain available to it.

33 The credit amount may be taken by the tax certificate holder for
34 the tax period for which it was issued or may be carried forward for
35 use by the tax certificate holder in any of the next 20 successive tax
36 periods, and shall expire thereafter. The tax certificate holder may
37 transfer the tax credit amount on or after the date of issuance or at
38 any time within three years of the date of issuance for use by the
39 transferee in the tax period for which it was issued or in any of the
40 next 20 successive tax periods. Notwithstanding the foregoing, no
41 more than the amount of tax credits equal to the total credit amount
42 divided by the duration of the eligibility period in years may be
43 taken in any tax period.

44 A business may elect to suspend its obligations for the 2020 tax
45 period and, if the public health emergency or state of emergency
46 declared due to the COVID-19 pandemic extends past March 2021,
47 the 2021 tax period, provided that the business shall make such
48 election in writing to the authority before the date the annual report

1 is due and such suspension shall extend the term of the eligibility
2 period by a corresponding amount of time. The authority shall
3 amend the incentive agreement, and the business shall execute the
4 amended incentive agreement within the time period provided by
5 the authority. The amended incentive agreement shall provide that
6 the failure to submit the annual report due to the suspension shall
7 not be a forfeiture or an uncertified tax period.

8 (2) Credits granted to a partnership shall be passed through to
9 the partners, members, or owners, respectively, pro-rata or pursuant
10 to an executed agreement among the partners, members, or owners
11 documenting an alternate distribution method provided to the
12 Director of the Division of Taxation in the Department of the
13 Treasury accompanied by any additional information as the director
14 may require.

15 (3) The amount of credit allowed may be applied against the tax
16 liability otherwise due pursuant to section 5 of P.L.1945, c.162
17 (C.54:10A-5), pursuant to sections 2 and 3 of P.L.1945, c.132
18 (C.54:18A-2 and C.54:18A-3), pursuant to section 1 of P.L.1950,
19 c.231 (C.17:32-15), or pursuant to N.J.S.17B:23-5.

20 (4) In order to respond to the profoundly negative impact of the
21 COVID-19 pandemic on the State's economy and finances, the
22 authority may request a tax certificate holder, at the tax certificate
23 holder's discretion, to defer the application of a credit amount
24 allowed pursuant to this section to a later tax period. Upon request,
25 the authority and the tax certificate holder shall negotiate the terms
26 of the deferral, which shall hold the certificate holder harmless,
27 which will be made in the incentive agreement or as an addendum
28 to the incentive agreement.

29 d. (1) If, in any tax period, the business reduces the total
30 number of full-time employees in its Statewide workforce by more
31 than 20 percent from the number of full-time employees in its
32 Statewide workforce in the last tax period prior to the credit amount
33 approval under section 3 of P.L.2011, c.149 (C.34:1B-244), then the
34 business shall forfeit its credit amount for that tax period and each
35 subsequent tax period, until the first tax period for which
36 documentation demonstrating the restoration of the business's
37 Statewide workforce to the threshold levels required by the
38 incentive agreement has been reviewed and approved by the
39 authority, for which tax period and each subsequent tax period the
40 full amount of the credit shall be allowed.

41 (2) If, in any tax period, the number of full-time employees
42 employed by the business at the qualified business facility located
43 within a qualified incentive area drops below 80 percent of the
44 number of new and retained full-time jobs specified in the incentive
45 agreement, then the business shall forfeit its credit amount for that
46 tax period and each subsequent tax period, until the first tax period
47 for which documentation demonstrating the restoration of the
48 number of full-time employees employed by the business at the

1 qualified business facility to 80 percent of the number of jobs
2 specified in the incentive agreement.

3 (3) (a) If the qualified business facility is sold by the owner in
4 whole or in part during the eligibility period, the new owner shall
5 not acquire the capital investment of the seller and the seller shall
6 forfeit all credits for the tax period in which the sale occurs and all
7 subsequent tax periods, provided however that any credits of the
8 business shall remain unaffected.

9 (b) In connection with a regional distribution facility of
10 foodstuffs, the business entity or entities which own or lease the
11 facility shall qualify as a business regardless of: (i) the type of the
12 business entity or entities which own or lease the facility; (ii) the
13 ownership or leasing of the facility by more than one business
14 entity; or (iii) the ownership of the business entity or entities which
15 own or lease the facility. The ownership or leasing, whether by
16 members, shareholders, partners, or other owners of the business
17 entity or entities, shall be treated as ownership or leasing by
18 affiliates. The members, shareholders, partners, or other ownership
19 or leasing participants and others that are tenants in the facility shall
20 be treated as affiliates for the purpose of counting the full-time
21 employees and capital investments in the facility. The business
22 entity or entities may distribute credits to members, shareholders,
23 partners, or other ownership or leasing participants in accordance
24 with their respective interests. If the business entity or entities or
25 their members, shareholders, partners, or other ownership or leasing
26 participants lease space in the facility to members, shareholders,
27 partners, or other ownership or leasing participants or others as
28 tenants in the facility, the leases shall be treated as a lease to an
29 affiliate, and the business entity or entities shall not be subject to
30 forfeiture of the credits. For the purposes of this section, leasing
31 shall include subleasing and tenants shall include subtenants.

32 (4) (a) For a project located within a Garden State Growth Zone,
33 if, in any tax period, the number of full-time employees employed
34 by the business at the qualified business facility located within a
35 qualified incentive area increases above the number of full-time
36 employees specified in the incentive agreement, then the business
37 shall be entitled to an increased base credit amount for that tax
38 period and each subsequent tax period, for each additional full-time
39 employee added above the number of full-time employees specified
40 in the incentive agreement, until the first tax period for which
41 documentation demonstrating a reduction of the number of full-time
42 employees employed by the business at the qualified business
43 facility, at which time the tax credit amount will be adjusted
44 accordingly pursuant to this section.

45 (b) For a project located within a Garden State Growth Zone
46 which qualifies under the "Municipal Rehabilitation and Economic
47 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or which
48 contains a Tourism District as established pursuant to section 5 of

1 P.L.2011, c.18 (C.5:12-219) and regulated by the Casino
2 Reinvestment Development Authority, and which qualifies for a tax
3 credit pursuant to subsubparagraph (ii) of subparagraphs (a) through
4 (e) of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149
5 (C.34:1B-246), if, in any tax period the number of full-time
6 employees employed by the business at the qualified business
7 facility located within a qualified incentive area increases above the
8 number of full-time employees specified in the incentive agreement
9 such that the business shall then meet the minimum number of
10 employees required in subparagraph (b), (c), (d), or (e) of paragraph
11 (6) of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246),
12 then the authority shall recalculate the total tax credit amount per
13 full-time job by using the certified capital investment of the project
14 allowable under the applicable subsubparagraph and the number of
15 full-time jobs certified on the date of the recalculation and applying
16 those numbers to subparagraph (b), (c), (d), or (e) of paragraph (6)
17 of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246),
18 until the first tax period for which documentation demonstrating a
19 reduction of the number of full-time employees employed by the
20 business at the qualified business facility, at which time the tax
21 credit amount shall be adjusted accordingly pursuant to this section.

22 e. The authority shall not enter into an incentive agreement
23 with a business that has previously received incentives pursuant to
24 the "Business Retention and Relocation Assistance Act," P.L.1996,
25 c.25 (C.34:1B-112 et seq.), the "Business Employment Incentive
26 Program Act," P.L.1996, c.26 (C.34:1B-124 et al.), or any other
27 program administered by the authority unless:

28 (1) the business has satisfied all of its obligations underlying the
29 previous award of incentives or is compliant with section 4 of
30 P.L.2011, c.149 (C.34:1B-245); or

31 (2) the capital investment incurred and new or retained full-time
32 jobs pledged by the business in the new incentive agreement are
33 separate and apart from any capital investment or jobs underlying
34 the previous award of incentives.

35 f. A business which has already applied for a tax credit
36 incentive award prior to the effective date of the "New Jersey
37 Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-
38 489p et al.), but who has not yet been approved for the tax credits,
39 or has not executed an agreement with the authority, may proceed
40 under that application or seek to amend the application or reapply
41 for a tax credit incentive award for the same project or any part
42 thereof for the purpose of availing itself of any more favorable
43 provisions of the program.

44 g. A business that has entered into an incentive agreement may
45 request before December 31, 2022 to terminate the incentive
46 agreement due to the COVID-19 public health emergency; provided
47 that the business shall submit a certification from the business's
48 chief executive officer or equivalent officer stating that the

1 termination is due to the public health emergency and describing
2 the impact of the public health emergency on the business. All
3 credits for the tax period in which the termination occurs and all
4 subsequent tax periods shall be forfeited, provided however that any
5 credits of the business shall remain unaffected.

6 h. A business that has entered into an incentive agreement may
7 request, before December 31, 2021, to reduce the number of new or
8 retained full-time jobs specified in the incentive agreement based
9 on a certification of the business of the eligible positions at the
10 qualified business facility commencing with the 2020 tax period
11 and, at the discretion of the business, whether the reduction shall
12 continue for each subsequent tax period remaining in the eligibility
13 period, provided that the business maintains the minimum number
14 of new or retained full-time jobs required to be eligible pursuant to
15 subsection c. of section 3 of P.L.2011, c.149 (C.34:1B-244). The
16 reduction in employment shall first apply to the number of new full-
17 time employees, and then shall apply to the number of retained full-
18 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.156, s.108)

26

27 58. Section 1 of P.L.2018, c.56 (C.54:10A-5.39b) is amended to
28 read as follows:

29 1. a. (1) A taxpayer, upon approval of an application to the
30 authority and the director, shall be allowed a credit against the tax
31 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in
32 an amount equal to **【30】 35** percent of the qualified film production
33 expenses of the taxpayer during a privilege period commencing on
34 or after July 1, 2018 but before July 1, **【2028】 2034**, provided that:

35 (a) at least 60 percent of the total film production expenses,
36 exclusive of post-production costs, of the taxpayer are incurred for
37 services performed, and goods purchased through vendors
38 authorized to do business, in New Jersey, or the qualified film
39 production expenses of the taxpayer during the privilege period for
40 services performed, and goods purchased, through vendors
41 authorized to do business in New Jersey, exceed \$1,000,000 per
42 production;

43 (b) principal photography of the film commences within **【the**
44 **earlier of】** 180 days from the date of the original application for the
45 tax credit **【,** or 150 days from the date of approval of the application
46 for the tax credit**】**;

1 (c) the film includes, when determined to be appropriate by the
2 commission, at no cost to the State, marketing materials promoting
3 this State as a film and entertainment production destination, which
4 materials shall include placement of a "Filmed in New Jersey" or
5 "Produced in New Jersey" statement, or an approved logo approved
6 by the commission, in the end credits of the film;

7 (d) the taxpayer submits a tax credit verification report prepared
8 by an independent certified public accountant licensed in this State
9 in accordance with subsection f. of this section; and

10 (e) the taxpayer complies with the withholding requirements
11 provided for payments to loan out companies and independent
12 contractors in accordance with subsection g. of this section.

13 (2) Notwithstanding the provisions of paragraph (1) of
14 subsection a. of this section to the contrary, the tax credit allowed
15 pursuant to this subsection against the tax imposed pursuant to
16 section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount
17 equal to ~~35~~ 30 percent of the qualified film production expenses
18 of the taxpayer during a privilege period that are incurred for
19 services performed and tangible personal property purchased
20 **through vendors whose primary place of business is located in**
21 **Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester,**
22 **Mercer or Salem County] for use at a sound stage or other location**
23 **that is located in the State within a 30-mile radius of the**
24 **intersection of Eighth Avenue/Central Park West, Broadway, and**
25 **West 59th Street/Central Park South, New York, New York.**

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
29 an amount equal to: 20 percent of the qualified digital media
30 content production expenses of the taxpayer during a privilege
31 period commencing on or after July 1, 2018 but before July 1,
32 ~~2028~~ 2034, 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
47 subsection b. of this section to the contrary, the tax credit allowed
48 pursuant to this subsection against the tax imposed pursuant to

1 section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount
2 equal to 25 percent of the qualified digital media content production
3 expenses of the taxpayer during a privilege period that are incurred
4 for services performed and tangible personal property purchased
5 through vendors whose primary place of business is located in
6 Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester,
7 Mercer, or Salem County.

8 c. No tax credit shall be allowed pursuant to this section for
9 any costs or expenses included in the calculation of any other tax
10 credit or exemption granted pursuant to a claim made on a tax
11 return filed with the director, or included in the calculation of an
12 award of business assistance or incentive, for a period of time that
13 coincides with the privilege period for which a tax credit authorized
14 pursuant to this section is allowed. The order of priority in which
15 the tax credit allowed pursuant to this section and any other tax
16 credits allowed by law may be taken shall be as prescribed by the
17 director. The amount of the tax credit applied under this section
18 against the tax imposed pursuant to section 5 of P.L.1945, c.162
19 (C.54:10A-5), for a privilege period, when taken together with any
20 other payments, credits, deductions, and adjustments allowed by
21 law shall not reduce the tax liability of the taxpayer to an amount
22 less than the statutory minimum provided in subsection (e) of
23 section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of the tax
24 credit otherwise allowable under this section which cannot be
25 applied for the privilege period due to the limitations of this
26 subsection or under other provisions of P.L.1945, c.162 (C.54:10A-
27 1 et seq.) may be carried forward, if necessary, to the seven
28 privilege periods following the privilege period for which the tax
29 credit was allowed.

30 d. 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 "Corporation
38 Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), or
39 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 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
44 to claim that amount of the tax credit against the tax imposed
45 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) that the
46 taxpayer has elected to sell or assign. The sale or assignment of any
47 amount of a tax credit transfer certificate allowed under this section
48 shall not be exchanged for consideration received by the taxpayer of

1 less than 75 percent of the transferred tax credit amount. Any
2 amount of a tax credit transfer certificate used by a purchaser or
3 assignee against a tax liability under P.L.1945, c.162 (C.54:10A-1
4 et seq.) shall be subject to the same limitations and conditions that
5 apply to the use of a tax credit pursuant to subsection c. of this
6 section. Any amount of a tax credit transfer certificate obtained by
7 a purchaser or assignee under subsection a. or subsection b. of this
8 section may be applied against the purchaser's or assignee's tax
9 liability under N.J.S.54A:1-1 et seq. and shall be subject to the
10 same limitations and conditions that apply to the use of a credit
11 pursuant to subsections c. and d. of section 2 of P.L.2018, c.56
12 (C.54A:4-12b).

13 e. (1) The value of tax credits, including tax credits allowed
14 through the granting of tax credit transfer certificates, approved by
15 the director and the authority pursuant to subsection a. of this
16 section and pursuant to subsection a. of section 2 of P.L.2018, c.56
17 (C.54A:4-12b) to taxpayers, other than New Jersey **【film】 studio**
18 partners and New Jersey film-lease partners, shall not exceed a
19 cumulative total of \$100,000,000 in fiscal year 2019 and in each
20 fiscal year thereafter prior to fiscal year **【2029】 2035** to apply
21 against the tax imposed pursuant to section 5 of P.L.1945, c.162
22 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey
23 Gross Income Tax Act," N.J.S.54A:1-1 et seq. In addition to the
24 \$100,000,000 limitation on the value of tax credits approved by the
25 director for New Jersey film-lease partners and the \$100,000,000
26 limitation on the value of tax credits approved by the director for
27 other taxpayers imposed by this paragraph, the value of tax credits,
28 including tax credits allowed through the granting of tax credit
29 transfer certificates, approved by the director and the authority
30 pursuant to subsection a. of this section and pursuant to subsection
31 a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey
32 **【film】 studio** partners shall not exceed a cumulative total of
33 \$100,000,000 in fiscal year 2021 and in each fiscal year thereafter
34 prior to fiscal year 2034 to apply against the tax imposed pursuant
35 to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed
36 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
37 et seq. Beginning in fiscal year 2025, in addition to the
38 \$100,000,000 made available for New Jersey studio partners
39 pursuant to this paragraph, up to an additional \$350,000,000 may be
40 made available annually, in the discretion of the authority, to New
41 Jersey studio partners for the award of tax credits, including tax
42 credits allowed through the granting of tax credit transfer
43 certificates, pursuant to subsection a. of this section and subsection
44 a. of section 2 of P.L.2018, c.56 (C.54A:4-12b), from the funds
45 made available pursuant to subparagraph (i) of paragraph (1) of
46 subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362). In
47 addition to the \$100,000,000 limitation on the value of tax credits
48 approved by the director for New Jersey **【film】 studio** partners and

1 the \$100,000,000 limitation on the value of tax credits approved by
2 the director for other taxpayers imposed by this paragraph, the
3 value of tax credits, including tax credits allowed through the
4 granting of tax credit transfer certificates, approved by the director
5 and the authority pursuant to subsection a. of this section and
6 pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-
7 12b) to New Jersey film-lease partners shall not exceed a
8 cumulative total of \$100,000,000 in fiscal year 2021 and in each
9 fiscal year thereafter prior to fiscal year 2034 to apply against the
10 tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5)
11 and the tax imposed pursuant to the "New Jersey Gross Income Tax
12 Act," N.J.S.54A:1-1 et seq. Approvals made to New Jersey studio
13 partners and New Jersey film-lease partners shall be subject to
14 award agreements with the authority detailing obligations of the
15 awardee and outcomes relating to events of default, including, but
16 not limited to, recapture, forfeiture, and termination. If in any
17 privilege period, beginning following a date determined by the
18 authority, a New Jersey film-lease partner's annual average of
19 qualified film production expenses falls below \$50,000,000, the
20 authority shall reduce by 20 percent any tax credit award for a film
21 for which final documentation pursuant to N.J.A.C.19:31-21.7(c)
22 has been submitted, until a privilege period when the annual
23 average of qualified film production expenses has been restored to
24 \$50,000,000. The authority shall establish a non-binding,
25 administrative pre-certification process for potentially eligible
26 projects.

27 If the cumulative total amount of tax credits, and tax credit
28 transfer certificates, allowed to taxpayers for privilege periods or
29 taxable years commencing during a single fiscal year under
30 subsection a. of this section and subsection a. of section 2 of
31 P.L.2018, c.56 (C.54A:4-12b) exceeds the amount of tax credits
32 available in that fiscal year, then taxpayers who have first applied
33 for and have not been allowed a tax credit or tax credit transfer
34 certificate amount for that reason shall be allowed, in the order in
35 which they have submitted an application, the amount of tax credit
36 or tax credit transfer certificate on the first day of the next
37 succeeding fiscal year in which tax credits and tax credit transfer
38 certificates under subsection a. of this section and subsection a. of
39 section 2 of P.L.2018, c.56 (C.54A:4-12b) are not in excess of the
40 amount of credits available.

41 Notwithstanding any provision of paragraph (1) of this
42 subsection to the contrary, for any fiscal year in which the amount
43 of tax credits approved pursuant to this paragraph is less than the
44 cumulative total amount of tax credits permitted to be approved in
45 that fiscal year, the authority shall certify the amount of the
46 remaining tax credits available for approval in that fiscal year, and
47 shall increase the cumulative total amount of tax credits permitted
48 to be approved for New Jersey studio partners 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
3 amount of tax credits that were previously approved, but that the
4 taxpayer is not able to redeem or transfer to another taxpayer under
5 this section, and shall increase the cumulative total amount of tax
6 credits permitted to be approved for New Jersey studio partners in
7 the subsequent fiscal year by the amount of tax credits previously
8 approved, but not subject to redemption or transfer.

9 (2) The value of tax credits, including tax credits allowed
10 through the granting of tax credit transfer certificates, approved by
11 the authority and the director pursuant to subsection b. of this
12 section and pursuant to subsection b. of section 2 of P.L.2018, c.56
13 (C.54A:4-12b) shall not exceed a cumulative total of \$10,000,000 in
14 fiscal year 2019 and in each fiscal year thereafter prior to fiscal year
15 **[2029]** 2035 to apply against the tax imposed pursuant to section 5
16 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to
17 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

18 If the total amount of tax credits and tax credit transfer
19 certificates allowed to taxpayers for privilege periods or taxable
20 years commencing during a single fiscal year under subsection b. of
21 this section and subsection b. of section 2 of P.L.2018, c.56
22 (C.54A:4-12.b) exceeds the amount of tax credits available in that
23 year, then taxpayers who have first applied for and have not been
24 allowed a tax credit or tax credit transfer certificate amount for that
25 reason shall be allowed, in the order in which they have submitted
26 an application, the amount of tax credit or tax credit transfer
27 certificate on the first day of the next succeeding fiscal year in
28 which tax credits and tax credit transfer certificates under
29 subsection b. of this section and subsection b. of section 2 of
30 P.L.2018, c.56 (C.54A:4-12.b) are not in excess of the amount of
31 credits available.

32 Notwithstanding any provision of this paragraph to the contrary,
33 for any fiscal year in which the amount of tax credits approved
34 pursuant to this paragraph is less than the cumulative total amount
35 of tax credits permitted to be approved in that fiscal year, the
36 authority shall certify the amount of the remaining tax credits
37 available for approval in that fiscal year, and shall increase the
38 cumulative total amount of tax credits permitted to be approved in
39 the subsequent fiscal year by the certified amount remaining from
40 the prior fiscal year. The authority shall also certify, for each fiscal
41 year, the amount of tax credits that were previously approved, but
42 that the taxpayer is not able to redeem or transfer to another
43 taxpayer under this section, and shall increase the cumulative total
44 amount of tax credits permitted to be approved in the subsequent
45 fiscal year by the amount of tax credits previously approved, but not
46 subject to redemption or transfer.

47 f. A taxpayer shall submit to the authority and the director a
48 report prepared by an independent certified public accountant

1 licensed in this State to verify the taxpayer's tax credit claim
2 following the completion of the production. The report shall be
3 prepared by the independent certified public accountant pursuant to
4 agreed upon procedures prescribed by the authority and the director,
5 and shall include such information and documentation as shall be
6 determined to be necessary by the authority and the director to
7 substantiate the qualified film production expenses or the qualified
8 digital media content production expenses of the taxpayer. A single
9 report with attachments deemed necessary by the authority shall be
10 submitted electronically. Upon receipt of the report, the authority
11 and the director shall review the findings of the independent
12 certified public accountant's report, and shall make a determination
13 as to the qualified film production expenses or the qualified digital
14 media content production expenses of the taxpayer. The authority's
15 and the director's review shall include, but shall not be limited to: a
16 review of all non-payroll qualified film production expense items
17 and non-payroll digital media content production expense items
18 over \$20,000; a review of 100 randomly selected non-payroll
19 qualified film production expense items and non-payroll digital
20 media content production expense items that are greater than
21 \$2,500, but less than \$20,000; a review of 100 randomly selected
22 non-payroll qualified film production expense items and non-
23 payroll digital media content production expense items that are less
24 than \$2,500; a review of the qualified wages for the 15 employees,
25 independent contractors, or loan-out companies with the highest
26 qualified wages; and a review of the qualified wages for 35
27 randomly selected employees, independent contractors, or loan-out
28 companies with qualified wages other than the 15 employees,
29 independent contractors, or loan-out companies with the highest
30 qualified wages. The taxpayer's qualified film production expenses
31 and digital media content production expenses shall be adjusted
32 based on any discrepancies identified for the reviewed non-payroll
33 qualified film production expense items, non-payroll digital media
34 content production expense items and qualified wages. The
35 taxpayer's qualified film production expenses and digital media
36 content production expenses also shall be adjusted based on the
37 projection of any discrepancies identified based on the review of
38 randomly selected expense items or wages pursuant to this
39 subsection to the extent that the discrepancies exceed one percent of
40 the total reviewed non-payroll qualified film production expense
41 items, non-payroll digital media content production expense items,
42 or qualified wages. The determination shall be provided in writing
43 to the taxpayer, and a copy of the written determination shall be
44 included in the filing of a return that includes a claim for a tax
45 credit allowed pursuant to this section.

46 g. A taxpayer shall withhold from each payment to a loan out
47 company or to an independent contractor an amount equal to 6.37
48 percent of the payment otherwise due. The amounts withheld shall

1 be deemed to be withholding of liability pursuant to the "New
2 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the
3 taxpayer shall be deemed to have the rights, duties, and
4 responsibilities of an employer pursuant to chapter 7 of Title 54A of
5 the New Jersey Statutes. The director shall allocate the amounts
6 withheld for a taxable year to the accounts of the individuals who
7 are employees of a loan out company in proportion to the
8 employee's payment by the loan out company in connection with a
9 trade, profession, or occupation carried on in this State or for the
10 rendition of personal services performed in this State during the
11 taxable year. A loan out company that reports its payments to
12 employees in connection with a trade, profession, or occupation
13 carried on in this State or for the rendition of personal services
14 performed in this State during a taxable year shall be relieved of its
15 duties and responsibilities as an employer pursuant to chapter 7 of
16 Title 54A of the New Jersey Statutes for the taxable year for any
17 payments relating to the payments on which the taxpayer withheld.

18 h. As used in this section:

19 "Authority" means the New Jersey Economic Development
20 Authority.

21 "Business assistance or incentive" means "business assistance or
22 incentive" as that term is defined pursuant to section 1 of P.L.2007,
23 c.101 (C.54:50-39).

24 "Commission" means the Motion Picture and Television
25 Development Commission.

26 "Digital media content" means any data or information that is
27 produced in digital form, including data or information created in
28 analog form but reformatted in digital form, text, graphics,
29 photographs, animation, sound, and video content. "Digital media
30 content" shall not mean content offerings generated by the end user
31 (including postings on electronic bulletin boards and chat rooms);
32 content offerings comprised primarily of local news, events,
33 weather, or local market reports; public service content; electronic
34 commerce platforms (such as retail and wholesale websites);
35 websites or content offerings that contain obscene material as
36 defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or
37 content that are produced or maintained primarily for private,
38 industrial, corporate, or institutional purposes; or digital media
39 content acquired or licensed by the taxpayer for distribution or
40 incorporation into the taxpayer's digital media content.

41 "Film" means a feature film, a television series, or a television
42 show of 22 minutes or more in length, intended for a national
43 audience, or a television series or a television show of 22 minutes
44 or more in length intended for a national or regional audience,
45 including, but not limited to, a game show, award show, or other
46 gala event filmed and produced at a nonprofit arts and cultural
47 venue receiving State funding. "Film" shall not include a
48 production featuring news, current events, weather, and market

1 reports or public programming, talk show, or sports event, a
2 production that solicits funds, a production containing obscene
3 material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-3, or a
4 production primarily for private, industrial, corporate, or
5 institutional purposes, or a reality show, except if the production
6 company of the reality show owns, leases, or otherwise occupies a
7 production facility of no less than 20,000 square feet of real
8 property for a minimum term of 24 months, and invests no less than
9 \$3,000,000 in such a facility within a designated enterprise zone
10 established pursuant to the "New Jersey Urban Enterprise Zones
11 Act," P.L.1983, c.303 (C.52:27H-60 et al.), or a UEZ-impacted
12 business district established pursuant to section 3 of P.L.2001,
13 c.347 (C.52:27H-66.2). "Film" shall not include an award show or
14 other gala event that is not filmed and produced at a nonprofit arts
15 and cultural venue receiving State funding.

16 "Full-time or full-time equivalent employee" means an individual
17 employed by the taxpayer for consideration for at least 35 hours a
18 week, or who renders any other standard of service generally
19 accepted by custom or practice as full-time or full-time equivalent
20 employment, whose wages are subject to withholding as provided in
21 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or
22 who is a partner of a taxpayer, who works for the partnership for at
23 least 35 hours a week, or who renders any other standard of service
24 generally accepted by custom or practice as full-time or full-time
25 equivalent employment, and whose distributive share of income,
26 gain, loss, or deduction, or whose guaranteed payments, or any
27 combination thereof, is subject to the payment of estimated taxes, as
28 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
29 et seq. "Full-time or full-time equivalent employee" shall not
30 include an individual who works as an independent contractor or on
31 a consulting basis for the taxpayer.

32 "Highly compensated individual" means an individual who
33 directly or indirectly receives compensation in excess of \$500,000
34 for the performance of services used directly in a production. An
35 individual receives compensation indirectly when the taxpayer pays
36 a loan out company that, in turn, pays the individual for the
37 performance of services.

38 "Incurred in New Jersey" means, for any application submitted
39 after the effective date of P.L.2018, c.56 (C.54:10A-5.39b et al.),
40 pursuant to which a tax credit has not been allowed prior to the
41 effective date of P.L. , c. (pending before the Legislature as this
42 bill), service performed within New Jersey and tangible personal
43 property used or consumed in New Jersey. A service is performed
44 in New Jersey to the extent that the individual performing the
45 service is physically located in New Jersey while performing the
46 service. Notwithstanding where the property is delivered or
47 acquired, rented tangible property is used or consumed in New
48 Jersey to the extent that the property is located in New Jersey

1 during its use or consumption and is rented from a vendor
2 authorized to do business in New Jersey or the film production
3 company provides to the authority the vendor's information in a
4 form and manner prescribed by the authority. Purchased tangible
5 property is not used and consumed in New Jersey unless it is
6 purchased from a vendor authorized to do business in New Jersey
7 and is delivered to or acquired within New Jersey; provided,
8 however, that if a production is also located in another jurisdiction,
9 the purchased tangible property is used and consumed in New
10 Jersey if the acquisition and delivery of purchased tangible property
11 is located in either New Jersey or another jurisdiction where the
12 production takes place.

13 "Independent contractor" means an individual treated as an
14 independent contractor for federal and State tax purposes who is
15 contracted with by the taxpayer for the performance of services
16 used directly in a production.

17 "Loan out company" means a personal service corporation or
18 other entity that is contracted with by the taxpayer to provide
19 specified individual personnel, such as artists, crew, actors,
20 producers, or directors for the performance of services used directly
21 in a production. "Loan out company" shall not include entities
22 contracted with by the taxpayer to provide goods or ancillary
23 contractor services such as catering, construction, trailers,
24 equipment, or transportation.

25 **["New Jersey film partner" means a film production company**
26 **that has made a commitment to produce films or commercial**
27 **audiovisual products in New Jersey and has developed, purchased,**
28 **or executed a 10-year contract to lease a production facility of**
29 **250,000 square feet or more as a "transformative project" pursuant**
30 **to section 65 of P.L.2020, c.156 (C.34:1B-333). No more than five**
31 **film production companies may be designated as a New Jersey film**
32 **partner.】**

33 "New Jersey film-lease partner" means a taxpayer, including any
34 taxpayer that is a member of a combined group under P.L.2018,
35 c.131 (C.54:10A-4.11), that has made a commitment to lease or
36 acquire a New Jersey production facility with an aggregate square
37 footage of at least 50,000 square feet, which includes a sound stage
38 and production support space such as production offices or a
39 backlot, for a period of five or more successive years and commits
40 to spend, on a separate-entity basis or in the aggregate with other
41 members of the taxpayer's combined group, an annual average of
42 \$50,000,000 of qualified film production expenses over the period
43 of at least five but not to exceed 10 years.

44 "New Jersey studio partner" means a film production company
45 that has made a commitment to produce films or commercial
46 audiovisual products in New Jersey and has developed, purchased,
47 or executed a 10-year contract to lease a production facility of
48 250,000 square feet or more as a "transformative project" pursuant

1 to section 65 of P.L.2020, c.156 (C.34:1B-333). No more than
2 three film production companies may be designated as a New Jersey
3 studio partner.

4 "Partnership" means an entity classified as a partnership for
5 federal income tax purposes.

6 "Post-production costs" means the costs of the phase of
7 production of a film that follows principal photography, in which
8 raw footage is cut and assembled into a finished film with sound
9 synchronization and visual effects.

10 "Pre-production costs" means the costs of the phase of
11 production of a film that precedes principal photography, in which a
12 detailed schedule and budget for the production is prepared, the
13 script and location is finalized, and contracts with vendors are
14 negotiated.

15 "Qualified digital media content production expenses" means an
16 expense incurred in New Jersey for the production of digital media
17 content. "Qualified digital media content production expenses"
18 shall include but not be limited to: wages and salaries of individuals
19 employed in the production of digital media content on which the
20 tax imposed by the "New Jersey Gross Income Tax Act,"
21 N.J.S.54A:1-1 et seq. has been paid or is due; and the costs of
22 computer software and hardware, data processing, visualization
23 technologies, sound synchronization, editing, and the rental of
24 facilities and equipment. Payment made to a loan out company or
25 to an independent contractor shall not be deemed a "qualified digital
26 media content production expense" unless the payment is made in
27 connection with a trade, profession, or occupation carried on in this
28 State or for the rendition of personal services performed in this
29 State and the taxpayer has made the withholding required pursuant
30 to subsection g. of this section. "Qualified digital media content
31 production expenses" shall not include expenses incurred in
32 marketing, promotion, or advertising digital media or other costs
33 not directly related to the production of digital media content.
34 Costs related to the acquisition or licensing of digital media content
35 by the taxpayer for distribution or incorporation into the taxpayer's
36 digital media content shall not be deemed "qualified digital media
37 content production expenses."

38 "Qualified film production expenses" means an expense incurred
39 in New Jersey for the production of a film including pre-production
40 costs and post-production costs incurred in New Jersey. "Qualified
41 film production expenses" shall include but not be limited to:
42 wages and salaries of individuals employed in the production of a
43 film on which the tax imposed by the "New Jersey Gross Income
44 Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; and the
45 costs for tangible personal property used, and services performed,
46 directly and exclusively in the production of a film, such as
47 expenditures for film production facilities, props, makeup,
48 wardrobe, film processing, camera, sound recording, set

1 construction, lighting, shooting, editing, and meals. Payment made
2 to a loan out company or to an independent contractor shall not be
3 deemed a "qualified film production expense" unless the payment is
4 made in connection with a trade, profession, or occupation carried
5 on in this State or for the rendition of personal services performed
6 in this State and the taxpayer has made the withholding required
7 pursuant to subsection g. of this section. "Qualified film production
8 expenses" shall not include: expenses incurred in marketing or
9 advertising a film; and payment in excess of \$500,000 to a highly
10 compensated individual for costs for a story, script, or scenario used
11 in the production of a film and wages or salaries or other
12 compensation for writers, directors, including music directors,
13 producers, and performers, other than background actors with no
14 scripted lines, except as follows:

15 (1) for a New Jersey **【film】** studio partner that incurs more than
16 \$15,000,000, but less than \$50,000,000, in qualified film production
17 expenses in the State, an amount, not to exceed \$15,000,000, of the
18 wages or salaries or other compensation for writers, directors,
19 including music directors, producers, and performers, other than
20 background actors with no scripted lines, shall constitute qualified
21 film production expenses;

22 (2) for a New Jersey **【film】** studio partner that incurs
23 \$50,000,000 or more, but less than \$100,000,000, in qualified film
24 production expenses in the State, an amount, not to exceed
25 \$25,000,000, of the wages or salaries or other compensation for
26 writers, directors, including music directors, producers, and
27 performers, other than background actors with no scripted lines,
28 shall constitute qualified film production expenses;

29 (3) for a New Jersey **【film】** studio partner that incurs
30 \$100,000,000 or more, but less than \$150,000,000, in qualified film
31 production expenses in the State, an amount, not to exceed
32 \$40,000,000, of the wages or salaries or other compensation for
33 writers, directors, including music directors, producers, and
34 performers, other than background actors with no scripted lines,
35 shall constitute qualified film production expenses; and

36 (4) for a New Jersey **【film】** studio partner that incurs
37 \$150,000,000 or more in qualified film production expenses in the
38 State, an amount, not to exceed \$60,000,000, of the wages or
39 salaries or other compensation for writers, directors, including
40 music directors, producers, and performers, other than background
41 actors with no scripted lines, shall constitute qualified film
42 production expenses.

43 "Total digital media content production expenses" means costs
44 for services performed and property used or consumed in the
45 production of digital media content.

46 "Total film production expenses" means costs for services
47 performed and tangible personal property used or consumed in the
48 production of a film.

1 i. A business that is not a "taxpayer" as defined and used in the
2 "Corporation Business Tax Act (1945)," P.L.1945, c.162
3 (C.54:10A-1 et seq.) and therefore is not directly allowed a credit
4 under this section, but is a business entity that is classified as a
5 partnership for federal income tax purposes and is ultimately owned
6 by a business entity that is a "corporation" as defined in subsection
7 (c) of section 4 of P.L.1945, c.162 (C.54:10A-4), or a limited
8 liability company formed under the "Revised Uniform Limited
9 Liability Company Act," P.L.2012, c.50 (C.42:2C-1 et seq.), or
10 qualified to do business in this State as a foreign limited liability
11 company, with one member, and is wholly owned by the business
12 entity that is a "corporation" as defined in subsection (c) of section
13 4 of P.L.1945, c.162 (C.54:10A-4), but otherwise meets all other
14 requirements of this section, shall be considered an eligible
15 applicant and "taxpayer" as that term is used in this section.
16 (cf: P.L.2020, c.156, s.110)

17

18 59. Section 2 of P.L.2018, c.56 (C.54A:4-12b) is amended to
19 read as follows:

20 2. a. (1) A taxpayer, upon approval of an application to the
21 authority and the director, shall be allowed a credit against the tax
22 otherwise due for the taxable year under the "New Jersey Gross
23 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to **[30]**
24 **35** percent of the qualified film production expenses of the taxpayer
25 during a taxable year commencing on or after July 1, 2018 but
26 before July 1, **[2028]** 2034, provided that:

27 (a) at least 60 percent of the total film production expenses,
28 exclusive of post-production costs, of the taxpayer are incurred for
29 services performed, and goods purchased through vendors
30 authorized to do business, in New Jersey, or the qualified film
31 production expenses of the taxpayer during the taxable year for
32 services performed, and goods purchased, through vendors
33 authorized to do business in New Jersey, exceed \$1,000,000 per
34 production;

35 (b) principal photography of the film commences within **[the**
36 **earlier of]** 180 days from the date of the original application for the
37 tax credit **[, or 150 days from the date of approval of the application**
38 **for the tax credit]**;

39 (c) the film includes, when determined to be appropriate by the
40 commission, at no cost to the State, marketing materials promoting
41 this State as a film and entertainment production destination, which
42 materials shall include placement of a "Filmed in New Jersey" or
43 "Produced in New Jersey" statement, or an appropriate logo
44 approved by the commission, in the end credits of the film;

45 (d) the taxpayer submits a tax credit verification report prepared
46 by an independent certified public accountant licensed in this State
47 in accordance with subsection g. 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 h. 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 otherwise due for the
7 taxable year under the "New Jersey Gross Income Tax Act,"
8 N.J.S.54A:1-1 et seq., shall be in an amount equal to **[35]** 30
9 percent of the qualified film production expenses of the taxpayer
10 during a taxable year that are incurred for services performed and
11 tangible personal property purchased **[through vendors whose**
12 **primary place of business is located in Atlantic, Burlington,**
13 **Camden, Cape May, Cumberland, Gloucester, Mercer, or Salem**
14 **County]** for use at a sound stage or other location that is located in
15 the State within a 30-mile radius of the intersection of Eighth
16 Avenue/Central Park West, Broadway, and West 59th Street/Central
17 Park South, New York, New York.

18 b. (1) A taxpayer, upon approval of an application to the
19 authority and the director, shall be allowed a credit against the tax
20 otherwise due for the taxable year under the "New Jersey Gross
21 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to 20
22 percent of the qualified digital media content production expenses
23 of the taxpayer during a taxable year commencing on or after July
24 1, 2018 but before July 1, **[2028]** 2034, provided that:

25 (a) at least \$2,000,000 of the total digital media content
26 production expenses of the taxpayer are incurred for services
27 performed, and goods purchased through vendors authorized to do
28 business, in New Jersey;

29 (b) at least 50 percent of the qualified digital media content
30 production expenses of the taxpayer are for wages and salaries paid
31 to full-time or full-time equivalent employees in New Jersey;

32 (c) the taxpayer submits a tax credit verification report prepared
33 by an independent certified public accountant licensed in this State
34 in accordance with subsection g. of this section; and

35 (d) the taxpayer complies with the withholding requirements
36 provided for payments to loan out companies and independent
37 contractors in accordance with subsection h. of this section.

38 (2) Notwithstanding the provisions of paragraph (1) of
39 subsection b. of this section to the contrary, the tax credit allowed
40 pursuant to this subsection against the tax otherwise due for the
41 taxable year under the "New Jersey Gross Income Tax Act,"
42 N.J.S.54A:1-1 et seq., shall be in an amount equal to 25 percent for
43 the qualified digital media content production expenses of the
44 taxpayer during a taxable year that are incurred for services
45 performed and tangible personal property purchased through
46 vendors whose primary place of business is located in Atlantic,
47 Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer,
48 or Salem County.

1 c. No tax credit shall be allowed pursuant to this section for
2 any costs or expenses included in the calculation of any other tax
3 credit or exemption granted pursuant to a claim made on a tax
4 return filed with the director, or included in the calculation of an
5 award of business assistance or incentive, for a period of time that
6 coincides with the taxable year for which a tax credit authorized
7 pursuant to this section is allowed. The order of priority in which
8 the tax credit allowed pursuant to this section and any other tax
9 credits allowed by law may be taken shall be as prescribed by the
10 director. The amount of the tax credit applied under this section
11 against the tax otherwise due under the "New Jersey Gross Income
12 Tax Act," N.J.S.54A:1-1 et seq., for a taxable year, when taken
13 together with any other payments, credits, deductions, and
14 adjustments allowed by law shall not reduce the tax liability of the
15 taxpayer to an amount less than zero. The amount of the tax credit
16 otherwise allowable under this section which cannot be applied for
17 the taxable year due to the limitations of this subsection or under
18 other provisions of N.J.S.54A:1-1 et seq., may be carried forward, if
19 necessary, to the seven taxable years following the taxable year for
20 which the tax credit was allowed.

21 d. (1) A business entity that is classified as a partnership for
22 federal income tax purposes shall not be allowed a tax credit
23 pursuant to this section directly, but the amount of tax credit of a
24 taxpayer in respect of a distributive share of entity income, shall be
25 determined by allocating to the taxpayer that proportion of the tax
26 credit acquired by the entity that is equal to the taxpayer's share,
27 whether or not distributed, of the total distributive income or gain
28 of the entity for its taxable year ending within or with the taxpayer's
29 taxable year.

30 (2) A New Jersey S Corporation shall not be allowed a tax credit
31 pursuant to this section directly, but the amount of tax credit of a
32 taxpayer in respect of a pro rata share of S Corporation income,
33 shall be determined by allocating to the taxpayer that proportion of
34 the tax credit acquired by the New Jersey S Corporation that is
35 equal to the taxpayer's share, whether or not distributed, of the total
36 pro rata share of S Corporation income of the New Jersey S
37 Corporation for its privilege period ending within or with the
38 taxpayer's taxable year.

39 A business entity that is not a gross income "taxpayer" as defined
40 and used in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
41 et seq., and therefore is not directly allowed a credit under this
42 section, but otherwise meets all the other requirements of this
43 section, shall be considered an eligible applicant and "taxpayer" as
44 that term is used in this section, and the application of an otherwise
45 allowed credit amount shall be distributed to appropriate gross
46 income taxpayers pursuant to the other requirements of this
47 subsection.

1 e. A taxpayer, with an application for a tax credit provided for
2 in subsection a. or subsection b. of this section, may apply to the
3 authority and the director for a tax credit transfer certificate in lieu
4 of the taxpayer being allowed any amount of the tax credit against
5 the tax liability of the taxpayer. The tax credit transfer certificate,
6 upon receipt thereof by the taxpayer from the authority and the
7 director, may be sold or assigned, in full or in part, to any other
8 taxpayer that may have a tax liability under the "New Jersey Gross
9 Income Tax Act," N.J.S.54A:1-1 et seq., or the "Corporation
10 Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), in
11 exchange for private financial assistance to be provided by the
12 purchaser or assignee to the taxpayer that has applied for and been
13 granted the tax credit. The tax credit transfer certificate provided to
14 the taxpayer shall include a statement waiving the taxpayer's right
15 to claim that amount of the tax credit against the tax imposed
16 pursuant to N.J.S.54A:1-1 et seq. that the taxpayer has elected to
17 sell or assign. The sale or assignment of any amount of a tax credit
18 transfer certificate allowed under this section shall not be
19 exchanged for consideration received by the taxpayer of less than
20 75 percent of the transferred tax credit amount. Any amount of a
21 tax credit transfer certificate used by a purchaser or assignee against
22 a tax liability under N.J.S.54A:1-1 et seq. shall be subject to the
23 same limitations and conditions that apply to the use of a tax credit
24 pursuant to subsections c. and d. of this section. Any amount of a
25 tax credit transfer certificate obtained by a purchaser or assignee
26 under subsection e. of this section may be applied against the
27 purchaser's or assignee's tax liability under P.L.1945, c.162
28 (C.54:10A-1 et seq.) and shall be subject to the same limitations
29 and conditions that apply to the use of a credit pursuant to
30 subsection c. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b).

31 f. (1) The value of tax credits, including tax credits allowed
32 through the granting of tax credit transfer certificates, approved by
33 the director and the authority pursuant to subsection a. of this
34 section and pursuant to subsection a. of section 1 of P.L.2018, c.56
35 (C.54:10A-5.39b) to taxpayers, other than New Jersey **[film]** studio
36 partners and New Jersey film-lease partners, shall not exceed a
37 cumulative total of \$100,000,000 in fiscal year 2019 and in each
38 fiscal year thereafter prior to fiscal year **[2029]** 2035 to apply
39 against the tax imposed pursuant to the "New Jersey Gross Income
40 Tax Act," N.J.S.54A:1-1 et seq., and pursuant to section 5 of
41 P.L.1945, c.162 (C.54:10A-5). In addition to the \$100,000,000
42 limitation on the value of tax credits approved by the director for
43 New Jersey film-lease partners and the \$100,000,000 limitation on
44 the value of tax credits approved by the director for other taxpayers
45 imposed by this paragraph, the value of tax credits, including tax
46 credits allowed through the granting of tax credit transfer
47 certificates, approved by the director and the authority pursuant to
48 subsection a. of this section and pursuant to subsection a. of section

1 **[2]** 1 of P.L.2018, c.56 **[(C.54A:4-12b)]** (C.54:10A-5.39b) to New
2 Jersey **[film]** studio partners shall not exceed a cumulative total of
3 \$100,000,000 in fiscal year 2021 and in each fiscal year thereafter
4 prior to fiscal year 2034 to apply against the tax imposed pursuant
5 to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed
6 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
7 et seq. Beginning in fiscal year 2025, in addition to the
8 \$100,000,000 made available for New Jersey studio partners
9 pursuant to this paragraph, up to an additional \$350,000,000 may be
10 made available annually, in the discretion of the authority, to New
11 Jersey studio partners for the award of tax credits, including tax
12 credits allowed through the granting of tax credit transfer
13 certificates, pursuant to subsection a. of this section and subsection
14 a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b), from the funds
15 made available pursuant to subparagraph (i) of paragraph (1) of
16 subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362). In
17 addition to the \$100,000,000 limitation on the value of tax credits
18 approved by the director for New Jersey **[film]** studio partners and
19 the \$100,000,000 limitation on the value of tax credits approved by
20 the director for other taxpayers imposed by this paragraph, the
21 value of tax credits, including tax credits allowed through the
22 granting of tax credit transfer certificates, approved by the director
23 and the authority pursuant to subsection a. of this section and
24 pursuant to subsection a. of section 1 of P.L.2018, c.56 **[(C.54A:4-**
25 **12b)]** (C.54:10A-5.39b) to New Jersey film-lease partners shall not
26 exceed a cumulative total of \$100,000,000 in fiscal year 2021 and
27 in each fiscal year thereafter prior to fiscal year 2034 to apply
28 against the tax imposed pursuant to section 5 of P.L.1945, c.162
29 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey
30 Gross Income Tax Act," N.J.S.54A:1-1 et seq. Approvals made to
31 New Jersey studio partners and New Jersey film-lease partners shall
32 be subject to award agreements with the authority detailing
33 obligations of the awardee and outcomes relating to events of
34 default, including, but not limited to, recapture, forfeiture, and
35 termination. If in any taxable year, beginning following a date
36 determined by the authority, a New Jersey film-lease partner's
37 annual average of qualified film production expenses falls below
38 \$50,000,000, the authority shall reduce by 20 percent any tax credit
39 award for a film for which final documentation pursuant to
40 N.J.A.C.19:31-21.7(c) has been submitted, until a taxable year
41 when the annual average of qualified film production expenses has
42 been restored to \$50,000,000. The authority shall establish a non-
43 binding, administrative pre-certification process for potentially
44 eligible projects.

45 If the cumulative total amount of tax credits, and tax credit
46 transfer certificates, allowed to taxpayers for taxable years or
47 privilege periods commencing during a single fiscal year under

1 subsection a. of this section and subsection a. of section 1 of
2 P.L.2018, c.56 (C.54:10A-5.39b) exceeds the amount of tax credits
3 available in that fiscal year, then taxpayers who have first applied
4 for and have not been allowed a tax credit or tax credit transfer
5 certificate amount for that reason shall be allowed, in the order in
6 which they have submitted an application, the amount of tax credit
7 or tax credit transfer certificate on the first day of the next
8 succeeding fiscal year in which tax credits and tax credit transfer
9 certificates under subsection a. of this section and subsection a. of
10 section 1 of P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of
11 the amount of credits available.

12 Notwithstanding any provision of paragraph (1) of this
13 subsection to the contrary, for any fiscal year in which the amount
14 of tax credits approved pursuant to this paragraph is less than the
15 cumulative total amount of tax credits permitted to be approved in
16 that fiscal year, the authority shall certify the amount of the
17 remaining tax credits available for approval in that fiscal year, and
18 shall increase the cumulative total amount of tax credits permitted
19 to be approved for New Jersey studio partners in the subsequent
20 fiscal year by the certified amount remaining from the prior fiscal
21 year. The authority shall also certify, for each fiscal year, the
22 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 for New Jersey studio partners in
26 the subsequent fiscal year by the amount of tax credits previously
27 approved, but not subject to redemption or transfer.

28 (2) The value of tax credits, including tax credits allowed
29 through the granting of tax credit transfer certificates, approved by
30 the authority and the director pursuant to subsection b. of this
31 section and pursuant to subsection b. of section 1 of P.L.2018, c.56
32 (C.54:10A-5.39b) shall not exceed a cumulative total of
33 \$10,000,000 in fiscal year 2019 and in each fiscal year thereafter
34 prior to fiscal year **[2029]** 2035 to apply against the tax imposed
35 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
36 et seq. and the tax imposed pursuant to section 5 of P.L.1945, c.162
37 (C.54:10A-5).

38 If the total amount of tax credits and tax credit transfer
39 certificates allowed to taxpayers for taxable years or privilege
40 periods commencing during a single fiscal year under subsection b.
41 of this section and subsection b. of section 1 of P.L.2018, c.56
42 (C.54:10A-5.39b) exceeds the amount of tax credits available in
43 that year, then taxpayers who have first applied for and have not
44 been allowed a tax credit or tax credit transfer certificate amount for
45 that reason shall be allowed, in the order in which they have
46 submitted an application, the amount of tax credit or tax credit
47 transfer certificate on the first day of the next succeeding fiscal year
48 in which tax credits and tax credit transfer certificates under

1 subsection b. of this section and subsection b. of section 1 of
2 P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of the amount of
3 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
7 of tax credits permitted to be approved in that fiscal year, the
8 authority shall certify the amount of the remaining tax credits
9 available for approval in that fiscal year, and shall increase the
10 cumulative total amount of tax credits permitted to be approved in
11 the subsequent fiscal year by the certified amount remaining from
12 the prior fiscal year. The authority shall also certify, for each fiscal
13 year, the amount of tax credits that were previously approved, but
14 that the taxpayer is not able to redeem or transfer to another
15 taxpayer under this section, and shall increase the cumulative total
16 amount of tax credits permitted to be approved in the subsequent
17 fiscal year by the amount of tax credits previously approved, but not
18 subject to redemption or transfer.

19 g. 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
32 certified public accountant's report, and shall make a determination
33 as to the qualified film production expenses or the qualified digital
34 media content production expenses of the taxpayer. The authority's
35 and the director's review shall include, but shall not be limited to: a
36 review of all non-payroll qualified film production expense items
37 and non-payroll digital media content production expense items
38 over \$20,000; a review of 100 randomly selected non-payroll
39 qualified film production expense items and non-payroll digital
40 media content production expense items that are greater than
41 \$2,500, but less than \$20,000; a review of 100 randomly selected
42 non-payroll qualified film production expense items and non-
43 payroll digital media content production expense items that are less
44 than \$2,500; a review of the qualified wages for the 15 employees,
45 independent contractors, or loan-out companies with the highest
46 qualified wages; and a review of the qualified wages for 35
47 randomly selected employees, independent contractors, or loan-out
48 companies with qualified wages other than the 15 employees,

1 independent contractors, or loan-out companies with the highest
2 qualified wages. The taxpayer's qualified film production expenses
3 and digital media content production expenses shall be adjusted
4 based on any discrepancies identified for the reviewed non-payroll
5 qualified film production expense items, non-payroll digital media
6 content production expense items and qualified wages. The
7 taxpayer's qualified film production expenses and digital media
8 content production expenses also shall be adjusted based on the
9 projection of any discrepancies identified based on the review of
10 randomly selected expense items or wages pursuant to this
11 subsection to the extent that the discrepancies exceed one percent of
12 the total reviewed non-payroll qualified film production expense
13 items, non-payroll digital media content production expense items,
14 or qualified wages. The determination shall be provided in writing
15 to the taxpayer, and a copy of the written determination shall be
16 included in the filing of a return that includes a claim for a tax
17 credit allowed pursuant to this section.

18 h. A taxpayer shall withhold from each payment to a loan out
19 company or to an independent contractor an amount equal to 6.37
20 percent of the payment otherwise due. The amounts withheld shall
21 be deemed to be withholding of liability pursuant to the "New
22 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the
23 taxpayer shall be deemed to have the rights, duties, and
24 responsibilities of an employer pursuant to chapter 7 of Title 54A of
25 the New Jersey Statutes. The director shall allocate the amounts
26 withheld for a taxable year to the accounts of the individuals who
27 are employees of a loan out company in proportion to the
28 employee's payment by the loan out company in connection with a
29 trade, profession, or occupation carried on in this State or for the
30 rendition of personal services performed in this State during the
31 taxable year. A loan out company that reports its payments to
32 employees in connection with a trade, profession, or occupation
33 carried on in this State or for the rendition of personal services
34 performed in this State during a taxable year shall be relieved of its
35 duties and responsibilities as an employer pursuant to chapter 7 of
36 Title 54A of the New Jersey Statutes for the taxable year for any
37 payments relating to the payments on which the taxpayer withheld.

38 i. As used in this section:

39 "Authority" means the New Jersey Economic Development
40 Authority.

41 "Business assistance or incentive" means "business assistance or
42 incentive" as that term is defined pursuant to section 1 of P.L.2007,
43 c.101 (C.54:50-39).

44 "Commission" means the Motion Picture and Television
45 Development Commission.

46 "Digital media content" means any data or information that is
47 produced in digital form, including data or information created in
48 analog form but reformatted in digital form, text, graphics,

1 photographs, animation, sound, and video content. "Digital media
2 content" shall not mean content offerings generated by the end user
3 (including postings on electronic bulletin boards and chat rooms);
4 content offerings comprised primarily of local news, events,
5 weather or local market reports; public service content; electronic
6 commerce platforms (such as retail and wholesale websites);
7 websites or content offerings that contain obscene material as
8 defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or
9 content that are produced or maintained primarily for private,
10 industrial, corporate, or institutional purposes; or digital media
11 content acquired or licensed by the taxpayer for distribution or
12 incorporation into the taxpayer's digital media content.

13 "Film" means a feature film, a television series, or a television
14 show of 22 minutes or more in length, intended for a national
15 audience, or a television series or a television show of 22 minutes
16 or more in length intended for a national or regional audience,
17 including, but not limited to, a game show, award show, or other
18 gala event filmed and produced at a nonprofit arts and cultural
19 venue receiving State funding. "Film" shall not include a
20 production featuring news, current events, weather, and market
21 reports or public programming, talk show, sports event, or reality
22 show, a production that solicits funds, a production containing
23 obscene material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-
24 3, or a production primarily for private, industrial, corporate, or
25 institutional purposes. "Film" shall not include an award show or
26 other gala event that is not filmed and produced at a nonprofit arts
27 and cultural venue receiving State funding.

28 "Full-time or full-time equivalent employee" means an individual
29 employed by the taxpayer for consideration for at least 35 hours a
30 week, or who renders any other standard of service generally
31 accepted by custom or practice as full-time or full-time equivalent
32 employment, whose wages are subject to withholding as provided in
33 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or
34 who is a partner of a taxpayer, who works for the partnership for at
35 least 35 hours a week, or who renders any other standard of service
36 generally accepted by custom or practice as full-time or full-time
37 equivalent employment, and whose distributive share of income,
38 gain, loss, or deduction, or whose guaranteed payments, or any
39 combination thereof, is subject to the payment of estimated taxes, as
40 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
41 et seq. "Full-time or full-time equivalent employee" shall not
42 include an individual who works as an independent contractor or on
43 a consulting basis for the taxpayer.

44 "Highly compensated individual" means an individual who
45 directly or indirectly receives compensation in excess of \$500,000
46 for the performance of services used directly in a production. An
47 individual receives compensation indirectly when the taxpayer pays

1 a loan out company that, in turn, pays the individual for the
2 performance of services.

3 “Incurred in New Jersey” means, for any application submitted
4 after the effective date of P.L.2018, c.56 (C.54:10A-5.39b et al.),
5 pursuant to which a tax credit has not been allowed prior to the
6 effective date of P.L. , c. (pending before the Legislature as this
7 bill), service performed within New Jersey and tangible personal
8 property used or consumed in New Jersey. A service is performed
9 in New Jersey to the extent that the individual performing the
10 service is physically located in New Jersey while performing the
11 service. Notwithstanding where the property is delivered or
12 acquired, rented tangible property is used or consumed in New
13 Jersey to the extent that the property is located in New Jersey
14 during its use or consumption and is rented from a vendor
15 authorized to do business in New Jersey or the film production
16 company provides to the authority the vendor’s information in a
17 form and manner prescribed by the authority. Purchased tangible
18 property is not used and consumed in New Jersey unless it is
19 purchased from a vendor authorized to do business in New Jersey
20 and is delivered to or acquired within New Jersey; provided,
21 however, that if a production is also located in another jurisdiction,
22 the purchased tangible property is used and consumed in New
23 Jersey if the acquisition and delivery of purchased tangible property
24 is located in either New Jersey or another jurisdiction where the
25 production takes place.

26 "Independent contractor" means an individual treated as an
27 independent contractor for federal and State tax purposes who is
28 contracted with by the taxpayer for the performance of services
29 used directly in a production.

30 "Loan out company" means a personal service corporation or
31 other entity that is contracted with by the taxpayer to provide
32 specified individual personnel, such as artists, crew, actors,
33 producers, or directors for the performance of services used directly
34 in a production. "Loan out company" shall not include entities
35 contracted with by the taxpayer to provide goods or ancillary
36 contractor services such as catering, construction, trailers,
37 equipment, or transportation.

38 **【"New Jersey film partner" means a film production company**
39 **that has made a commitment to produce films or commercial**
40 **audiovisual products in New Jersey and has developed, purchased,**
41 **or executed a 10-year contract to lease a production facility of**
42 **250,000 square feet or more as a "transformative project" pursuant**
43 **to section 65 of P.L.2020, c.156 (C.34:1B-333). No more than five**
44 **film production companies may be designated as a New Jersey film**
45 **partner.】**

46 "New Jersey film-lease partner" means a taxpayer, including any
47 taxpayer that is a member of a combined group under P.L.2018,
48 c.131 (C:54:10A-4.11), that has made a commitment to lease or

1 acquire a New Jersey production facility with an aggregate square
2 footage of at least 50,000 square feet, which includes a sound stage
3 and production support space such as production offices or a
4 backlot, for a period of five or more successive years and commits
5 to spend, on a separate-entity basis or in the aggregate with other
6 members of the taxpayer's combined group, an annual average of
7 \$50,000,000 of qualified film production expenses over the period
8 of at least five but not to exceed 10 years.

9 "New Jersey studio partner" means a film production company
10 that has made a commitment to produce films or commercial
11 audiovisual products in New Jersey and has developed, purchased,
12 or executed a 10-year contract to lease a production facility of
13 250,000 square feet or more as a "transformative project" pursuant
14 to section 65 of P.L.2020, c.156 (C.34:1B-333). No more than
15 three film production companies may be designated as a New Jersey
16 studio partner.

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 h. 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 by
20 subsection h. of this section. "Qualified film production expenses"
21 shall not include: expenses incurred in marketing or advertising a
22 film; and payment in excess of \$500,000 to a highly compensated
23 individual for costs for a story, script, or scenario used in the
24 production of a film and wages or salaries or other compensation
25 for writers, directors, including music directors, producers, and
26 performers, other than background actors with no scripted lines,
27 except as follows:

28 (1) for a New Jersey **[film]** studio partner that incurs more than
29 \$15,000,000, but less than \$50,000,000, 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]** studio partner that incurs
36 \$50,000,000 or more, but less than \$100,000,000, in qualified film
37 production expenses in the State, an amount, not to exceed
38 \$25,000,000, of the wages or salaries or other compensation for
39 writers, directors, including music directors, producers, and
40 performers, other than background actors with no scripted lines,
41 shall constitute qualified film production expenses;

42 (3) for a New Jersey **[film]** studio partner that incurs
43 \$100,000,000 or more, but less than \$150,000,000, in qualified film
44 production expenses in the State, an amount, not to exceed
45 \$40,000,000, of the wages or salaries or other compensation for
46 writers, directors, including music directors, producers, and
47 performers, other than background actors with no scripted lines,
48 shall constitute qualified film production expenses; and

1 (4) for a New Jersey **【film】** studio partner that incurs
2 \$150,000,000 or more in qualified film production expenses in the
3 State, an amount, not to exceed \$60,000,000, of the wages or
4 salaries or other compensation for writers, directors, including
5 music directors, producers, and performers, other than background
6 actors with no scripted lines, shall constitute qualified film
7 production expenses.

8 "Total digital media content production expenses" means costs
9 for services performed and property used or consumed in the
10 production of digital media content.

11 "Total film production expenses" means costs for services
12 performed and tangible personal property used or consumed in the
13 production of a film.

14 (cf: P.L.2020, c.156, s.111)

15

16 60. Section 9 of P.L.1985, c.334 (C.58:11B-9) is amended to
17 read as follows:

18 9. a. (1) The trust may make and contract to make loans to
19 local government units, or to a local government unit on behalf of
20 another local government unit, in accordance with and subject to the
21 provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997,
22 c.224 (C.58:11B-10.1 et al.) to finance the cost of any wastewater
23 treatment system project or water supply project, which the local
24 government unit may lawfully undertake or acquire and for which
25 the local government unit is authorized by law to borrow money.

26 (2) The trust may make and contract to make loans to public
27 water utilities, or to any other person or local government unit on
28 behalf of a public water utility, in accordance with and subject to
29 the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997,
30 c.224 (C.58:11B-10.1 et al.) to finance the cost of any water supply
31 project, which the public water utility may lawfully undertake or
32 acquire.

33 (3) The trust may make and contract to make loans to private
34 persons other than local government units, or to any other person or
35 local government unit on behalf of a private person, in accordance
36 with and subject to the provisions of P.L.1985, c.334 (C.58:11B-1
37 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to finance the cost
38 of stormwater management systems.

39 (4) The trust may make and contract to make loans and provide
40 other assistance to a local government unit or consortia thereof to
41 finance the cost of transportation projects pursuant to sections 22
42 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through
43 C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-
44 22.4), and provided that the federally-funded subaccount is operated
45 in accordance with the provisions of the federal infrastructure bank
46 program.

47 The loans may be made subject to those terms and conditions as
48 the trust shall determine to be consistent with the purposes thereof.

1 Each loan by the trust and the terms and conditions thereof shall be
2 subject to approval by the State Treasurer, and the trust shall make
3 available to the State Treasurer all information, statistical data and
4 reports of independent consultants or experts as the State Treasurer
5 shall deem necessary in order to evaluate the loan. Each loan to a
6 local government unit, public water utility or any other person shall
7 be evidenced by notes, bonds or other obligations thereof issued to
8 the trust. In the case of each local government unit, notes and
9 bonds to be issued to the trust and, if applicable, the State, acting by
10 and through the Department of Environmental Protection, by the
11 local government unit (1) shall be authorized and issued as provided
12 by law for the issuance of notes and bonds by the local government
13 unit, (2) notwithstanding any provisions of the "Local Authorities
14 Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.) to the
15 contrary, shall be approved by the Director of the Division of Local
16 Government Services in the Department of Community Affairs, and
17 (3) notwithstanding the provisions of N.J.S.40A:2-27, N.J.S.40A:2-
18 28 and N.J.S.40A:2-29 or any other provisions of law to the
19 contrary, may be sold at private sale to the trust or the State, as the
20 case may be, at any price, whether or not less than par value, and
21 shall be subject to redemption prior to maturity at any times and at
22 any prices as the trust or the State, as the case may be, and local
23 government units may agree. Each loan to a local government unit,
24 public water utility or any other person and the notes, bonds or
25 other obligations thereby issued shall bear interest at a rate or rates
26 per annum as the trust or the State, as the case may be, and the local
27 government unit, public water utility or any other person, as the
28 case may be, may agree.

29 b. The trust is authorized to guarantee or contract to guarantee
30 the payment of all or any portion of the principal and interest on
31 bonds, notes or other obligations issued by a local government unit
32 to finance the cost of any wastewater treatment system project,
33 water supply project, **or** transportation project, or redevelopment
34 project that includes, as a portion thereof, any wastewater treatment
35 system project, water supply project, or transportation project,
36 which the local government unit may lawfully undertake or acquire
37 and for which the local government unit is authorized by law to
38 borrow money, and the guarantee shall constitute an obligation of
39 the trust, and shall be in furtherance of the corporate purposes of the
40 trust, for the purposes of P.L.1985, c.334 (C.58:11B-1 et seq.),
41 P.L.1997, c.224 (C.58:11B-10.1 et al.), or sections 22 and 34
42 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-
43 10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4). Each
44 guarantee by the trust and the terms and conditions thereof shall be
45 subject to approval by the State Treasurer, and the trust shall make
46 available to the State Treasurer all information, statistical data and
47 reports of independent consultants or experts as the State Treasurer
48 shall deem necessary in order to evaluate the guarantee.

1 c. The trust shall not make or contract to make any loans or
2 guarantees to local government units, public water utilities or any
3 other person, or otherwise incur any additional indebtedness, on or
4 after June 30, 2033.

5 d. Notwithstanding any provision of P.L.1985, c.334
6 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to
7 the contrary, the trust may receive funds from any source including,
8 without limitation, any funds drawn by the trust from a revolving
9 line of credit or other similar financial vehicle that may be procured
10 by the trust, either through a competitive or negotiated process,
11 pursuant to section 5 of P.L.1985, c.334 (C.58:11B-5), for deposit
12 into the Interim Environmental Financing Program Fund or the trust
13 may issue its bonds, notes or other obligations, including
14 commercial paper issued through a competitive or negotiated
15 process, in any principal amounts, in either case, as in the judgment
16 of the trust shall be necessary to provide sufficient funds to finance
17 or refinance short-term or temporary loans to local government
18 units, public water utilities or private persons for any wastewater
19 treatment system projects included on the Department of
20 Environmental Protection project priority list and eligible for
21 approval pursuant to section 20 of P.L.1985, c.334 (C.58:11B-20)
22 or water supply projects included on the Department of
23 Environmental Protection project priority list and eligible for
24 approval pursuant to section 24 of P.L.1997, c.224 (C.58:11B-20.1),
25 as applicable, without regard to any other provisions of P.L.1985,
26 c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et
27 al.), including, without limitation, any administrative or legislative
28 approvals.

29 The trust shall create and establish a special fund to be known as
30 the "Interim Environmental Financing Program Fund" for the short-
31 term or temporary loan financing or refinancing program to be
32 known as the "Interim Environmental Financing Program." The
33 monies in the fund shall be used for short-term or temporary loans
34 for clean water and drinking water projects pursuant to the New
35 Jersey Environmental Infrastructure Financing Program.

36 Except as provided in section 1 of P.L.2013, c.93 (C.58:11B-
37 9.5), any short-term or temporary loans made by the trust pursuant
38 to this subsection may only be made in advance of the anticipated
39 loans the trust may make and contract to make under the provisions
40 of subsection a. of this section from any source of funds anticipated
41 to be received by the trust. Any such short-term or temporary loan
42 made pursuant to the Interim Environmental Financing Program
43 shall mature no later than the last day of the third succeeding fiscal
44 year following the closing date on which the short-term or
45 temporary loan was made by the trust to the project sponsor; except
46 a planning, design, and construction loan shall mature no later than
47 the last day of the fifth succeeding fiscal year following the closing
48 date of the planning, design, and construction loan or the last day of

1 the third succeeding fiscal year following the date of construction
2 certification following the closing date of the planning, design, and
3 construction loan, whichever is sooner, provided that, in either case,
4 project planning or engineering design activities shall not exceed
5 two years from the closing date of the planning, design, and
6 construction loan; and except a short-term or temporary loan made
7 pursuant to this subsection for environmental planning and
8 engineering design costs associated with long-term control plans for
9 combined sewer overflow projects shall mature no later than the last
10 day of the 10th succeeding fiscal year following the closing date on
11 which the short-term or temporary loan was made by the trust to the
12 project sponsor. With respect to any short-term or temporary loan
13 or planning, design, and construction loan made by the trust
14 pursuant to this subsection, the trust may authorize one short-term
15 supplemental loan for residual project expenses thereof upon receipt
16 by the trust from the Department of Environmental Protection of a
17 certification that states that the time required by the project sponsor
18 to complete construction of the project exceeds the maximum
19 maturity date of the project sponsor's outstanding short-term or
20 temporary loan or planning, design, and construction loan. Any
21 such short-term supplemental loan shall not exceed in duration the
22 last day of the third succeeding fiscal year following the loan
23 closing of the supplemental loan. The trust may make short-term or
24 temporary loans pursuant to the Interim Environmental Financing
25 Program to any one or more of the project sponsors, for the
26 respective projects thereof, identified in the interim financing
27 project priority list to be known as the "Interim Environmental
28 Financing Program Project Priority List" in the form provided to the
29 Legislature by the Commissioner of Environmental Protection.

30 The Interim Environmental Financing Program Project Priority
31 List, including any revision thereof or supplement thereto, shall be
32 submitted to the Legislature pursuant to section 2 of P.L.1991,
33 c.164 (C.52:14-19.1) at least once in each fiscal year as provided in
34 section 20 of P.L.1985, c.334 (C.58:11B-20) and section 24 of
35 P.L.1997, c.224 (C.58:11B-20.1). The Secretary and the Clerk shall
36 cause the date of submission to be entered upon the Senate Journal
37 and the Minutes of the General Assembly, respectively. The trust
38 may revise or supplement the Interim Environmental Financing
39 Program Project Priority List no more than four times during the
40 fiscal year and shall submit the revised list to the Legislature when
41 the revisions are made. Any environmental infrastructure project or
42 the project sponsor thereof not identified in the Interim
43 Environmental Financing Program Project Priority List shall not be
44 eligible for a short-term or temporary loan from the Interim
45 Environmental Financing Program Fund. The trust may issue short-
46 term or temporary loans pursuant to this subsection only if a project
47 is listed on an Interim Environmental Financing Program Project
48 Priority List that has been submitted to the Legislature. No funds

1 may be disbursed pursuant to this section for project activities prior
2 to a determination and certification, in writing, from the
3 Department of Environmental Protection, that the project activities
4 satisfy the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.).

5 e. Notwithstanding any provisions of the "Local Bond Law"
6 (N.J.S.40A:2-1 et seq.), the "sewerage authorities law," P.L.1946,
7 c.138 (C.40:14A-1 et seq.), or the "municipal and county utilities
8 authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.) to the
9 contrary, short-term or temporary loans made by the trust pursuant
10 to section 9 of P.L.1985, c.334 (C.58:11B-9) or section 1 of
11 P.L.2013, c.93 (C.58:11B-9.5), and the obligations issued by project
12 sponsors to evidence such loans, may, at the discretion of the trust
13 and upon application by the project sponsor, bear interest at a
14 variable rate determined pursuant to a methodology as may be
15 established by the trust from time to time.

16 Further, notwithstanding any provisions of the "Local Bond
17 Law" (N.J.S.40A:2-1 et seq.), the "sewerage authorities law,"
18 P.L.1946, c.138 (C.40:14A-1 et seq.), or the "municipal and county
19 utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.) to
20 the contrary, any short-term or temporary loans made by the trust
21 pursuant to section 9 of P.L.1985, c.334 (C.58:11B-9) or section 1
22 of P.L.2013, c.93 (C.58:11B-9.5), and any notes or other
23 obligations issued by project sponsors to evidence such short-term
24 or temporary loans, as such loans, notes, or other obligations may
25 be refinanced or extended, as provided in subsections d. and g. of
26 this section and section 1 of P.L.2013, c.93 (C.58:11B-9.5), except
27 for loans for environmental planning and engineering design costs
28 associated with long-term control plans for combined sewer
29 overflow projects as provided in subsection d. of this section, shall
30 mature no later than the maturity date as established pursuant to
31 subsections d. and g. of this section and section 1 of P.L.2013, c.93
32 (C.58:11B-9.5), without payment by project sponsors of any portion
33 of the principal thereof prior to maturity.

34 f. Any balances remaining in the Emergency Loan Fund
35 established pursuant to section 4 of P.L.2007, c.138 (C.58:11B-9.1),
36 the Planning and Design Fund established pursuant to section 1 of
37 P.L.2009, c.59 (C.58:11B-9.2), the Onsite Wastewater Disposal
38 Loan Fund established pursuant to section 5 of P.L.2009, c.103
39 (C.58:11B-9.3), the Supplemental Loan Fund established pursuant
40 to section 2 of P.L.2011, c.94 (C.58:11B-9.4), and the Equipment
41 Loan Fund established pursuant to section 1 of P.L.2014, c.28
42 (C.58:11B-9.6) after the date of enactment of P.L.2016, c.30 shall
43 be transferred to the Interim Environmental Financing Program
44 Fund, and any loan repayments to the trust of principal and interest
45 or premium on loans made from those funds shall be credited to the
46 Interim Environmental Financing Program Fund.

47 g. The trust shall create and establish a special fund to be
48 known as the "Interim Transportation Financing Program Fund" for

1 the short-term or temporary loan financing or refinancing program
2 to be known as the "Interim Transportation Financing Program."

3 Notwithstanding any provision of P.L.1985, c.334 (C.58:11B-1
4 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to the contrary,
5 the trust may receive funds from any source including, without
6 limitation, any funds drawn by the trust from a revolving line of
7 credit or other similar financial vehicle that may be procured by the
8 trust, either through a competitive or negotiated process, pursuant to
9 section 5 of P.L.1985, c.334 (C.58:11B-5), for deposit into the
10 Interim Transportation Financing Program Fund or the trust may
11 issue its bonds, notes or other obligations in any principal amounts,
12 in either case, as in the judgment of the trust shall be necessary to
13 provide sufficient funds to finance or refinance short-term or
14 temporary loans to local government units or private persons for
15 any transportation project included on the Department of
16 Transportation Interim Transportation Financing Program Project
17 Priority List for the ensuing fiscal year and eligible for approval
18 pursuant to sections 22 and 34 through 38 of P.L.2016, c.56
19 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-
20 22.3, and C.58:11B-22.4), without regard to any other provisions of
21 P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-
22 10.1 et al.), or sections 22 and 34 through 38 of P.L.2016, c.56
23 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-
24 22.3, and C.58:11B-22.4), including, without limitation, any
25 administrative or legislative approvals.

26 Any short-term or temporary loans made by the trust pursuant to
27 this subsection may only be made in advance of the anticipated
28 loans the trust may make and contract to make under the provisions
29 of subsection a. of this section from any source of funds anticipated
30 to be received by the trust. Any such short-term or temporary loan
31 made pursuant to the Interim Transportation Financing Program
32 shall mature no later than the last day of the third succeeding fiscal
33 year following the closing date on which the short-term or
34 temporary loan was made by the trust to the project sponsor; except
35 a planning, design, and construction loan shall mature no later than
36 the last day of the fifth succeeding fiscal year following the closing
37 date of the planning, design, and construction loan or the last day of
38 the third succeeding fiscal year following the date of construction
39 certification following the closing date of the planning, design, and
40 construction loan, whichever is sooner, provided that, in either case,
41 project planning or engineering design activities shall not exceed
42 two years from the closing date of the planning, design, and
43 construction loan. With respect to any short-term or temporary loan
44 or planning, design, and construction loan made by the trust
45 pursuant to this subsection, the trust may authorize one short-term
46 supplemental loan for residual expenses thereof upon receipt by the
47 trust from the Department of Transportation of a certification that
48 states that the time required by the project sponsor to complete

1 construction of the project exceeds the maximum maturity date of
2 the short-term or temporary loan or planning, design, and
3 construction loan. Any such short-term supplemental loan shall not
4 exceed in duration the last day of the third succeeding fiscal year
5 following the loan closing of the short-term supplemental loan. The
6 trust may make short-term or temporary loans pursuant to the
7 Interim Transportation Financing Program to any one or more of the
8 project sponsors, for the respective projects thereof, only if a
9 project is identified in the Department of Transportation Interim
10 Transportation Financing Program Project Priority List to be known
11 as the "Interim Transportation Financing Program Project Priority
12 List" in the form provided to the Legislature by the Commissioner
13 of Transportation.

14 The Interim Transportation Financing Program Project Priority
15 List, including any revision thereof or supplement thereto, shall be
16 submitted to the Secretary of the Senate and the Clerk of the
17 General Assembly on or before July 1 of each year. The Interim
18 Transportation Financing Program Project Priority List shall be
19 submitted to the Legislature pursuant to section 2 of P.L.1991,
20 c.164 (C.52:14-19.1) at least once in each fiscal year. The
21 Secretary and the Clerk shall cause the date of submission to be
22 entered upon the Senate Journal and the Minutes of the General
23 Assembly, respectively. Any transportation infrastructure project or
24 the project sponsor thereof not identified in the Interim
25 Transportation Financing Program Project Priority List shall not be
26 eligible for a short-term or temporary loan from the Interim
27 Transportation Financing Program Fund. The trust may revise or
28 supplement the Interim Transportation Financing Program Project
29 Priority List no more than four times during the fiscal year, and
30 shall submit the revised list to the Legislature when the revisions
31 are made.

32 No funds may be disbursed pursuant to this subsection for
33 project activities prior to written notification of award concurrence
34 from the Department of Transportation and certification in writing,
35 from the trust, that the project activities satisfy the provisions of
36 P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-
37 10.1 et al.), or sections 22 and 34 through 38 of P.L.2016, c.56
38 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-
39 22.3, and C.58:11B-22.4).

40 (cf: P.L.2019, c.516, s.2)

41

42 61. Section 2 of P.L.2011, c.149 (C.34:1B-243) is amended to
43 read as follows:

44 2. As used in P.L.2011, c.149 (C.34:1B-242 et seq.):

45 "Affiliate" means an entity that directly or indirectly controls, is
46 under common control with, or is controlled by the business.
47 Control exists in all cases in which the entity is a member of a
48 controlled group of corporations as defined pursuant to section 1563

1 of the Internal Revenue Code of 1986 (26 U.S.C. s.1563) or the
2 entity is an organization in a group of organizations under common
3 control as defined pursuant to subsection (b) or (c) of section 414 of
4 the Internal Revenue Code of 1986 (26 U.S.C. s.414). A taxpayer
5 may establish by clear and convincing evidence, as determined by
6 the Director of the Division of Taxation in the Department of the
7 Treasury, that control exists in situations involving lesser
8 percentages of ownership than required by those statutes. An
9 affiliate of a business may contribute to meeting either the qualified
10 investment or full-time employee requirements of a business that
11 applies for a credit under section 3 of P.L.2007, c.346 (C.34:1B-
12 209).

13 "Authority" means the New Jersey Economic Development
14 Authority established by section 4 of P.L.1974, c.80 (C.34:1B-4).

15 "Aviation district" means all areas within the boundaries of the
16 "Atlantic City International Airport," established pursuant to section
17 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation
18 Administration William J. Hughes Technical Center and the area
19 within a one-mile radius of the outermost boundary of the "Atlantic
20 City International Airport" and the Federal Aviation Administration
21 William J. Hughes Technical Center.

22 "Business" means an applicant proposing to own or lease
23 premises in a qualified business facility that is:

24 a corporation that is subject to the tax imposed pursuant to
25 section 5 of P.L.1945, c.162 (C.54:10A-5);

26 a corporation that is subject to the tax imposed pursuant to
27 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),
28 section 1 of P.L.1950, c.231 (C.17:32-15) or N.J.S.17B:23-5;

29 a partnership;

30 an S corporation;

31 a limited liability company; or

32 a non-profit corporation.

33 If the business or tenant is a cooperative or part of a cooperative,
34 then the cooperative may qualify for credits by counting the full-
35 time employees and capital investments of its member
36 organizations, and the cooperative may distribute credits to its
37 member organizations. If the business or tenant is a cooperative
38 that leases to its member organizations, the lease shall be treated as
39 a lease to an affiliate or affiliates.

40 A business shall include an affiliate of the business if that
41 business applies for a credit based upon any capital investment
42 made by or full-time employees of an affiliate.

43 "Capital investment" in a qualified business facility means
44 expenses by a business or any affiliate of the business incurred after
45 application for:

46 a. site preparation and construction, repair, renovation,
47 improvement, equipping, or furnishing on real property or of a
48 building, structure, facility, or improvement to real property;

1 b. obtaining and installing furnishings and machinery,
2 apparatus, or equipment, including but not limited to material goods
3 subject to bonus depreciation under sections 168 and 179 of the
4 federal Internal Revenue Code (26 U.S.C. s.168 and s.179), for the
5 operation of a business on real property or in a building, structure,
6 facility, or improvement to real property;

7 c. receiving Highlands Development Credits under the
8 Highlands Transfer Development Rights Program authorized
9 pursuant to section 13 of P.L.2004, c.120 (C.13:20-13); or

10 d. any of the foregoing.

11 In addition to the foregoing, in a Garden State Growth Zone, the
12 following qualify as a capital investment: any development,
13 redevelopment, and relocation costs, including, but not limited to,
14 site acquisition if made within 24 months of application to the
15 authority, engineering, legal, accounting, and other professional
16 services required; and relocation, environmental remediation, and
17 infrastructure improvements for the project area, including, but not
18 limited to, on- and off-site utility, road, pier, wharf, bulkhead, or
19 sidewalk construction or repair.

20 In addition to the foregoing, if a business acquires or leases a
21 qualified business facility, the capital investment made or acquired
22 by the seller or owner, as the case may be, if pertaining primarily to
23 the premises of the qualified business facility, shall be considered a
24 capital investment by the business and, if pertaining generally to the
25 qualified business facility being acquired or leased, shall be
26 allocated to the premises of the qualified business facility on the
27 basis of the gross leasable area of the premises in relation to the
28 total gross leasable area in the qualified business facility. The
29 capital investment described herein may include any capital
30 investment made or acquired within 24 months prior to the date of
31 application so long as the amount of capital investment made or
32 acquired by the business, any affiliate of the business, or any owner
33 after the date of application equals at least 50 percent of the amount
34 of capital investment, allocated to the premises of the qualified
35 business facility being acquired or leased on the basis of the gross
36 leasable area of the premises in relation to the total gross leasable
37 area in the qualified business facility made or acquired prior to the
38 date of application.

39 "College or university" means a county college, an independent
40 institution of higher education, a public research university, or a
41 State college.

42 "Commitment period" means the period of time that is 1.5 times
43 the eligibility period.

44 "County college" means an educational institution established by
45 one or more counties, pursuant to chapter 64A of Title 18A of the
46 New Jersey Statutes.

47 "Deep poverty pocket" means a population census tract having a
48 poverty level of 20 percent or more, and which is located within the

1 qualified incentive area and has been determined by the authority to
2 be an area appropriate for development and in need of economic
3 development incentive assistance.

4 "Disaster recovery project" means a project located on property
5 that has been wholly or substantially damaged or destroyed as a
6 result of a federally-declared disaster which, after utilizing all
7 disaster funds available from federal, State, county, and local
8 funding sources, demonstrates to the satisfaction of the authority
9 that access to additional funding authorized pursuant to the "New
10 Jersey Economic Opportunity Act of 2013," P.L.2013, c.161
11 (C.52:27D-489p et al.), is necessary to complete the redevelopment
12 project, and which is located within the qualified incentive area and
13 has been determined by the authority to be in an area appropriate
14 for development and in need of economic development incentive
15 assistance.

16 "Distressed municipality" means a municipality that is qualified
17 to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a
18 municipality under the supervision of the Local Finance Board
19 pursuant to the provisions of the "Local Government Supervision
20 Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality
21 identified by the Director of the Division of Local Government
22 Services in the Department of Community Affairs to be facing
23 serious fiscal distress, a SDA municipality, or a municipality in
24 which a major rail station is located.

25 "Doctoral university" means a university located within New
26 Jersey that is classified as a doctoral university under the Carnegie
27 Classification of Institutions of Higher Education's Basic
28 Classification methodology on the effective date of P.L.2017, c.221.

29 "Eligibility period" means the period in which a business may
30 claim a tax credit under the Grow New Jersey Assistance Program,
31 beginning with the tax period in which the authority accepts
32 certification of the business that it has met the capital investment
33 and employment requirements of the Grow New Jersey Assistance
34 Program and extending thereafter for a term of not more than 10
35 years, with the term to be determined solely at the discretion of the
36 applicant.

37 "Eligible position" or "full-time job" means a full-time position
38 in a business in this State, which position the business has filled
39 with a full-time employee, who shall have their primary office at
40 the qualified business facility and spend at least 60 percent of their
41 time at the qualified business facility. This requirement shall
42 supersede any law, regulation, or incentive agreement that imposes
43 a requirement that the employee be present at the qualified business
44 facility for a specified percentage of time greater than 60 percent.
45 This amendment shall not alter or terminate any waiver of the
46 requirement that an employee spend time at the qualified business
47 facility implemented by the authority due to COVID-19 public
48 health emergency and state of emergency.

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 or

6 b. who is employed by a professional employer organization
7 pursuant to an employee leasing agreement between the business
8 and the professional employer organization, in accordance with
9 P.L.2001, c.260 (C.34:8-67 et seq.) for at least 35 hours a week, or
10 who renders any other standard of service generally accepted by
11 custom or practice as full-time employment, and whose wages are
12 subject to withholding as provided in the "New Jersey Gross
13 Income Tax Act," N.J.S.54A:1-1 et seq.; or

14 c. who is a resident of another State but whose income is not
15 subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
16 et seq. or who is a partner of a business who works for the
17 partnership for at least 35 hours a week, or who renders any other
18 standard of service generally accepted by custom or practice as full-
19 time employment, and whose distributive share of income, gain,
20 loss, or deduction, or whose guaranteed payments, or any
21 combination thereof, is subject to the payment of estimated taxes, as
22 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
23 et seq.; and

24 d. who, except for purposes of the Statewide workforce, is
25 provided, by the business, with employee health benefits under a
26 health benefits plan authorized pursuant to State or federal law.

27 With respect to a logistics, manufacturing, energy, defense,
28 aviation, or maritime business, excluding primarily warehouse or
29 distribution operations, located in a port district having a container
30 terminal:

31 the requirement that employee health benefits are to be provided
32 shall be deemed to be satisfied if the benefits are provided in
33 accordance with industry practice by a third party obligated to
34 provide such benefits pursuant to a collective bargaining agreement;

35 full-time employment shall include, but not be limited to,
36 employees that have been hired by way of a labor union hiring hall
37 or its equivalent;

38 35 hours of employment per week at a qualified business facility
39 shall constitute one "full-time employee," regardless of whether or
40 not the hours of work were performed by one or more persons.

41 For any project located in a Garden State Growth Zone which
42 qualifies under the "Municipal Rehabilitation and Economic
43 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or any
44 project located in the Atlantic City Tourism District as established
45 pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated
46 by the Casino Reinvestment Development Authority, and which
47 will include a retail facility of at least 150,000 square feet, of which
48 at least 50 percent will be occupied by either a full-service

1 supermarket or grocery store, 30 hours of employment per week at a
2 qualified business facility shall constitute one "full-time employee,"
3 regardless of whether the hours of work were performed by one or
4 more persons, and the requirement that employee health benefits are
5 to be provided shall be deemed to be satisfied if the employees of
6 the business are covered by a collective bargaining agreement.

7 "Full-time employee" shall not include any person who works as
8 an independent contractor or on a consulting basis for the business.

9 Full-time employee shall also not include any person who at the
10 time of project application works in New Jersey for consideration
11 for at least 35 hours per week, or who renders any other standard of
12 service generally accepted by custom or practice as full-time
13 employment but who prior to project application was not provided,
14 by the business, with employee health benefits under a health
15 benefits plan authorized pursuant to State or federal law.

16 "Garden State Create Zone" means the campus of a doctoral
17 university, and the area within a three-mile radius of the outermost
18 boundary of the campus of a doctoral university, according to a map
19 appearing in the doctoral university's official catalog or other
20 official publication on the effective date of P.L.2017, c.221.

21 "Garden State Growth Zone" or "growth zone" means the four
22 New Jersey cities with the lowest median family income based on
23 the 2009 American Community Survey from the US Census, (Table
24 708. Household, Family, and Per Capita Income and Individuals,
25 and Families Below Poverty Level by City: 2009); a municipality
26 which contains a Tourism District as established pursuant to section
27 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino
28 Reinvestment Development Authority; or an aviation district.

29 "Highlands development credit receiving area or redevelopment
30 area" means an area located within a qualified incentive area and
31 designated by the Highlands Water Protection and Planning Council
32 for the receipt of Highlands Development Credits under the
33 Highlands Transfer Development Rights Program authorized
34 pursuant to section 13 of P.L.2004, c.120 (C.13:20-13).

35 "Incentive agreement" means the contract between the business
36 and the authority, which sets forth the terms and conditions under
37 which the business shall be eligible to receive the incentives
38 authorized pursuant to the program.

39 "Incentive effective date" means the date a business submits the
40 documentation required pursuant to paragraph (1) of subsection b.
41 of section 6 of P.L.2011, c.149 (C.34:1B-247) in a form satisfactory
42 to the authority.

43 "Independent institution of higher education" means a college or
44 university incorporated and located in New Jersey, which by virtue
45 of law or character or license is a nonprofit educational institution
46 authorized to grant academic degrees and which provides a level of
47 education which is equivalent to the education provided by the
48 State's public institutions of higher education, as attested by the

1 receipt of and continuation of regional accreditation by the Middle
2 States Association of Colleges and Schools, and which is eligible to
3 receive State aid under the provisions of the Constitution of the
4 United States and the Constitution of the State of New Jersey, but
5 does not include any educational institution dedicated primarily to
6 the education or training of ministers, priests, rabbis or other
7 professional persons in the field of religion.

8 "Major rail station" means a railroad station located within a
9 qualified incentive area which provides access to the public to a
10 minimum of six rail passenger service lines operated by the New
11 Jersey Transit Corporation.

12 "Mega project" means:

13 a. a qualified business facility located in a port district housing
14 a business in the logistics, manufacturing, energy, defense, or
15 maritime industries, either:

16 (1) having a capital investment in excess of \$20,000,000, and at
17 which more than 250 full-time employees of the business are
18 created or retained; or

19 (2) at which more than 1,000 full-time employees of the
20 business are created or retained;

21 b. a qualified business facility located in an aviation district
22 housing a business in the aviation industry, in a Garden State
23 Growth Zone, or in a priority area housing the United States
24 headquarters and related facilities of an automobile manufacturer,
25 either:

26 (1) having a capital investment in excess of \$20,000,000, and at
27 which more than 250 full-time employees of the business are
28 created or retained, or

29 (2) at which more than 1,000 full-time employees of the
30 business are created or retained;

31 c. a qualified business facility located in an urban transit hub
32 housing a business of any kind, having a capital investment in
33 excess of \$50,000,000, and at which more than 250 full-time
34 employees of the business are created or retained;

35 d. a project located in an area designated in need of
36 redevelopment, pursuant to P.L.1992, c.79 (C.40A:12A-1 et al.)
37 prior to the enactment of P.L.2014, c.63 (C.34:1B-251 et al.) within
38 Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester,
39 Ocean, or Salem counties having a capital investment in excess of
40 \$20,000,000, and at which more than 150 full-time employees of
41 the business are created or retained; or

42 e. a qualified business facility primarily used by a business
43 principally engaged in research, development, or manufacture of a
44 drug or device, as defined in R.S.24:1-1, or primarily used by a
45 business licensed to conduct a clinical laboratory and business
46 facility pursuant to the "New Jersey Clinical Laboratory
47 Improvement Act," P.L.1975, c.166 (C.45:9-42.26 et seq.), 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 "Minimum environmental and sustainability standards" means
7 standards established by the authority in accordance with the green
8 building manual prepared by the Commissioner of Community
9 Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6),
10 regarding the use of renewable energy, energy-efficient technology,
11 and non-renewable resources in order to reduce environmental
12 degradation and encourage long-term cost reduction.

13 "Moderate-income housing" means housing affordable,
14 according to United States Department of Housing and Urban
15 Development or other recognized standards for home ownership
16 and rental costs, and occupied or reserved for occupancy by
17 households with a gross household income equal to more than 50
18 percent but less than 80 percent of the median gross household
19 income for households of the same size within the housing region in
20 which the housing is located.

21 "Municipal Revitalization Index" means the 2007 index by the
22 Office for Planning Advocacy within the Department of State
23 measuring or ranking municipal distress.

24 "New full-time job" means an eligible position created by the
25 business at the qualified business facility that did not previously
26 exist in this State. For the purposes of determining a number of
27 new full-time jobs, the eligible positions of an affiliate shall be
28 considered eligible positions of the business.

29 "Other eligible area" means the portions of the qualified
30 incentive area that are not located within a distressed municipality,
31 or the priority area.

32 "Partnership" means an entity classified as a partnership for
33 federal income tax purposes.

34 "Port district" means the portions of a qualified incentive area
35 that are located within:

36 a. the "Port of New York District" of the Port Authority of
37 New York and New Jersey, as defined in Article II of the Compact
38 Between the States of New York and New Jersey of 1921; or

39 b. a 15-mile radius of the outermost boundary of each marine
40 terminal facility established, acquired, constructed, rehabilitated, or
41 improved by the South Jersey Port District established pursuant to
42 "The South Jersey Port Corporation Act," P.L.1968, c.60
43 (C.12:11A-1 et seq.).

44 "Priority area" means the portions of the qualified incentive area
45 that are not located within a distressed municipality and which:

46 a. are designated pursuant to the "State Planning Act,"
47 P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1
48 (Metropolitan), Planning Area 2 (Suburban), a designated center

1 under the State Development and Redevelopment Plan, or a
2 designated growth center in an endorsed plan until June 30, 2013, or
3 until the State Planning Commission revises and readopts New
4 Jersey's State Strategic Plan and adopts regulations to revise this
5 definition;

6 b. intersect with portions of: a deep poverty pocket, a port
7 district, or federally-owned land approved for closure under a
8 federal Commission on Base Realignment and Closure action;

9 c. are the proposed site of a disaster recovery project, a
10 qualified incubator facility, a highlands development credit
11 receiving area or redevelopment area, a tourism destination project,
12 or transit oriented development; or

13 d. contain: a vacant commercial building having over 400,000
14 square feet of office, laboratory, or industrial space available for
15 occupancy for a period of over one year; or a site that has been
16 negatively impacted by the approval of a "qualified business
17 facility," as defined pursuant to section 2 of P.L.2007, c.346
18 (C.34:1B-208).

19 "Professional employer organization" means an employee leasing
20 company registered with the Department of Labor and Workforce
21 Development pursuant to P.L.2001, c.260 (C.34:8-67 et seq.).

22 "Program" means the "Grow New Jersey Assistance Program"
23 established pursuant to section 3 of P.L.2011, c.149 (C.34:1B-244).

24 "Public research university" means a public research university
25 as defined in section 3 of P.L.1994, c.48 (C.18A:3B-3).

26 "Qualified business facility" means any building, complex of
27 buildings or structural components of buildings, and all machinery
28 and equipment located within a qualified incentive area, used in
29 connection with the operation of a business that is not engaged in
30 final point of sale retail business at that location unless the building,
31 complex of buildings or structural components of buildings, and all
32 machinery and equipment located within a qualified incentive area,
33 are used in connection with the operation of:

34 a. a final point of sale retail business located in a Garden State
35 Growth Zone that will include a retail facility of at least 150,000
36 square feet, of which at least 50 percent is occupied by either a full-
37 service supermarket or grocery store; or

38 b. a tourism destination project located in the Atlantic City
39 Tourism District as established pursuant to section 5 of P.L.2011,
40 c.18 (C.5:12-219).

41 "Qualified incentive area" means:

42 a. an aviation district;

43 b. a port district;

44 c. a distressed municipality or urban transit hub municipality;

45 d. an area (1) designated pursuant to the "State Planning Act,"
46 P.L.1985, c.398 (C.52:18A-196 et seq.), as:

47 (a) Planning Area 1 (Metropolitan);

48 (b) Planning Area 2 (Suburban); or

- 1 (c) Planning Area 3 (Fringe Planning Area);
- 2 (2) located within a smart growth area and planning area
- 3 designated in a master plan adopted by the New Jersey
- 4 Meadowlands Commission pursuant to subsection (i) of section 6 of
- 5 P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan
- 6 adopted by the New Jersey Meadowlands Commission pursuant to
- 7 section 20 of P.L.1968, c.404 (C.13:17-21);
- 8 (3) located within any land owned by the New Jersey Sports and
- 9 Exposition Authority, established pursuant to P.L.1971, c.137
- 10 (C.5:10-1 et seq.), within the boundaries of the Hackensack
- 11 Meadowlands District as delineated in section 4 of P.L.1968, c.404
- 12 (C.13:17-4);
- 13 (4) located within a regional growth area, rural development
- 14 area zoned for industrial use as of the effective date of P.L.2016,
- 15 c.75, town, village, or a military and federal installation area
- 16 designated in the comprehensive management plan prepared and
- 17 adopted by the Pinelands Commission pursuant to the "Pinelands
- 18 Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.);
- 19 (5) located within the planning area of the Highlands Region as
- 20 defined in section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands
- 21 development credit receiving area or redevelopment area;
- 22 (6) located within a Garden State Growth Zone;
- 23 (7) located within land approved for closure under any federal
- 24 Commission on Base Realignment and Closure action; or
- 25 (8) located only within the following portions of the areas
- 26 designated pursuant to the "State Planning Act," P.L.1985, c.398
- 27 (C.52:18A-196 et seq.), as Planning Area 4A (Rural Planning
- 28 Area), Planning Area 4B (Rural/Environmentally Sensitive) or
- 29 Planning Area 5 (Environmentally Sensitive) if Planning Area 4A
- 30 (Rural Planning Area), Planning Area 4B (Rural/Environmentally
- 31 Sensitive) or Planning Area 5 (Environmentally Sensitive) is
- 32 located within:
 - 33 (a) a designated center under the State Development and
 - 34 Redevelopment Plan;
 - 35 (b) a designated growth center in an endorsed plan until the
 - 36 State Planning Commission revises and readopts New Jersey's State
 - 37 Strategic Plan and adopts regulations to revise this definition as it
 - 38 pertains to Statewide planning areas;
 - 39 (c) any area determined to be in need of redevelopment pursuant
 - 40 to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and
 - 41 C.40A:12A-6) or in need of rehabilitation pursuant to section 14 of
 - 42 P.L.1992, c.79 (C.40A:12A-14);
 - 43 (d) any area on which a structure exists or previously existed
 - 44 including any desired expansion of the footprint of the existing or
 - 45 previously existing structure provided the expansion otherwise
 - 46 complies with all applicable federal, State, county, and local
 - 47 permits and approvals;

1 (e) the planning area of the Highlands Region as defined in
2 section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands
3 development credit receiving area or redevelopment area; or

4 (f) any area on which an existing tourism destination project is
5 located.

6 "Qualified incentive area" shall not include any property located
7 within the preservation area of the Highlands Region as defined in
8 section 3 of P.L.2004, c.120 (C.13:20-3).

9 "Qualified incubator facility" means a commercial building
10 located within a qualified incentive area: which contains 50,000 or
11 more square feet of office, laboratory, or industrial space; which is
12 located near, and presents opportunities for collaboration with, a
13 research institution, teaching hospital, college, or university; and
14 within which, at least 50 percent of the gross leasable area is
15 restricted for use by one or more technology startup companies
16 during the commitment period.

17 "Retained full-time job" means an eligible position that currently
18 exists in New Jersey and is filled by a full-time employee but
19 which, because of a potential relocation by the business, is at risk of
20 being lost to another state or country, or eliminated. For the
21 purposes of determining a number of retained full-time jobs, the
22 eligible positions of an affiliate shall be considered eligible
23 positions of the business. For the purposes of the certifications and
24 annual reports required in the incentive agreement pursuant to
25 subsection e. of section 4 of P.L.2011, c.149 (C.34:1B-245), to the
26 extent an eligible position that was the basis of the award no longer
27 exists, a business shall include as a retained full-time job a new
28 eligible position that is filled by a full-time employee provided that
29 the position is included in the order of date of hire and is not the
30 basis for any other incentive award. For a project located in a
31 Garden State Growth Zone which qualified for the "Municipal
32 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
33 (C.52:27BBB-1 et al.), retained full-time job shall include any
34 employee previously employed in New Jersey and transferred to the
35 new location in the Garden State Growth Zone which qualified for
36 the "Municipal Rehabilitation and Economic Recovery Act,"
37 P.L.2002, c.43 (C.52:27BBB-1 et al.).

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 situate.

42 "State college" means a State college or university established
43 pursuant to chapter 64 of Title 18A of the New Jersey Statutes.

44 "Targeted industry" means any industry identified from time to
45 time by the authority which shall initially include advanced
46 transportation and logistics, advanced manufacturing, aviation,
47 autonomous vehicle and zero-emission vehicle research or
48 development, clean energy, life sciences, hemp processing,

1 information and high technology, finance and insurance,
2 professional services, film and digital media, non-retail food and
3 beverage businesses including food innovation, and other
4 innovative industries that disrupt current technologies or business
5 models.

6 "Technology startup company" means a for profit business that
7 has been in operation fewer than five years and is developing or
8 possesses a proprietary technology or business method of a high-
9 technology or life science-related product, process, or service which
10 the business intends to move to commercialization.

11 "Tourism destination project" means a qualified non-gaming
12 business facility that will be among the most visited privately
13 owned or operated tourism or recreation sites in the State, and
14 which is located within the qualified incentive area and has been
15 determined by the authority to be in an area appropriate for
16 development and in need of economic development incentive
17 assistance, including a non-gaming business within an established
18 Tourism District with a significant impact on the economic viability
19 of that District.

20 "Transit oriented development" means a qualified business
21 facility located within a 1/2-mile radius, or one-mile radius for
22 projects located in a Garden State Growth Zone, surrounding the
23 mid-point of a New Jersey Transit Corporation, Port Authority
24 Transit Corporation, or Port Authority Trans-Hudson Corporation
25 rail, bus, or ferry station platform area, including all light rail
26 stations.

27 "Urban transit hub" means an urban transit hub, as defined in
28 section 2 of P.L.2007, c.346 (C.34:1B-208), that is located within
29 an eligible municipality, as defined in section 2 of P.L.2007, c.346
30 (C.34:1B-208) and also located within a qualified incentive area.

31 "Urban transit hub municipality" means a municipality: a. which
32 qualifies for State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et
33 seq.), or which has continued to be a qualified municipality
34 thereunder pursuant to P.L.2007, c.111; and b. in which 30 percent
35 or more of the value of real property was exempt from local
36 property taxation during tax year 2006. The percentage of exempt
37 property shall be calculated by dividing the total exempt value by
38 the sum of the net valuation which is taxable and that which is tax
39 exempt.

40 (cf: P.L.2020, c.156, s.120)

41

42 62. Section 2 of P.L.2007, c.346 (C.34:1B-208) is amended to
43 read as follows:

44 2. As used in this act:

45 "Affiliate" means an entity that directly or indirectly controls, is
46 under common control with, or is controlled by the business.
47 Control exists in all cases in which the entity is a member of a
48 controlled group of corporations as defined pursuant to section 1563

1 of the Internal Revenue Code of 1986 (26 U.S.C.s.1563) or the
2 entity is an organization in a group of organizations under common
3 control as defined pursuant to subsection (b) or (c) of section 414 of
4 the Internal Revenue Code of 1986 (26 U.S.C.s.414). A taxpayer
5 may establish by clear and convincing evidence, as determined by
6 the Director of the Division of Taxation in the Department of the
7 Treasury, that control exists in situations involving lesser
8 percentages of ownership than required by those statutes. An
9 affiliate of a business may contribute to meeting either the qualified
10 investment or full-time employee requirements of a business that
11 applies for a credit under section 3 of P.L.2007, c.346 (C.34:1B-
12 209).

13 "Authority" means the New Jersey Economic Development
14 Authority established by section 4 of P.L.1974, c.80 (C.34:1B-4).

15 "Business" means a corporation that is subject to the tax imposed
16 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), a
17 corporation that is subject to the tax imposed pursuant to sections 2
18 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of
19 P.L.1950, c.231 (C.17:32-15) or N.J.S.17B:23-5, or is a partnership,
20 an S corporation, or a limited liability corporation. A business shall
21 include an affiliate of the business if that business applies for a
22 credit based upon any capital investment made by or full-time
23 employees of an affiliate.

24 "Capital investment" in a qualified business facility means
25 expenses incurred after, but before the end of the eighth year after,
26 the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.) for: a.
27 the site preparation and construction, repair, renovation,
28 improvement, equipping, or furnishing of a building, structure,
29 facility or improvement to real property; and b. obtaining and
30 installing furnishings and machinery, apparatus or equipment for
31 the operation of a business in a building, structure, facility or
32 improvement to real property.

33 "Eligible municipality" means a municipality: (1) which qualifies
34 for State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.) or
35 which was continued to be a qualified municipality thereunder
36 pursuant to P.L.2007, c.111; and (2) in which 30 percent or more of
37 the value of real property was exempt from local property taxation
38 during tax year 2006. The percentage of exempt property shall be
39 calculated by dividing the total exempt value by the sum of the net
40 valuation which is taxable and that which is tax exempt.

41 "Full-time employee" means a person employed by the business
42 for consideration for at least 35 hours a week, or who renders any
43 other standard of service generally accepted by custom or practice
44 as full-time employment, or a person who is employed by a
45 professional employer organization pursuant to an employee leasing
46 agreement between the business and the professional employer
47 organization, in accordance with P.L.2001, c.260 (C.34:8-67 et
48 seq.) for at least 35 hours a week, or who renders any other standard

1 of service generally accepted by custom or practice as full-time
2 employment, and whose wages are subject to withholding as
3 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
4 et seq. or an employee who is a resident of another State but whose
5 income is not subject to the "New Jersey Gross Income Tax Act,"
6 N.J.S.54A:1-1 et seq. or who is a partner of a business who works
7 for the partnership for at least 35 hours a week, or who renders any
8 other standard of service generally accepted by custom or practice
9 as full-time employment, and whose distributive share of income,
10 gain, loss, or deduction, or whose guaranteed payments, or any
11 combination thereof, is subject to the payment of estimated taxes, as
12 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
13 et seq. "Full-time employee" shall not include any person who
14 works as an independent contractor or on a consulting basis for the
15 business.

16 "Full-time employee at the qualified business facility" means a
17 full-time position in a business in this State, which position the
18 business has filled with a full-time employee, who shall have their
19 primary office at the qualified business facility and spend at least 60
20 percent of their time at the qualified business facility. This
21 requirement shall supersede any law, regulation, or incentive
22 agreement that imposes a requirement that the employee be present
23 at the qualified business facility for a specified percentage of time
24 greater than 60 percent. This amendment shall not alter or
25 terminate any waiver of the requirement that an employee spend
26 time at the qualified business facility implemented by the authority
27 due to COVID-19 public health emergency and state of emergency.

28 "Mixed use project" means a project comprising both a qualified
29 business facility and a qualified residential project.

30 "Partnership" means an entity classified as a partnership for
31 federal income tax purposes.

32 "Professional employer organization" means an employee leasing
33 company registered with the Department of Labor and Workforce
34 Development pursuant to P.L.2001, c.260 (C.34:8-67 et seq.).

35 "Qualified business facility" means any building, complex of
36 buildings or structural components of buildings, and all machinery
37 and equipment located within a designated urban transit hub in an
38 eligible municipality, used in connection with the operation of a
39 business.

40 "Qualified residential project" shall have the meaning ascribed to
41 that term under section 34 of P.L.2009, c.90 (C.34:1B-209.2).

42 "Residential unit" means a residential dwelling unit such as a
43 rental apartment, a condominium or cooperative unit, a hotel room,
44 or a dormitory room.

45 "Urban transit hub" means:

46 a. (1) property located within a 1/2-mile radius surrounding the
47 mid point of a New Jersey Transit Corporation, Port Authority

1 Transit Corporation or Port Authority Trans-Hudson Corporation
2 rail station platform area, including all light rail stations, and

3 (2) property located within a one-mile radius of the mid point of
4 the platform area of such a rail station if the property is in a
5 qualified municipality under the "Municipal Rehabilitation and
6 Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et seq.) or
7 in an area that is the subject of a Choice Neighborhoods
8 Transformation Plan funded by the federal Department of Housing
9 and Urban Development, and

10 (3) the site of the campus of an acute care medical facility
11 located within a one-mile radius of the mid point of the platform
12 area of such a rail station, and

13 (4) the site of a closed hospital located within a one-mile radius
14 of the mid point of the platform area of such a rail station;

15 b. property located within a 1/2-mile radius surrounding the
16 mid point of one of up to two underground light rail stations'
17 platform areas that are most proximate to an interstate rail station;

18 c. property adjacent to, or connected by rail spur to, a freight
19 rail line if the business utilizes that freight line at any rail spur
20 located adjacent to or within a one-mile radius surrounding the
21 entrance to the property for loading and unloading freight cars on
22 trains;

23 which property shall have been specifically delineated by the
24 authority pursuant to subsection e. of section 3 of P.L.2007, c.346
25 (C.34:1B-209).

26 A property which is partially included within the radius shall
27 only be considered part of the urban transit hub if over 50 percent
28 of its land area falls within the radius.

29 "Rail station" shall not include any rail station located at an
30 international airport, except that any property within a 1/2-mile
31 radius surrounding the mid point of a New Jersey Transit
32 Corporation rail station platform area at an international airport
33 upon which a qualified business facility is constructed or renovated
34 commencing after the effective date of P.L.2011, c.149 (C.34:1B-
35 242 et al.) shall be deemed an urban transit hub, excluding any
36 property owned or controlled by the Port Authority of New York
37 and New Jersey.

38 (cf: P.L.2011, c.149, s.10)

39

40 63. Section 2 of P.L.1996, c.26 (C.34:1B-125) is amended to
41 read as follows:

42 2. As used in sections 1 through 17 of P.L.1996, c.26
43 (C.34:1B-124 et seq.) and in sections 9 through 11 of P.L.2003,
44 c.166 (C.34:1B-139.1 through C.34:1B-139.3), unless a different
45 meaning clearly appears from the context:

46 "Advanced computing" means a technology used in the
47 designing and developing of computing hardware and software,
48 including innovations in designing the full spectrum of hardware

1 from hand-held calculators to super computers, and peripheral
2 equipment.

3 "Advanced computing company" means a person, whose
4 headquarters or base of operations is located in New Jersey,
5 engaged in the research, development, production, or provision of
6 advanced computing for the purpose of developing or providing
7 products or processes for specific commercial or public purposes.

8 "Advanced materials" means materials with engineered
9 properties created through the development of specialized
10 processing and synthesis technology, including ceramics, high
11 value-added metals, electronic materials, composites, polymers, and
12 biomaterials. "Advanced materials company" means a person,
13 whose headquarters or base of operations is located in New Jersey,
14 engaged in the research, development, production, or provision of
15 advanced materials for the purpose of developing or providing
16 products or processes for specific commercial or public purposes.

17 "Application year" means the grant year for which an eligible
18 partnership submits the information required under section 8 of
19 P.L.1996, c.26 (C.34:1B-131).

20 "Authority" means the New Jersey Economic Development
21 Authority created pursuant to section 4 of P.L.1974, c.80 (C.34:1B-
22 4).

23 "Base years" means the first two complete calendar years
24 following the effective date of an agreement.

25 "Biotechnology" means the continually expanding body of
26 fundamental knowledge about the functioning of biological systems
27 from the macro level to the molecular and sub-atomic levels, as
28 well as novel products, services, technologies, and sub-technologies
29 developed as a result of insights gained from research advances
30 which add to that body of fundamental knowledge.

31 "Biotechnology company" means a person, whose headquarters
32 or base of operations is located in New Jersey, engaged in the
33 research, development, production, or provision of biotechnology
34 for the purpose of developing or providing products or processes for
35 specific commercial or public purposes, including but not limited
36 to, medical, pharmaceutical, nutritional, and other health-related
37 purposes, agricultural purposes, and environmental purposes, or a
38 person, whose headquarters or base of operations is located in New
39 Jersey, engaged in providing services or products necessary for
40 such research, development, production, or provision.

41 "Bonds" means bonds, notes, or other obligations issued by the
42 authority pursuant to P.L.1996, c.26 (C.34:1B-124 et seq.).

43 "Business" means a corporation; sole proprietorship; partnership;
44 corporation that has made an election under Subchapter S of
45 Chapter One of Subtitle A of the Internal Revenue Code of 1986, or
46 any other business entity through which income flows as a
47 distributive share to its owners; limited liability company; nonprofit
48 corporation; or any other form of business organization located

1 either within or outside this State. A grant received under
2 P.L.1996, c.26 (C.34:1B-124 et seq.) by a partnership, Subchapter
3 S-Corporation, or other business entity shall be apportioned among
4 the persons to whom the income or profit of the partnership,
5 Subchapter S-Corporation, or other entity is distributed, in the same
6 proportions as those in which the income or profit is distributed.

7 "Business employment incentive agreement" or "agreement"
8 means the written agreement between the authority and a business
9 proposing a project in this State in accordance with the provisions
10 of P.L.1996, c.26 (C.34:1B-124 et seq.) which establishes the terms
11 and conditions of a grant to be awarded pursuant to P.L.1996, c.26
12 (C.34:1B-124 et seq.).

13 "Designated industry" means a business engaged in the field of
14 biotechnology, pharmaceuticals, financial services, transportation
15 and logistics, advanced computing, advanced materials, electronic
16 device technology, environmental technology, or medical device
17 technology.

18 "Director" means the Director of the Division of Taxation.

19 "Division" means the Division of Taxation in the Department of
20 the Treasury.

21 "Electronic device technology" means a technology involving
22 microelectronics, semiconductors, electronic equipment, and
23 instrumentation, radio frequency, microwave, and millimeter
24 electronics, and optical and optic-electrical devices, or data and
25 digital communications and imaging devices.

26 "Electronic device technology company" means a person, whose
27 headquarters or base of operations is located in New Jersey,
28 engaged in the research, development, production, or provision of
29 electronic device technology for the purpose of developing or
30 providing products or processes for specific commercial or public
31 purposes.

32 "Eligible partnership" means a partnership or limited liability
33 company that is qualified to receive a grant as established in
34 P.L.1996, c.26 (C.34:1B-124 et seq.).

35 "Eligible position" is a new full-time position created by a
36 business in New Jersey or transferred from another state by the
37 business under the terms and conditions set forth in P.L.1996, c.26
38 (C.34:1B-124 et seq.) during the base years or in subsequent years
39 of a grant. In determining if positions are eligible positions, the
40 authority shall give greater consideration to positions that average
41 at least 1.5 times the minimum hourly wage during the term of an
42 agreement authorized pursuant to P.L.1996, c.26 (C.34:1B-124 et
43 seq.). For grants awarded on or after July 1, 2003, eligible position
44 includes only a position for which a business provides employee
45 health benefits under a group health plan as defined under section
46 14 of P.L.1997, c.146 (C.17B:27-54), a health benefits plan as
47 defined under section 1 of P.L.1992, c.162 (C.17B:27A-17), or a
48 policy or contract of health insurance covering more than one

1 person issued pursuant to Article 2 of Title 17B of the New Jersey
2 Statutes. An "eligible position" shall also include all current and
3 future partners or members of a partnership or limited liability
4 company created by a business in New Jersey or transferred from
5 another state by the business pursuant to the conditions set forth in
6 P.L.1996, c.26 (C.34:1B-124 et seq.) during the base years or in
7 subsequent years of a grant. An "eligible position" shall also
8 include a position occupied by a resident of this State whose
9 position is relocated to this State from another state but who does
10 not qualify as a "new employee" because prior to relocation the
11 resident's wages or the resident's distributive share of income from
12 a gain, from a loss or deduction, or the resident's guaranteed
13 payments or any combination thereof, prior to the relocation, were
14 not subject to income taxes imposed by the state or municipality in
15 which the position was previously located. An "eligible position"
16 shall also include a position occupied by a resident of another State
17 whose position is relocated to this State but whose income is not
18 subject to the New Jersey gross income tax pursuant to the "New
19 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. An "eligible
20 position" shall not include any position located within New Jersey,
21 which, within a period either three months prior to the business'
22 application for a grant under P.L.1996, c.26 (C.34:1B-124 et seq.)
23 or six months after the date of application, ceases to exist or be
24 located within New Jersey.

25 "Employment incentive" means the amount of a grant, either in
26 cash or in tax credits, determined pursuant to subsection a. of
27 section 6 of P.L.1996, c.26 (C.34:1B-129).

28 "Environmental technology" means assessment and prevention of
29 threats or damage to human health or the environment,
30 environmental cleanup, or the development of alternative energy
31 sources.

32 "Environmental technology company" means a person, whose
33 headquarters or base of operations is located in New Jersey,
34 engaged in the research, development, production, or provision of
35 environmental technology for the purpose of developing or
36 providing products or processes for specific commercial or public
37 purposes.

38 "Estimated tax" means an amount calculated for a partner in an
39 eligible position equal to 6.37 percent of the lesser of: a. the amount
40 of the partner's net income from the eligible partnership that is
41 sourced to New Jersey as reflected in Column B of the partner's
42 Schedule NJK-1 of the application year less the amount of the
43 partner's net income from the eligible partnership that is sourced to
44 New Jersey as reflected in column B of the partner's Schedule NJK-
45 1 in the foundation year; or b. the net of all items of partnership
46 income upon which tax has been paid as reflected on the partner's
47 New Jersey Gross Income Tax return in the application year.

1 "Foundation year" means the year immediately prior to the
2 creation of the eligible position.

3 "Full-time employee" means a person who is employed for
4 consideration for at least 35 hours a week, or who renders any other
5 standard of service generally accepted by custom or practice as full-
6 time employment, whose wages are subject to withholding as
7 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
8 et seq., and who is determined by the authority to be employed in a
9 permanent position according to criteria it develops, or who is a
10 partner of an eligible partnership, who works for the partnership for
11 at least 35 hours a week, or who renders any other standard of
12 service generally accepted by custom or practice as full-time
13 employment, and whose distributive share of income, gain, loss, or
14 deduction, or whose guaranteed payments, or any combination
15 thereof, is subject to the payment of estimated taxes, as provided in
16 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.
17 "Full-time employee" shall not include any person who works as an
18 independent contractor or on a consulting basis for the business.

19 "Full-time employee at the qualified business facility" means a
20 full-time position in a business in this State, which position the
21 business has filled with a full-time employee, who shall have their
22 primary office at the qualified business facility and spend at least 60
23 percent of their time at the qualified business facility. This
24 requirement shall supersede any law, regulation, or incentive
25 agreement that imposes a requirement that the employee be present
26 at the qualified business facility for a specified percentage of time
27 greater than 60 percent. This amendment shall not alter or
28 terminate any waiver of the requirement that an employee spend
29 time at the qualified business facility implemented by the authority
30 due to COVID-19 public health emergency and state of emergency.

31 "Grant" means a business employment incentive grant as
32 established in P.L.1996, c.26 (C.34:1B-124 et seq.).

33 "Medical device technology" means a technology involving any
34 medical equipment or product, other than a pharmaceutical product,
35 that has therapeutic value, diagnostic value, or both, and is
36 regulated by the federal Food and Drug Administration.

37 "Medical device technology company" means a person, whose
38 headquarters or base of operations is located in New Jersey,
39 engaged in the research, development, production, or provision of
40 medical device technology for the purpose of developing or
41 providing products or processes for specific commercial or public
42 purposes.

43 "Net income from the eligible partnership" means the net
44 combination of a partner's distributive share of the eligible
45 partnership's income, gain, loss, deduction, or guaranteed payments.

46 "New employee" means a full-time employee first employed in
47 an eligible position on the project which is the subject of an
48 agreement or who is a partner of an eligible partnership, who works

1 for the partnership for at least 35 hours a week, or who renders any
2 other standard of service generally accepted by custom or practice
3 as full-time employment, and whose distributive share of income,
4 gain, loss or deduction, or whose guaranteed payments, or any
5 combination thereof, is subject to the payment of estimated taxes, as
6 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
7 et seq.; except that a New Jersey resident whose position is
8 relocated to this State shall not be classified as a "new employee"
9 unless the employee's wages, or the employee's distributive share of
10 income from a gain, from a loss or deduction, or the employee's
11 guaranteed payments or any combination thereof, prior to the
12 relocation, were subject to income taxes imposed by the state or
13 municipality in which the position was previously located. "New
14 employee" may also include an employee rehired or called back
15 from a layoff during or following the base years to a vacant position
16 previously held by that employee or to a new position established
17 during or following the base years. "New employee" shall not
18 include any employee who was previously employed in New Jersey
19 by the business or by a related person as defined in section 2 of
20 P.L.1993, c.170 (C.54:10A-5.5) if the employee is transferred to the
21 business, which is the subject of an agreement, unless the
22 employee's position at the employee's previous employer is filled by
23 a new employee. "New employee" also shall not include a child,
24 grandchild, parent, or spouse of an individual associated with the
25 business who has direct or indirect ownership of at least 15 percent
26 of the profits, capital, or value of the business. New employee shall
27 also include an employee whose position is relocated to this State
28 but whose income is not subject to the New Jersey gross income tax
29 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
30 et seq.

31 "Partner" means a person who is entitled to either a distributive
32 share of a partnership's income, gain, loss, or deduction, or
33 guaranteed payments, or any combination thereof, by virtue of
34 holding an interest in the partnership. "Partner" also includes a
35 person who is a member of a limited liability company which is
36 treated as a partnership, as provided in the "New Jersey Gross
37 Income Tax Act," N.J.S.54A:1-1 et seq.

38 "Refunding Bonds" means bonds, notes or other obligations
39 issued to refinance bonds, notes or other obligations previously
40 issued by the authority pursuant to the provisions of P.L.1996, c.26
41 (C.34:1B-124 et seq.).

42 "Residual withholdings" means for any period of time, the excess
43 of the estimated cumulative withholdings for all executed
44 agreements eligible for payments under P.L.1996, c.26 (C.34:1B-
45 124 et seq.) over the cumulative anticipated grant amounts.

46 "Schedule NJK-1" means Schedule NJK-1 as the form existed for
47 taxable year 1997.

1 "Withholdings" means the amount withheld by a business from
2 the wages of new employees or estimated taxes paid by, or on
3 behalf of, partners that are new employees, or any combination
4 thereof, pursuant to the "New Jersey Gross Income Tax Act,"
5 N.J.S.54A:1-1 et seq., and, if the new employee is an employee
6 whose position has moved to New Jersey but whose income is not
7 subject to the New Jersey gross income tax pursuant to
8 N.J.S.54A:1-1 et seq., the amount of withholding that would occur
9 if the employee were to move to New Jersey.
10 (cf: P.L.2015, c.194, s.1)

11

12 64. Section 2 of P.L.1996, c.25 (C.34:1B-113) is amended to
13 read as follows:

14 2. As used in this act:

15 "Affiliate" means an entity that directly or indirectly controls, is
16 under common control with, or is controlled by the business.
17 Control exists in all cases in which the entity is a member of a
18 controlled group of corporations as defined pursuant to section 1563
19 of the Internal Revenue Code of 1986 (26 U.S.C. s.1563) or the
20 entity is an organization in a group of organizations under common
21 control as defined pursuant to subsection (b) or (c) of section 414 of
22 the Internal Revenue Code of 1986 (26 U.S.C. s.414). An entity
23 may establish by clear and convincing evidence, as determined by
24 the Director of the Division of Taxation in the Department of the
25 Treasury, that control exists in situations involving lesser
26 percentages of ownership than required by those statutes;

27 "Authority" means the New Jersey Economic Development
28 Authority created pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.);

29 "Business retention or relocation grant of tax credits" or "grant of
30 tax credits" means a grant which consists of the value of
31 corporation business tax credits against the liability imposed
32 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) or credits
33 against the taxes imposed on insurers pursuant to P.L.1945, c.132
34 (C.54:18A-1 et al.), section 1 of P.L.1950, c.231 (C.17:32-15), and
35 N.J.S.17B:23-5, provided to fund a portion of retention and
36 relocation costs pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.);

37 "Business" means an employer located in this State that has
38 operated continuously in the State, in whole or in part, in its current
39 form or as a predecessor entity for at least 10 years prior to filing an
40 application pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.) and
41 which is subject to the provisions of R.S.43:21-1 et seq. and may
42 include a sole proprietorship, a partnership, or a corporation that
43 has made an election under Subchapter S of Chapter One of Subtitle
44 A of the Internal Revenue Code of 1986, or any other business
45 entity through which income flows as a distributive share to its
46 owners, limited liability company, nonprofit corporation, or any
47 other form of business organization located either within or outside
48 the State. A business shall include an affiliate of the business if that

1 business applies for a credit based upon any capital investment
2 made by an affiliate or based upon retained full-time jobs of an
3 affiliate;

4 "Capital investment" means expenses that the business incurs
5 following its submission of an application to the authority pursuant
6 to section 5 of P.L.1996, c.25 (C.34:1B-116), but prior to the
7 Capital Investment Completion Date, as shall be defined in the
8 project agreement, for: (1) the site preparation and construction,
9 renovation, improvement, equipping of, or obtaining and installing
10 fixtures and machinery, apparatus or equipment in, a newly
11 constructed, renovated or improved building, structure, facility, or
12 improvement to real property in this State; and (2) obtaining and
13 installing fixtures and machinery, apparatus or equipment in a
14 building, structure, or facility in this State. Provided however, that
15 "capital investment" shall not include soft costs such as financing
16 and design, furniture or decorative items such as artwork or plants,
17 or office equipment if the office equipment is property with a
18 recovery period of less than five years. The recovery period of any
19 property, for purposes of this section, shall be determined as of the
20 date such property is first placed in service or use in this State by
21 the business, determined in accordance with section 168 of the
22 federal Internal Revenue Code of 1986 (26 U.S.C. s.168). A
23 business that acquires or leases a qualified business facility shall
24 also be deemed to have acquired the capital investment made or
25 acquired by the seller or landlord, as the case may be;

26 "Certificate of compliance" means a certificate issued by the
27 authority pursuant to section 9 of P.L.1996, c.25 (C.34:1B-120);

28 "Chief executive officer" means the chief executive officer of the
29 New Jersey Economic Development Authority;

30 "Commitment duration" means the tax credit term and five years
31 from the end of the tax credit term specified in the project
32 agreement entered into pursuant to section 5 of P.L.1996, c.25
33 (C.34:1B-116);

34 "Designated industry" means an industry identified by the
35 authority as desirable for the State to maintain, which may be
36 designated and amended via the promulgation of rules by the
37 authority to reflect changing market conditions;

38 "Designated urban center" means an urban center designated in
39 the State Development and Redevelopment Plan adopted by the
40 State Planning Commission;

41 "Eligible position" means a full-time position retained by a
42 business in this State for which a business provides employee health
43 benefits under a group health plan as defined under section 14 of
44 P.L.1997, c.146 (C.17B:27-54), a health benefits plan as defined
45 under section 1 of P.L.1992, c.162 (C.17B:27A-17), or a policy or
46 contract of health insurance covering more than one person issued
47 pursuant to Article 2 of Chapter 27 of Title 17B of the New Jersey
48 Statutes;

1 "Full-time employee" means a person employed by the business
2 for consideration for at least 35 hours a week, or who renders any
3 other standard of service generally accepted by custom or practice,
4 as determined by the authority, as full-time employment, or a
5 person who is employed by a professional employer organization
6 pursuant to an employee leasing agreement between the business
7 and the professional employer organization, in accordance with
8 P.L.2001, c.260 (C.34:8-67 et seq.) for at least 35 hours a week, or
9 who renders any other standard of service generally accepted by
10 custom or practice, as determined by the authority, as full-time
11 employment, and whose wages are subject to withholding as
12 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
13 et seq. or an employee who is a resident of another State but whose
14 income is not subject to the "New Jersey Gross Income Tax Act,"
15 N.J.S.54A:1-1 et seq. or who is a partner of a business who works
16 for the partnership for at least 35 hours a week, or who renders any
17 other standard of service generally accepted by custom or practice,
18 as determined by the authority, as full-time employment, and whose
19 distributive share of income, gain, loss, or deduction, or whose
20 guaranteed payments, or any combination thereof, is subject to the
21 payment of estimated taxes, as provided in the "New Jersey Gross
22 Income Tax Act," N.J.S.54A:1-1 et seq. "Full-time employee" shall
23 not include any person who works as an independent contractor or
24 on a consulting basis for the business;

25 "Full-time employee at the qualified business facility" means a
26 full-time position in a business in this State, which position the
27 business has filled with a full-time employee, who shall have their
28 primary office at the qualified business facility and spend at least 60
29 percent of their time at the qualified business facility. This
30 requirement shall supersede any law, regulation, or incentive
31 agreement that imposes a requirement that the employee be present
32 at the qualified business facility for a specified percentage of time
33 greater than 60 percent. This amendment shall not alter or
34 terminate any waiver of the requirement that an employee spend
35 time at the qualified business facility implemented by the authority
36 due to COVID-19 public health emergency and state of emergency.

37 "New business location" means the premises to which a business
38 will relocate that the business has either purchased or built or for
39 which the business has entered into a purchase agreement or a
40 written lease for a period of no less than the commitment duration
41 or eight years, whichever is greater, from the date of relocation. A
42 "new business location" also means the business's current location
43 or locations if the business makes a capital investment equal to the
44 total value of the business retention or relocation grant of tax credits
45 to the business at that location or locations;

46 "Program" means the Business Retention and Relocation
47 Assistance Grant Program created pursuant to P.L.1996, c.25
48 (C.34:1B-112 et seq.);

1 "Project agreement" means an agreement between a business and
2 the authority that sets the forecasted schedule for completion and
3 occupancy of the project, the date the commitment duration shall
4 commence, the amount and tax credit term of the applicable grant of
5 tax credits, and other such provisions which further the purposes of
6 P.L.1996, c.25 (C.34:1B-112 et seq.);

7 "Retained full-time job" means an eligible position that currently
8 exists in New Jersey and is filled by a full-time employee but
9 which, because of a potential relocation by the business, is at risk of
10 being lost to another state or country. For the purposes of
11 determining a number of retained full-time jobs, the eligible
12 positions of an affiliate shall be considered the eligible positions of
13 the business;

14 "Tax credit term" means the period of time commencing with the
15 first issuance of tax credits and continuing during the period in
16 which the recipient of a grant of tax credits is eligible to apply the
17 tax credits pursuant to section 7 of P.L.2004, c.65 (C.34:1B-115.3);
18 and

19 "Yearly tax credit amount" means \$1,500 times the number of
20 retained full-time jobs. "Yearly tax credit amount" does not include
21 the amount of any bonus award authorized pursuant to section 5 of
22 P.L.2004, c.65 (C.34:1B-115.1).
23 (cf: P.L.2011, c.149, s.12)

24

25 65. (New section) Sections 65 through 68 of P.L. ,
26 c. (C.) (pending before the Legislature as this bill) shall be
27 known and may be cited as the "New Jersey Innovation Fellows
28 Program Act."
29

30 66. (New section) The Legislature finds and declares that:

31 a. One of the most difficult challenges for upstart entrepreneurs
32 is forgoing employment to launch their businesses.

33 b. For diverse entrepreneurs from underserved populations, this
34 challenge is often exacerbated as these entrepreneurs historically
35 lack funding from family and friends to support their living
36 expenses while building a business without income.

37 c. Having alternative sources of capital and new ways to
38 deploy capital to entrepreneurs can be crucial for disadvantaged
39 entrepreneurs in particular.

40 d. Although many universities provide fellowships for
41 advancing business ideas, this assistance is often only available to
42 students, and there is a dearth of programs designed specifically to
43 support non-student entrepreneurs.

44 e. The New Jersey Economic Development Authority, through
45 the New Jersey Innovation Fellows Program, shall seek to
46 consolidate public and private economic development efforts
47 through various funding sources into one targeted program to invest

1 in diverse talent critical to New Jersey having a vibrant innovation
2 ecosystem.

3

4 67. (New section) As used in sections 65 through 68 of P.L. ,
5 c. (C.) (pending before the Legislature as this bill):

6 “Authority” means the New Jersey Economic Development
7 Authority established pursuant to section 4 of P.L.1974, c.80
8 (C.34:1B-4).

9 “Chief executive officer” means the Chief Executive Officer of
10 the New Jersey Economic Development Authority.

11 “Eligible municipality” means a city of the first class, a
12 municipality with a private research university, a municipality that
13 is qualified to receive assistance under P.L.1978, c.14 (C.52:27D-
14 178 et seq.), a municipality under the supervision of the Local
15 Finance Board pursuant to the provisions of the "Local Government
16 Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a
17 municipality identified by the Director of the Division of Local
18 Government Services in the Department of Community Affairs to
19 be facing serious fiscal distress, a SDA municipality, or a
20 municipality in which a major rail station is located.

21 “Entrepreneur” means an individual starting a small business and
22 who meets the eligibility criteria established by the authority for the
23 program.

24 “Program” means the New Jersey Innovation Fellows Program,
25 established pursuant to section 68 of P.L. , c. (C.) (pending
26 before the Legislature as this bill).

27 “Targeted industry” means any industry identified from time to
28 time by the authority that 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,
33 professional services, film and digital media, non-retail food and
34 beverage businesses including food innovation, and other
35 innovative industries that disrupt current technologies or business
36 models.

37

38 68. (New section) a. There is established the “New Jersey
39 Innovation Fellows Program” within the authority for the purpose
40 of providing seed funding to teams of entrepreneurs, through the
41 disbursement of fellowship grants, and facilitating economic growth
42 and job creation in eligible municipalities. The award of a
43 fellowship grant to a team of entrepreneurs shall be limited to
44 \$350,000 per team and shall be used as income-replacement for
45 entrepreneurs who leave the workforce to open and operate a
46 business in an eligible municipality.

47 b. The chief executive officer shall award fellowship grants
48 through a competitive grant solicitation to teams of no less than

1 three entrepreneurs, in which at least half of the team members are
2 first time entrepreneurs, with well-written business plans who:

3 (1) are seeking to open and operate a business in a targeted
4 industry, which business is located in an eligible municipality;

5 (2) commit to working at the business on a full-time basis for
6 two years next following receipt of the fellowship grant;

7 (3) participate in a mentorship program; and

8 (4) pay gross income tax pursuant to N.J.S.54A:1-1 et seq. at the
9 time of applying for the fellowship grant and remain New Jersey
10 taxpayers during the time in which fellowship grants are disbursed
11 and the next following two years. If any member of the original
12 awarded team of entrepreneurs ceases to be a New Jersey taxpayer
13 during the time in which fellowship grants are disbursed and the
14 next following two years, the fellowship grant may be rescinded,
15 and any amount paid may be recouped, by the authority.

16 c. A team of entrepreneurs seeking to participate in the
17 program shall submit an application in a form determined by the
18 chief executive officer. The application shall include information
19 that the chief executive officer determines is necessary to
20 administer the program.

21 d. The chief executive officer shall award fellowship grants in
22 intervals determined by the chief executive officer following
23 application approval and the submission of proof by a team of
24 entrepreneurs that the team has fulfilled the eligibility requirements
25 pursuant to subsection b. of this section and any other requirements
26 determined by the authority. The submission of proof shall be
27 subject to review and audit by the authority.

28 e. A team of entrepreneurs that includes at least one member
29 who is a graduate of a New Jersey college or university or is a
30 diverse entrepreneur, as defined in section 2 of P.L.1997, c.349
31 (C.54:10A-5.29), and meets the eligibility requirements may receive
32 a fellowship grant up to \$400,000.

33 f. Within one year of the effective date of P.L. , c. (C.)
34 (pending before the Legislature as this bill), the authority shall
35 undertake a disparity study analyzing the relative availability of
36 seed money and capital for diverse entrepreneurs, as defined in
37 section 2 of P.L.1997, c.349 (C.54:10A-5.29), in this State and the
38 authority's historic support of such businesses. If recommended by
39 the study, the authority shall establish policies, practices, protocols,
40 and, if appropriate, minimum percentages of the funds to be set
41 aside to eligible teams of entrepreneurs that include at least one
42 diverse entrepreneur or one female entrepreneur. Regardless of
43 whether the disparity study recommends a set-aside for diverse
44 entrepreneurs, the authority may make up to 35 percent of the funds
45 available for the award of fellowship grants to teams of
46 entrepreneurs that include at least one a member that either resides
47 in an New Jersey State opportunity zone, as defined in section 45 of

1 P.L.2020, c.156 (C.34:1B-313), or is seeking to open and operate a
2 business in an opportunity zone eligible census tract.

3

4 69. There is appropriated from the General Fund to the New
5 Jersey Economic Development Authority the sum of \$10,000,000
6 for the award of fellowship grants to teams of entrepreneurs
7 pursuant to sections 65 through 68 of P.L. , c. (C.)
8 (pending before the Legislature as this bill) and for the costs of
9 administering the “New Jersey Innovation Fellows Program.”

10

11 70. This act shall take effect immediately, and the amendments
12 made to P.L.2020, c.156 by this act, P.L. , c. (pending before the
13 Legislature as this bill), shall apply to applications submitted
14 pursuant section 72 of P.L.2020, c.156 (C.34:1B-340), section 1 of
15 P.L.2018, c.56 (C.54A:4-12a), and 2 of P.L.2018, c.56 (C.54A:4-
16 12b) on or after the effective date of P.L.2020, c.156, except the
17 amendments made by this act to paragraph (2) of subsection a. of
18 section 1 of P.L.2018, c.56 (C.54A:4-12a) and paragraph (2) of
19 subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) shall
20 apply to applications submitted on and after the effective date of
21 this act. The amendments made to P.L.2020, c.156 by this act shall
22 apply to all other applications submitted under P.L.2020, c.156 on
23 and after the effective date of this act.

24

25

26

STATEMENT

27

28 This bill revises various provisions of the “New Jersey Economic
29 Recovery Act of 2020,” P.L.2020, c.156 (C.34:1B-269 et al.) and
30 establishes the "New Jersey Innovation Fellows Program" within
31 the New Jersey Economic Development Authority (EDA).

32

33 *The New Jersey Innovation Fellows Program.* Under the
34 program, the EDA would provide fellowship grants, through a
35 competitive process, for teams of entrepreneurs who operate
36 businesses in targeted industries within certain eligible
37 municipalities. The bill provides that the fellowship grants, which
38 may not exceed \$250,000 per team, would be used as income
39 replacement for entrepreneurs who leave the workforce to open and
40 operate the business. The bill appropriates \$10 million from the
41 General Fund to support the program.

42

43 *The New Jersey Aspire Program.* The bill revises various
44 provisions of the New Jersey Aspire Program, including:

45 (1) expanding the definition of “incentive area” to include
46 aviation and port districts;

47 (2) removing the requirement for commercial projects to
48 demonstrate that increases in incremental State revenues would

- 1 exceed the amounts needed to support the developer’s project
2 financing gap;
- 3 (3) increasing the tax credit allowance for certain residential
4 projects, which also receive an allocation of federal four-percent
5 low income housing tax credits, to 60 percent of total project costs;
- 6 (4) increasing the total value of tax credits that may be awarded
7 per redevelopment project to: (i) \$60 million for residential projects
8 that receive federal four-percent low income housing tax credits, or
9 redevelopment projects located in certain designated areas; and (ii)
10 \$42 million for all other redevelopment projects;
- 11 (5) reducing the amount for which the developers of residential
12 projects may assign tax credit certificates;
- 13 (6) revising the requirements for new residential projects to
14 dedicate certain units for affordable housing purposes;
- 15 (7) providing that the EDA may allow up to six years to elapse
16 from the date on which an incentive award agreement is executed to
17 the date in which a certificate of occupancy is issued for certain
18 higher-cost projects;
- 19 (8) defining the term “technology startup company”;
- 20 (9) revising the procedures and calculations for recapturing tax
21 credit financing when the developer’s actual project financing gap
22 is less than initially approved and when the developer’s actual
23 return on investment is more than initially approved;
- 24 (10) reducing the requirements for mixed-use projects to qualify
25 as transformative projects;
- 26 (11) establishing additional requirements for certain residential
27 projects to qualify as transformative projects;
- 28 (12) removing the limitation on the number of incentive awards
29 that may be awarded to transformative projects;
- 30 (13) increasing the tax credit award for transformative projects
31 from 30 percent to 40 percent of total project costs, or \$350 million,
32 whichever is less;
- 33 (14) establishing standards for the execution of transformative
34 phase agreements and the completion of transformative projects in
35 phases;
- 36 (15) requiring transformative projects, other than those that
37 include certain film production infrastructure, to be located within
38 an incentive area, distressed municipality, or enhanced area;
- 39 (16) allowing the acquisition of land to count towards the
40 calculation of project costs;
- 41 (17) revising the definition of “enhanced area” to include any
42 municipality that contains an urban transit hub;
- 43 (18) revising the definitions of “food desert community” to
44 include areas designated under the Food Desert Relief Program and
45 “food delivery service” to reduce the square footage requirement;
- 46 (19) modifying the definition of “qualified childcare facility” to
47 include registered family child care homes, and providing that the
48 term includes facilities that maintain a licensed capacity for

1 children aged 13 or younger who attend for less than 24 hours per
2 day; and

3 (20) revising the definition of “cash flow” to include government
4 payments.

5

6 *The New Jersey Emerge Program.* The bill also revises various
7 provisions of the New Jersey Emerge Program, including:

8 (1) amending the definition of “full-time employee” to remove
9 certain language concerning the minimum wage requirements;

10 (2) replacing references to “incentive agreement” and “incentive
11 phase agreement” with “project agreement” and “project phase
12 agreement,” respectively;

13 (3) defining the term “technology startup company”;

14 (4) modifying the job retention and creation requirements for
15 eligible projects and providing preferential treatment for projects
16 located in certain areas, including government-restricted
17 municipalities, enhanced areas, and qualified census tracts;

18 (5) allowing the EDA to designate the time period in which a
19 business should demonstrate that it has obtained project approval;

20 (6) expanding the tax credit bonus for solar energy projects to
21 include projects that generate geo-thermal, wind, or any other
22 renewable or distributive energy;

23 (7) eliminating the tax credit bonus for projects located in
24 qualified incentive tracts;

25 (8) providing that when one-third or more of the members of an
26 eligible business’s governing body self-identify as members of an
27 underrepresented community, then the \$2,000 per year tax credit
28 bonus would be calculated based on each new or retained full-time
29 job;

30 (9) reducing the amount of bonus credits awarded for excess
31 capital investment and higher-paid employees;

32 (10) requiring the EDA to reduce the tax credits awarded to a
33 project located in a government-restricted municipality if the
34 median salary of new and retained positions is less than the existing
35 median salary in the municipality;

36 (11) adjusting the starting point, to the EDA’s first issuance of a
37 certificate of compliance, for the two-year period in which the
38 payment of prevailing wages is required for construction work;

39 (12) revising the definition of “incentive area” to include
40 enhanced areas and remove the requirement for certain suburban
41 planning areas and rural centers to be located nearby certain
42 transportation facilities;

43 (13) modifying the definition of “qualified childcare facility” to
44 include registered family child care homes, and providing that the
45 term includes facilities that maintain a licensed capacity for
46 children aged 13 or younger who attend for less than 24 hours per
47 day;

1 (14) revising the definition of “enhanced area” to include any
2 municipality that contains an urban transit hub; and

3 (15) expands the definition of “capital investment to include
4 costs incurred on behalf of a business by its landlord.

5
6 *The Historic Property Reinvestment Program.* The bill revises
7 the amount of credits that may be awarded to eligible business
8 entities under the program. Specifically, the credits would be
9 limited to \$8 million for the rehabilitation of qualified properties
10 located in a qualified incentive tract or government-restricted
11 municipality, \$50 million for the rehabilitation of a transformative
12 project, and \$4 million for any other project. The bill also expands
13 the definition of “transformative project” to include certain projects
14 that are located within government-restricted municipalities.
15 Lastly, the bill provides that prevailing wage requirements would
16 also apply to building services work.

17
18 *The Brownfields Redevelopment Incentive Program.* The bill
19 revises the manner in which tax credit awards are calculated under
20 the program. Specifically, projects located in a qualified incentive
21 tract or government-restricted municipality would receive credits
22 equal to 60 percent of actual remediation costs, 60 percent of
23 projected remediation costs, or \$8 million, whichever is least. All
24 other projects would receive credits equal to 50 percent of actual
25 remediation costs, 50 percent of projected remediation costs, or \$4
26 million, whichever is least. The bill also allows the credit to be
27 claimed against the tax imposed under sections 2 and 3 of P.L.1945,
28 c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231
29 (C.17:32-15), or N.J.S.17B:23-5. The bill also requires developers
30 to provide the EDA with additional forms of evidence concerning
31 actual remediation costs and completion of remediation. Lastly, the
32 bill provides that prevailing wage requirements would also apply to
33 building services work.

34
35 *The New Jersey Innovation Evergreen Program.* The bill
36 reduces the minimum amount of tax credits, from \$1 million to
37 \$500,000, that a potential purchaser may bid for through the
38 competitive auction. The bill also requires a potential purchaser of
39 tax credits to pay not less than 90 percent of the dollar value of the
40 credits.

41
42 *The Food Desert Relief Program.* The bill revises various
43 requirements governing the program. Notably, the bill requires the
44 authority to designate the State’s “food desert communities” based
45 on the geographical areas having limited access to nutritious foods.
46 The bill also allows the authority to consider various additional
47 factors when making this determination. Additionally, the bill
48 expands the definition of “small-food retailer” to include non-

1 traditional retailers such as mobile vendors and farmers' markets.
2 The bill also allows the authority to award grants to other eligible
3 entities to support initiatives to strengthen the food security of
4 residents in food desert communities.

5

6 *The Main Street Recovery Finance Program.* The bill amends
7 various provisions of the program, including:

8 (1) revises the definition of "microbusiness" to include
9 businesses with less than \$1.5 million in annual gross revenue, as
10 opposed to \$1 million;

11 (2) requires the authority to undertake a disparity study of the
12 relative availability of capital and related banking resources for
13 small businesses and microbusinesses that are women- and
14 minority-owned business enterprises in this State. As
15 recommended by the study, the authority would also establish
16 policies for the set-aside of funds for eligible small businesses and
17 microbusinesses that are minority-owned business enterprises or
18 women-owned business enterprises;

19 (3) allows the authority to provide grants to for-profit and non-
20 profit entities that provide technical assistance to microbusinesses;

21 (4) exempts capital improvements in excess of \$50,000 from
22 certain requirements regarding the use of renewable energy, energy-
23 efficient technology, and non-renewable resources; and

24 (5) provides that minority deposit institutions are eligible to
25 receive grants and loans under the program.

26

27 *Other Changes to Specific Programs in the "New Jersey
28 Economic Recovery Act of 2020."* The bill makes changes to other
29 constituent programs of the "New Jersey Economic Recovery Act
30 of 2020." The bill amends the definition of "experienced non-profit
31 or governmental or community development entity" under the
32 Community-Anchored Development Program to remove the
33 requirement for these entities to own or control significant real
34 estate assets.

35 Additionally, the bill expands program eligibility under the New
36 Jersey Ignite Program to include companies founded within the last
37 seven years, as opposed to three years. Under the bill, the
38 maximum aggregate amount of start-up rent grants that may be
39 provided to an approved collaborative workspace could not exceed
40 \$100,000 per calendar year. The bill also provides additional
41 guidance concerning the application of bonus months under the
42 New Jersey Ignite Program.

43 The bill revises parts of the "Economic Development Authority
44 Integrity and Protection Act" to clarify the responsibilities of the
45 Chief Compliance Officer and authorize the authority to recapture
46 any economic development incentive in the case of substantial
47 noncompliance, fraud, or abuse by the recipient. The bill also
48 provides that the Office of the Economic Development Inspector

1 General would be situated in, but not of, the Department of the
2 Treasury.

3 The bill also increases the number of members who will serve on
4 the Working Group on Entrepreneur Zones in the authority from
5 seven to 14 members.

6

7 *General Changes to the “New Jersey Economic Recovery Act of*
8 *2020.”* The bill also makes certain changes that apply to multiple
9 components of the “New Jersey Economic Recovery Act of 2020.”

10 Notably, the bill provides that up to \$350 million in tax credits,
11 which credits were originally allocated for the New Jersey Aspire
12 Program and the Emerge Program, would instead be made available
13 for qualified offshore wind projects pursuant to section 6 of
14 P.L.2010, c.57 (C.34:1B-209.4). As part of this change, the bill
15 also revises certain elements of that law.

16 Additionally, the bill provides that if the EDA awards less than
17 the annual limitation of tax credits under the New Jersey Aspire
18 Program and the Emerge Program, then the uncommitted credits
19 would be made available to qualified offshore wind projects and
20 New Jersey studio partners, pursuant to P.L.2018, c.56. The bill
21 also provides that beginning in fiscal year 2025, additional tax
22 credits would be made available to New Jersey studio partners.

23 The bill also revises the manner in which the EDA would review
24 the compliance of tax credit recipients. Specifically, the bill
25 requires the EDA to confirm whether the business entity is in
26 substantial good standing with respective State departments, or has
27 entered into an agreement with a department that includes a
28 practical corrective action plan. Additionally, the business entity
29 would be required to confirm whether any contractors or
30 subcontractors that perform work at a project site: (1) are registered
31 under “The Public Works Contractor Registration Act,” N.J.S.A.
32 34:11-56.48 et seq.; (2) have not been debarred by Department of
33 Labor and Workforce Development from engaging in or bidding on
34 Public Works Contracts in New Jersey; and (3) possess a tax
35 clearance certificate issued by the Division of Taxation in the
36 Department of the Treasury.

37 Additionally, the bill exempts eligible businesses from the
38 requirement to enter a community benefits agreement under the
39 New Jersey Aspire Program and the Emerge Program when the
40 business submits a copy of the business’s approval letter from the
41 EDA or a redevelopment agreement, provided that such
42 documentation is certified by the host municipality and includes
43 provisions that meet or exceed the standards for community benefit
44 agreements.

45 The bill makes changes to the Historic Property Reinvestment
46 Program and the Brownfields Redevelopment Incentive Program to
47 provide that prevailing wage requirements also apply to building
48 services work.

1 The bill also amends the definition of “project financing gap”
2 under the “Historic Property Reinvestment Act,” the “Brownfields
3 Redevelopment Incentive Act,” and the “New Jersey Aspire
4 Program Act.” Specifically, the bill modifies the capital
5 contribution requirements for projects located in a government-
6 restricted municipality, clarifies the meaning of contributed capital,
7 and clarifies the determination of project value.

8 The bill also amends various sections of law to correct
9 typographical errors.

10

11 *Other Economic Development Programs.* The bill revises certain
12 other economic development programs that predated the “New
13 Jersey Economic Recovery Act of 2020.”

14 Notably, the bill amends the laws governing the film and digital
15 media tax credit program. Specifically, the bill increases the
16 amount of the film production tax credit to 35 percent of the
17 qualified film production expenses incurred by the taxpayer. The
18 bill also extends the period in which film production credits may be
19 claimed to those expenses incurred before July 1, 2034.
20 Additionally, the bill provides additional requirements concerning
21 the review of tax credit recipients. for The bill also replaces
22 references to “New Jersey film partners” with “New Jersey studio
23 partners,” and reduces the number of New Jersey studio partners
24 that may be designated throughout the State.

25 Additionally, the bill amends the various economic development
26 programs, including the Grow New Jersey Assistance Program, the
27 Business Employment Incentive Program, and the Business
28 Retention and Relocation Assistance Grant Program, by adding a
29 new definition for “full-time employee at a qualified business
30 facility.” This provision would supersede any existing requirements
31 for employees to be present at the qualified business facility for at
32 least 60 percent of their time.

33 Under the “New Jersey Economic Recovery Act of 2020,” the
34 Economic Redevelopment and Growth Grant (ERGG) Program was
35 extended to provide \$200 million in new tax credits, including \$150
36 for certain commercial projects and \$50 million for residential
37 projects. The bill revises this allocation, providing instead that
38 \$125 million in tax credits would be made available for residential
39 projects and \$75 million in State incentive grants would be made
40 available for commercial properties. The bill also requires the
41 authority to apply certain standards set forth in the New Jersey
42 Aspire Program when determining the repayment amount for
43 recipients under the ERGG program.

44 In addition, the bill revises the New Jersey Emerging
45 Technology and Biotechnology Financial Assistance Program by
46 increasing, from \$10 million to \$15 million, the amount allocated
47 for the surrender of transferable tax benefits for new and expanding
48 emerging technology and biotechnology companies operating in

1 certain areas. The bill also expands eligibility for these funds to
2 include new and expanding emerging technology and biotechnology
3 companies that operate in opportunity zones, or that are certified as
4 a woman- or minority-owned business.

5 Lastly, the bill amends current law to allow the New Jersey
6 Infrastructure Bank to guarantee debt instruments issued by local
7 government units to support redevelopment projects that include
8 wastewater treatment system projects, water supply projects, or
9 transportation projects.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5939

STATE OF NEW JERSEY

DATED: JUNE 22, 2021

The Assembly Budget Committee reports favorably Assembly Bill No. 5939.

This bill revises various provisions of the “New Jersey Economic Recovery Act of 2020,” P.L.2020, c.156 (C.34:1B-269 et al.) and establishes the "New Jersey Innovation Fellows Program" within the New Jersey Economic Development Authority (EDA).

The New Jersey Innovation Fellows Program. Under the program, the EDA would provide fellowship grants, through a competitive process, for teams of entrepreneurs who operate businesses in targeted industries within certain eligible municipalities. The bill provides that the fellowship grants, which may not exceed \$350,000 per team, would be used as income replacement for entrepreneurs who leave the workforce to open and operate the business. The bill appropriates \$10 million from the General Fund to support the program.

The New Jersey Aspire Program. The bill revises various provisions of the New Jersey Aspire Program, including:

(1) expanding the definition of “incentive area” to include aviation and port districts;

(2) removing the requirement for commercial projects to demonstrate that increases in incremental State revenues would exceed the amounts needed to support the developer’s project financing gap;

(3) increasing the tax credit allowance for certain residential projects, which also receive an allocation of federal four-percent low income housing tax credits, to 60 percent of total project costs;

(4) increasing the total value of tax credits that may be awarded per redevelopment project to: (i) \$60 million for residential projects that receive federal four-percent low income housing tax credits, or redevelopment projects located in certain designated areas; and (ii) \$42 million for all other redevelopment projects;

(5) reducing the amount for which the developers of residential projects may assign tax credit certificates;

(6) revising the requirements for new residential projects to dedicate certain units for affordable housing purposes;

(7) providing that the EDA may allow up to six years to elapse from the date on which an incentive award agreement is executed to the date in which a certificate of occupancy is issued for certain higher-cost projects;

(8) defining the term “technology startup company”;

(9) revising the procedures and calculations for recapturing tax credit financing when the developer’s actual project financing gap is less than initially approved and when the developer’s actual return on investment is more than initially approved;

(10) reducing the requirements for mixed-use projects to qualify as transformative projects;

(11) establishing additional requirements for certain residential projects to qualify as transformative projects;

(12) removing the limitation on the number of incentive awards that may be awarded to transformative projects;

(13) increasing the tax credit award for transformative projects from 30 percent to 40 percent of total project costs, or \$350 million, whichever is less;

(14) establishing standards for the execution of transformative phase agreements and the completion of transformative projects in phases;

(15) requiring transformative projects, other than those that include certain film production infrastructure, to be located within an incentive area, distressed municipality, or enhanced area;

(16) allowing the acquisition of land to count towards the calculation of project costs;

(17) revising the definition of “enhanced area” to include any municipality that contains an urban transit hub;

(18) revising the definitions of “food desert community” to include areas designated under the Food Desert Relief Program and “food delivery service” to reduce the square footage requirement;

(19) modifying the definition of “qualified childcare facility” to include registered family child care homes, and providing that the term includes facilities that maintain a licensed capacity for children aged 13 or younger who attend for less than 24 hours per day; and

(20) revising the definition of “cash flow” to include government payments.

The New Jersey Emerge Program. The bill also revises various provisions of the New Jersey Emerge Program, including:

(1) amending the definition of “full-time employee” to remove certain language concerning the minimum wage requirements;

(2) replacing references to “incentive agreement” and “incentive phase agreement” with “project agreement” and “project phase agreement,” respectively;

(3) defining the term “technology startup company”;

(4) modifying the job retention and creation requirements for eligible projects and providing preferential treatment for projects located in certain areas, including government-restricted municipalities, enhanced areas, and qualified census tracts;

(5) allowing the EDA to designate the time period in which a business should demonstrate that it has obtained project approval;

(6) expanding the tax credit bonus for solar energy projects to include projects that generate geo-thermal, wind, or any other renewable or distributive energy;

(7) eliminating the tax credit bonus for projects located in qualified incentive tracts;

(8) providing that when one-third or more of the members of an eligible business's governing body self-identify as members of an underrepresented community, then the \$2,000 per year tax credit bonus would be calculated based on each new or retained full-time job;

(9) reducing the amount of bonus credits awarded for excess capital investment and higher-paid employees;

(10) requiring the EDA to reduce the tax credits awarded to a project located in a government-restricted municipality if the median salary of new and retained positions is less than the existing median salary in the municipality;

(11) adjusting the starting point, to the EDA's first issuance of a certificate of compliance, for the two-year period in which the payment of prevailing wages is required for construction work;

(12) revising the definition of "incentive area" to include enhanced areas and remove the requirement for certain suburban planning areas and rural centers to be located nearby certain transportation facilities;

(13) modifying the definition of "qualified childcare facility" to include registered family child care homes, and providing that the term includes facilities that maintain a licensed capacity for children aged 13 or younger who attend for less than 24 hours per day;

(14) revising the definition of "enhanced area" to include any municipality that contains an urban transit hub; and

(15) expands the definition of "capital investment to include costs incurred on behalf of a business by its landlord.

The Historic Property Reinvestment Program. The bill revises the amount of credits that may be awarded to eligible business entities under the program. Specifically, the credits would be limited to \$8 million for the rehabilitation of qualified properties located in a qualified incentive tract or government-restricted municipality, \$50 million for the rehabilitation of a transformative project, and \$4 million for any other project. The bill also expands the definition of "transformative project" to include certain projects that are located within government-restricted municipalities. Lastly, the bill provides

that prevailing wage requirements would also apply to building services work.

The Brownfields Redevelopment Incentive Program. The bill revises the manner in which tax credit awards are calculated under the program. Specifically, projects located in a qualified incentive tract or government-restricted municipality would receive credits equal to 60 percent of actual remediation costs, 60 percent of projected remediation costs, or \$8 million, whichever is least. All other projects would receive credits equal to 50 percent of actual remediation costs, 50 percent of projected remediation costs, or \$4 million, whichever is least. The bill also allows the credit to be claimed against the tax imposed under sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The bill also requires developers to provide the EDA with additional forms of evidence concerning actual remediation costs and completion of remediation. Lastly, the bill provides that prevailing wage requirements would also apply to building services work.

The New Jersey Innovation Evergreen Program. The bill reduces the minimum amount of tax credits, from \$1 million to \$500,000, that a potential purchaser may bid for through the competitive auction. The bill also requires a potential purchaser of tax credits to pay not less than 90 percent of the dollar value of the credits.

The Food Desert Relief Program. The bill revises various requirements governing the program. Notably, the bill requires the authority to designate the State's "food desert communities" based on the geographical areas having limited access to nutritious foods. The bill also allows the authority to consider various additional factors when making this determination. Additionally, the bill expands the definition of "small-food retailer" to include non-traditional retailers such as mobile vendors and farmers' markets. The bill also allows the authority to award grants to other eligible entities to support initiatives to strengthen the food security of residents in food desert communities.

The Main Street Recovery Finance Program. The bill amends various provisions of the program, including:

(1) revises the definition of "microbusiness" to include businesses with less than \$1.5 million in annual gross revenue, as opposed to \$1 million;

(2) requires the authority to undertake a disparity study of the relative availability of capital and related banking resources for small businesses and microbusinesses that are women- and minority-owned business enterprises in this State. As recommended by the study, the authority would also establish policies for the set-aside of funds for

eligible small businesses and microbusinesses that are minority-owned business enterprises or women-owned business enterprises;

(3) allows the authority to provide grants to for-profit and non-profit entities that provide technical assistance to microbusinesses;

(4) exempts capital improvements in excess of \$50,000 from certain requirements regarding the use of renewable energy, energy-efficient technology, and non-renewable resources; and

(5) provides that minority deposit institutions are eligible to receive grants and loans under the program.

Other Changes to Specific Programs in the “New Jersey Economic Recovery Act of 2020.” The bill makes changes to other constituent programs of the “New Jersey Economic Recovery Act of 2020.” The bill amends the definition of “experienced non-profit or governmental or community development entity” under the Community-Anchored Development Program to remove the requirement for these entities to own or control significant real estate assets.

Additionally, the bill expands program eligibility under the New Jersey Ignite Program to include companies founded within the last seven years, as opposed to three years. Under the bill, the maximum aggregate amount of start-up rent grants that may be provided to an approved collaborative workspace could not exceed \$100,000 per calendar year. The bill also provides additional guidance concerning the application of bonus months under the New Jersey Ignite Program.

The bill revises parts of the “Economic Development Authority Integrity and Protection Act” to clarify the responsibilities of the Chief Compliance Officer and authorize the authority to recapture any economic development incentive in the case of substantial noncompliance, fraud, or abuse by the recipient. The bill also provides that the Office of the Economic Development Inspector General would be situated in, but not of, the Department of the Treasury.

The bill also increases the number of members who will serve on the Working Group on Entrepreneur Zones in the authority from seven to 14 members.

General Changes to the “New Jersey Economic Recovery Act of 2020.” The bill also makes certain changes that apply to multiple components of the “New Jersey Economic Recovery Act of 2020.”

Notably, the bill provides that up to \$350 million in tax credits, which credits were originally allocated for the New Jersey Aspire Program and the Emerge Program, would instead be made available for qualified offshore wind projects pursuant to section 6 of P.L.2010, c.57 (C.34:1B-209.4). As part of this change, the bill also revises certain elements of that law.

Additionally, the bill provides that if the EDA awards less than the annual limitation of tax credits under the New Jersey Aspire Program and the Emerge Program, then the uncommitted credits would be made

available to qualified offshore wind projects and New Jersey studio partners, pursuant to P.L.2018, c.56. The bill also provides that beginning in fiscal year 2025, additional tax credits would be made available to New Jersey studio partners.

The bill also revises the manner in which the EDA would review the compliance of tax credit recipients. Specifically, the bill requires the EDA to confirm whether the business entity is in substantial good standing with respective State departments, or has entered into an agreement with a department that includes a practical corrective action plan. Additionally, the business entity would be required to confirm whether any contractors or subcontractors that perform work at a project site: (1) are registered under “The Public Works Contractor Registration Act,” N.J.S.A. 34:11-56.48 et seq.; (2) have not been debarred by Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in New Jersey; and (3) possess a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury.

Additionally, the bill exempts eligible businesses from the requirement to enter a community benefits agreement under the New Jersey Aspire Program and the Emerge Program when the business submits a copy of the business’s approval letter from the EDA or a redevelopment agreement, provided that such documentation is certified by the host municipality and includes provisions that meet or exceed the standards for community benefit agreements.

The bill makes changes to the Historic Property Reinvestment Program and the Brownfields Redevelopment Incentive Program to provide that prevailing wage requirements also apply to building services work.

The bill also amends the definition of “project financing gap” under the “Historic Property Reinvestment Act,” the “Brownfields Redevelopment Incentive Act,” and the “New Jersey Aspire Program Act.” Specifically, the bill modifies the capital contribution requirements for projects located in a government-restricted municipality, clarifies the meaning of contributed capital, and clarifies the determination of project value.

The bill also amends various sections of law to correct typographical errors.

Other Economic Development Programs. The bill revises certain other economic development programs that predated the “New Jersey Economic Recovery Act of 2020.”

Notably, the bill amends the laws governing the film and digital media tax credit program. Specifically, the bill increases the amount of the film production tax credit to 35 percent of the qualified film production expenses incurred by the taxpayer. The bill also extends the period in which film production credits may be claimed to those expenses incurred before July 1, 2034. Additionally, the bill provides

additional requirements concerning the review of tax credit recipients. for The bill also replaces references to “New Jersey film partners” with “New Jersey studio partners,” and reduces the number of New Jersey studio partners that may be designated throughout the State.

Additionally, the bill amends the various economic development programs, including the Grow New Jersey Assistance Program, the Business Employment Incentive Program, and the Business Retention and Relocation Assistance Grant Program, by adding a new definition for “full-time employee at a qualified business facility.” This provision would supersede any existing requirements for employees to be present at the qualified business facility for at least 60 percent of their time.

Under the “New Jersey Economic Recovery Act of 2020,” the Economic Redevelopment and Growth Grant (ERGG) Program was extended to provide \$200 million in new tax credits, including \$150 for certain commercial projects and \$50 million for residential projects. The bill revises this allocation, providing instead that \$125 million in tax credits would be made available for residential projects and \$75 million in State incentive grants would be made available for commercial properties. The bill also requires the authority to apply certain standards set forth in the New Jersey Aspire Program when determining the repayment amount for recipients under the ERGG program.

In addition, the bill revises the New Jersey Emerging Technology and Biotechnology Financial Assistance Program by increasing, from \$10 million to \$15 million, the amount allocated for the surrender of transferable tax benefits for new and expanding emerging technology and biotechnology companies operating in certain areas. The bill also expands eligibility for these funds to include new and expanding emerging technology and biotechnology companies that operate in opportunity zones, or that are certified as a woman- or minority-owned business.

Lastly, the bill amends current law to allow the New Jersey Infrastructure Bank to guarantee debt instruments issued by local government units to support redevelopment projects that include wastewater treatment system projects, water supply projects, or transportation projects.

FISCAL IMPACT:

Fiscal information for this bill is currently unavailable.

SENATE, No. 3993

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JUNE 21, 2021

Sponsored by:

Senator M. TERESA RUIZ

District 29 (Essex)

Senator NILSA I. CRUZ-PEREZ

District 5 (Camden and Gloucester)

Co-Sponsored by:

Senators Oroho and Turner

SYNOPSIS

Revises various provisions of “New Jersey Economic Recovery Act of 2020” and other economic development programs; establishes New Jersey Innovation Fellows Program; appropriates \$10 million.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/30/2021)

S3993 RUIZ, CRUZ-PEREZ

2

1 AN ACT concerning State economic development policy, amending
2 various sections of the statutory law, supplementing Title 34 of
3 the Revised Statutes, 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. Section 3 of P.L.2020, c.156 (C.34:1B-271) is amended to
9 read as follows:

10 3. As used in sections 2 through 8 of P.L.2020, c.156
11 (C.34:1B-270 through C.34:1B-276):

12 "Authority" means the New Jersey Economic Development
13 Authority established pursuant to section 4 of P.L.1974, c.80
14 (C.34:1B-4).

15 "Board" means the Board of the New Jersey Economic
16 Development Authority, established pursuant to section 4 of
17 P.L.1974, c.80 (C.34:1B-4).

18 "Cost of rehabilitation" means the consideration given, valued in
19 money, whether given in money or otherwise, for the materials and
20 services which constitute the rehabilitation.

21 "Building services" means any cleaning or routine building
22 maintenance work, including, but not limited to, sweeping,
23 vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse
24 or trash, window cleaning, securing, patrolling, or other work in
25 connection with the care or securing of an existing building,
26 including services typically provided by a door-attendant or
27 concierge. "Building services" shall not include any skilled
28 maintenance work, professional services, or other public work for
29 which a contractor is required to pay the "prevailing wage" as
30 defined in section 2 of P.L.1963, c.150 (C.34:11-56.26).

31 "Director" means the Director of the Division of Taxation in the
32 Department of the Treasury.

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.2020, c.156 (C.34:1B-269 et al.), is subject to financial
38 restrictions imposed pursuant to the "Municipal Stabilization and
39 Recovery Act," P.L.2016, c.4 (C.52:27BBBB-1 et seq.), or is
40 restricted in its ability to levy property taxes on property in that
41 municipality as a result of the State of New Jersey owning or
42 controlling property representing at least 25 percent of the total land
43 area of the municipality or as a result of the federal government of
44 the United States owning or controlling at least 50 acres of the total

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 land area of the municipality, which is dedicated as a national
2 natural landmark.

3 "Income producing property" means a structure or site that is
4 used in a trade or business or to produce rental income.

5 "New Jersey S corporation" means the same as the term is
6 defined in section 12 of P.L.1993, c.173 (C.54A:5-10).

7 "Officer" means the State Historic Preservation Officer or the
8 official within the State designated by the Governor or by statute in
9 accordance with the provisions of chapter 3023 of Title 54, United
10 States Code (54 U.S.C. s.302301 et seq.), to act as liaison for the
11 purpose of administering historic preservation programs in the
12 State.

13 "Partnership" means an entity classified as a partnership for
14 federal income tax purposes.

15 "Project financing gap" means the part of the total cost of
16 rehabilitation, including reasonable and appropriate return on
17 investment, that remains to be financed after all other sources of
18 capital have been accounted for, including, but not limited to,
19 developer contributed capital, which shall not be less than 20
20 percent of the total cost of rehabilitation, and investor or financial
21 entity capital or loans for which the developer, after making all
22 good faith efforts to raise additional capital, certifies that additional
23 capital cannot be raised from other sources; provided, however, that
24 for a redevelopment project located in a government-restricted
25 municipality, the developer contributed capital shall not be less than
26 10 percent of the cost of rehabilitation. Developer contributed
27 capital may consist of cash, deferred development fees, costs for
28 project feasibility incurred within the 12 months prior to
29 application, property value less any mortgages when the developer
30 owns the project site, and any other investment by the developer in
31 the project deemed acceptable by the authority, as provided by
32 regulations promulgated by the authority. Property value shall be
33 valued at the lesser of either: a. the purchase price, provided the
34 property was purchased pursuant to an arm's length transaction
35 within 12 months of application; or b. the value as determined by a
36 current appraisal.

37 "Property" means a structure, including its site improvements
38 and landscape features, assessed as real property, and used for: a
39 commercial purpose; a residential rental purpose, provided the
40 structure contains at least four dwelling units; or any combination
41 thereof.

42 "Qualified incentive tract" means: a. a population census tract
43 having a poverty rate of 20 percent or more; or b. a census tract in
44 which the median family income for the census tract does not
45 exceed 80 percent of the greater of the Statewide median family
46 income or the median family income of the metropolitan statistical
47 area in which the census tract is situated.

1 "Qualified property" means a property located in the State of
2 New Jersey that is an income producing property, and that is:

3 **[(a) (i)] a. (1)** individually listed, or located in a district listed
4 on the National Register of Historic Places in accordance with the
5 provisions of chapter 3021 of Title 54, United States Code (54
6 U.S.C. s.302101 et seq.), or on the New Jersey Register of Historic
7 Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.), or
8 individually designated, or located in a district designated, by the
9 Pinelands Commission as a historic resource of significance to the
10 Pinelands in accordance with the Pinelands comprehensive
11 management plan adopted pursuant to the "Pinelands Protection
12 Act," P.L.1979, c.111 (C.13:18A-1 et seq.), and

13 **[(ii)] (2)** if located within a district, certified by either the
14 officer or the Pinelands Commission, as appropriate, as contributing
15 to the historic significance of the district; or

16 **[(b) (i)] b. (1)** individually identified or registered, or located in
17 a district composed of properties identified or registered, for
18 protection as significant historic resources in accordance with
19 criteria established by a municipality in which the property or
20 district is located if the criteria for identification or registration has
21 been approved by the officer as suitable for substantially achieving
22 the purpose of preserving and rehabilitating buildings of historic
23 significance within the jurisdiction of the municipality, and

24 **[(ii)] (2)** if located within a district, certified by the officer as
25 contributing to the historic significance of the district.

26 "Rehabilitation" means the repair or reconstruction of the
27 exterior or interior of a qualified property or transformative project
28 to make an efficient contemporary use possible while preserving the
29 portions or features of the property that have significant historical,
30 architectural, and cultural values.

31 "Rehabilitation of the interior of the qualified property or
32 transformative project" means the repair or reconstruction of the
33 structural or substrate components and electrical, plumbing, and
34 heating components within the interior of a qualified property or
35 transformative project.

36 "Selected rehabilitation period" means a period of 24 months if
37 the beginning of such period is chosen by the business entity during
38 which, or parts of which, a rehabilitation is occurring, or a period of
39 60 months if a rehabilitation is reasonably expected to be completed
40 in distinct phases set forth in written architectural plans and
41 specifications completed before or during the physical work on the
42 rehabilitation.

43 "Transformative project" means a property that is:

44 **[(a)] a.** an income producing property, not including a
45 residential property, whose rehabilitation the authority determines
46 will generate substantial increases in State revenues through the
47 creation of increased business activity within the surrounding area;

1 **[(b)]** b. individually listed on the New Jersey Register of
2 Historic Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et
3 seq.) and which, before the enactment of P.L.2020, c.156 (C.34:1B-
4 269 et al.), received a Determination of Eligibility from the Keeper
5 of the National Register of Historic Places in accordance with the
6 provisions of Part 60 of Title 36 of the Code of Federal
7 Regulations; **[(c)]** and

8 c. (1) located within a one-half mile radius of the center point of
9 a transit village, as designated by the New Jersey Department of
10 Transportation **[(d)]**; and

11 **[(d)]** , and located within a city of the first class, as classified
12 under N.J.S.40A:6-4; or (2) located within a government-restricted
13 municipality.

14 (cf: P.L.2020, c.156, s.3)

15

16 2. Section 4 of P.L.2020, c.156 (C.34:1B-272) is amended to
17 read as follows:

18 4. a. (1) A business entity, upon successful application to the
19 New Jersey Economic Development Authority, and commitment to
20 the authority to pay each worker employed to perform construction
21 work and building services work at the qualified property or
22 transformative project a wage not less than the prevailing wage rate
23 for the worker's craft or trade, as determined by the Commissioner
24 of Labor and Workforce Development pursuant to P.L.1963, c.150
25 (C.34:11-56.25 et seq.), shall be allowed a credit against the tax
26 otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-
27 5), **[(the tax imposed on insurers generally pursuant to P.L.1945,**
28 **c.132 (C.54:18A-1 et seq.), or the tax imposed on marine insurance**
29 **companies pursuant to R.S.54:16-1 et. seq.)]** sections 2 and 3 of
30 P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of
31 P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5, for [40 percent]
32 a portion of the cost of rehabilitation paid by the business entity for
33 the rehabilitation of a qualified property or transformative project,
34 if the cost of rehabilitation during a business entity's selected
35 rehabilitation period is not less than the greater of **[(1)]** (a) the
36 adjusted basis of the structure of the qualified property or
37 transformative project used for federal income tax purposes as of
38 the beginning of the business entity's selected rehabilitation period,
39 or **[(2)]** (b) \$5,000. The amount of the credit claimed in any
40 accounting or privilege period shall not reduce the amount of the
41 tax liability to less than the statutory minimum provided in
42 subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

43 (2) The amount of credit allowed to a business entity pursuant to
44 this section shall be as follows:

45 (a) for the rehabilitation of a qualified property located in a
46 qualified incentive tract or government-restricted municipality, 45
47 percent of the cost of rehabilitation paid by the business entity for

1 the rehabilitation of the qualified property or \$8 million, whichever
2 is less;

3 (b) for the rehabilitation of a transformative project, 45 percent
4 of the cost of rehabilitation paid by the business entity for the
5 rehabilitation of the transformative project or \$50 million,
6 whichever is less; and

7 (c) for the rehabilitation of any other qualified property not
8 subject to provisions of subparagraph (a) or (b) of this paragraph,
9 40 percent of the cost of rehabilitation paid by the business entity
10 for the rehabilitation of the qualified property or \$4 million,
11 whichever is less.

12 (3) The prevailing wage [requirements] requirement for
13 construction work shall apply at a qualified property or
14 transformative project during the selected rehabilitation period, and
15 the prevailing wage requirement for building services work shall
16 apply at a qualified property or transformative project for 10 years
17 following completion of the rehabilitation work at the qualified
18 property or transformative project. In the event a qualified property
19 or transformative project, or the aggregate of all qualified properties
20 and transformative projects approved for awards under the program,
21 constitute a lease of more than 35 percent of a facility, the
22 prevailing wage requirements shall apply to the entire facility.

23 **[(3)]** (4) Prior to approval of an application by the authority, the
24 authority shall confirm with the Department of Labor and
25 Workforce Development, the Department of Environmental
26 Protection, and the Department of the Treasury [shall each report to
27 the authority] whether the business entity is in substantial good
28 standing with the respective department [in lieu of submitting
29 certificates of good standing for the business entity, the business
30 entity may demonstrate that it] or has entered into an agreement
31 with the respective department that includes a practical corrective
32 action plan for the business entity. The business entity shall certify
33 that any contractors or subcontractors that perform work at the
34 qualified property or transformative project: a. are registered as
35 required by “The Public Works Contractor Registration Act,”
36 P.L.1999, c.238 (C.34:11-56.48 et seq.); b. have not been debarred
37 by Department of Labor and Workforce Development from
38 engaging in or bidding on Public Works Contracts in New Jersey,
39 and c. possess a tax clearance certificate issued by the Division of
40 Taxation in the Department of the Treasury. The authority may also
41 contract with an independent third party to perform a background
42 check on the business entity. Following approval of an application
43 by the authority, but prior to the start of any construction or
44 rehabilitation at the qualified property or transformative project, the
45 authority shall enter into a rehabilitation agreement with the
46 business entity. The authority shall negotiate the terms and
47 conditions of the rehabilitation agreement on behalf of the State.

1 **[(4)] (5)** A rehabilitation project shall be eligible for a tax credit
2 only if the business entity demonstrates to the authority at the time
3 of application that:

4 (a) without the tax credit, the rehabilitation project is not
5 economically feasible; and

6 (b) a project financing gap exists.

7 b. A business entity may claim a credit under this section
8 during the accounting or privilege period: (1) in which it makes the
9 final payment for the cost of the rehabilitation if the business entity
10 has chosen a selected rehabilitation period of 24 months; or (2) in
11 which a distinct project phase of the rehabilitation is completed if
12 the business entity has chosen a selected rehabilitation period of 60
13 months. The credit may be claimed against any State tax, listed in
14 paragraph (1) of subsection a. of this section, liability otherwise due
15 after any other credits permitted pursuant to law have been applied.
16 The amount of credit claimed in an accounting or privilege period
17 that cannot be applied for that accounting or privilege period due to
18 limitations in this section may be transferred pursuant to section 5
19 of P.L.2020, c.156 (C.34:1B-273) or carried over, if necessary, to
20 the nine accounting or privilege periods following the accounting or
21 privilege period for which the credit was allowed.

22 c. A business entity shall submit to the authority satisfactory
23 evidence of the actual cost of rehabilitation, as certified by a
24 certified public accountant, evidence of completion of the
25 rehabilitation or phase, and a certification that all information
26 provided by the business entity to the authority is true, including
27 information contained in the application, the rehabilitation
28 agreement, any amendment to the rehabilitation agreement, and any
29 other information submitted by the business entity to the authority
30 pursuant to sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270
31 through C.34:1B-276). The business entity, or an authorized agent
32 of the business entity, shall certify under the penalty of perjury that
33 the information provided pursuant to this subsection is true.

34 (cf: P.L.2020, c.156, s.4)

35

36 3. Section 5 of P.L.2020, c.156 (C.34:1B-273) is amended to
37 read as follows:

38 5. a. The authority shall, in cooperation with the director,
39 establish and administer a corporation business tax credit transfer
40 certificate program and an insurance premiums tax credit transfer
41 certificate program to enable business entities with unused,
42 otherwise allowable amounts of tax credits issued pursuant to
43 sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through
44 C.34:1B-276) to exchange these credits, in whole or in part, for
45 private financial assistance prior to the expiration of the tax credit.

46 A certificate issued by the director and the authority shall include
47 a statement waiving the rights of the business entity to which the

1 tax credit has been granted to claim any amount of remaining credit
2 against any tax liability.

3 b. A business entity holding an unused, otherwise allowable tax
4 credit issued pursuant to sections 2 through 8 of P.L.2020, c.156
5 (C.34:1B-270 through C.34:1B-276) may apply to the director and
6 the authority for a tax credit transfer certificate pursuant to
7 subsection a. of this section. Upon receipt thereof, the business
8 entity may sell or assign, in full or in part, the tax credit transfer
9 certificate to another taxpayer in exchange for private financial
10 assistance to be provided by the purchaser or assignee of the tax
11 credit transfer certificate to the seller thereof. The developer shall
12 not sell a tax credit transfer certificate allowed under this section
13 for consideration received by the developer of less than 85 percent
14 of the transferred credit amount before considering any further
15 discounting to present value which shall be permitted, except a
16 developer of a residential project consisting of newly-constructed
17 residential units that has received federal low income housing tax
18 credits under 26 U.S.C. **[s.42(b)(2)(B)(i)]** s.42(b)(1)(B)(i) may
19 assign a tax credit transfer certificate for consideration of no less
20 than 75 percent subject to the submission of a plan to the authority
21 and the New Jersey Housing and Mortgage Finance Agency to use
22 the proceeds derived from the assignment of tax credits to complete
23 the residential project. The purchaser or assignee of the tax credit
24 transfer certificate may apply the face value of the tax credit
25 transfer certificate acquired against the purchaser's or assignee's
26 applicable tax liability by claiming the tax credit on the purchaser's
27 or assignee's corporation business tax or insurance premiums tax
28 return with the corresponding tax credit transfer certificate
29 accompanying the tax return. A purchaser or assignee of a tax
30 credit transfer certificate pursuant to this section shall not make any
31 subsequent transfers, assignments, or sales of the tax credit transfer
32 certificate.

33 c. The authority shall publish on its Internet website the
34 following information concerning each tax credit transfer certificate
35 approved by the authority and the director pursuant to this section:

- 36 (1) the name of the transferor;
- 37 (2) the name of the transferee;
- 38 (3) the value of the tax credit transfer certificate;
- 39 (4) the State tax against which the transferee may apply the tax
40 credit; and
- 41 (5) the consideration received by the transferor.

42 (cf: P.L.2020, c.156, s.5)

43

44 4. Section 6 of P.L.2020, c.156 (C.34:1B-274) is amended to
45 read as follows:

46 6. a. The authority shall, in consultation with the officer and
47 the director, promulgate rules and regulations in accordance with
48 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et

1 seq.), as the officer deems necessary to administer the provisions of
2 sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through
3 C.34:1B-276), including but not limited to rules establishing
4 administrative fees to implement the provisions of sections 2
5 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276),
6 and setting of an annual application submission date, requiring
7 annual reporting by each business entity that [receive] receives a
8 tax credit pursuant to sections 2 through 8 of P.L.2020, c.156
9 (C.34:1B-270 through C.34:1B-276) [, and requiring those reports
10 to include certifications by] . As part of the authority's review of
11 the annual reports required from each business entity that receives a
12 tax credit, the authority shall confirm with the Department of Labor
13 and Workforce Development, the Department of Environmental
14 Protection, and the Department of the Treasury that; the business
15 entity [, and any contractors or subcontractors performing work at
16 the qualified property or transformative project, are] is in
17 substantial good standing with the respective department, or has
18 entered into an agreement with the respective department that
19 includes a practical corrective action plan for the business entity,
20 and the business entity shall certify that any contractors or
21 subcontractors performing work at the qualified property or
22 transformative project: (1) are registered as required by "The Public
23 Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-
24 56.48 et seq.); (2) have not been debarred by Department of Labor
25 and Workforce Development from engaging in or bidding on Public
26 Works Contracts in the State; and (3) possess a tax clearance
27 certificate issued by the Division of Taxation in the Department of
28 the Treasury. The rules and regulations adopted pursuant to this
29 section shall also include a provision to require that business
30 entities forfeit all tax credits awarded in any year in which [any
31 such report is not received] the Department of Labor and
32 Workforce Development, the Department of Environmental
33 Protection, or the Department of the Treasury advises the authority
34 that the business entity is not in substantial good standing nor has
35 the business entity entered into an agreement with the respective
36 department that includes a practical corrective action plan, and to
37 allow the authority to extend, in individual cases, the deadline for
38 any annual reporting or certification requirement established
39 pursuant to this section.

40 b. For every tax credit allowed pursuant to section 4 of
41 P.L.2020, c.156 (C.34:1B-272), the authority, in consultation with
42 the officer, shall certify to the director: the total cost of
43 rehabilitation; that the property meets the definition of qualified
44 property or transformative project, as applicable; and that the
45 rehabilitation has been completed in substantial compliance with
46 the requirements of the Secretary of the Interior's Standards for
47 Rehabilitation pursuant to section 67.7 of Title 36, Code of Federal

1 Regulations. The business entity shall attach the certification to the
2 tax return on which the business entity claims the credit.

3 c. (1) The total amount of credits approved by the authority
4 pursuant to sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270
5 through C.34:1B-276) shall not exceed the limitations set forth in
6 section 98 of P.L.2020, c.156 (C.34:1B-362). If the authority
7 approves less than the total amount of tax credits authorized
8 pursuant to this subsection in a fiscal year, the remaining amount,
9 plus any amounts remaining from previous fiscal years, shall be
10 added to the limit of subsequent fiscal years until that amount of tax
11 credits are claimed or allowed. Any unapproved, uncertified, or
12 recaptured portion of tax credits during any fiscal year may be
13 carried over and reallocated in succeeding years.

14 (2) Notwithstanding the provisions of paragraph (1) of this
15 subsection and section 98 of P.L.2020, c.156 (C.34:1B-362) to the
16 contrary, the authority may approve tax credits, pursuant to sections
17 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-
18 276), for the rehabilitation of a transformative project in an amount
19 that causes the total amount of credits approved during the fiscal
20 year to exceed the limitations set forth in section 98 of P.L.2020,
21 c.156 (C.34:1B-362), provided that the amount of the excess shall
22 be subtracted from the total amount of credits that may be approved
23 by the authority in the subsequent fiscal year, and the amount of the
24 excess shall not exceed 50 percent of the total tax credits otherwise
25 authorized for the fiscal year.

26 The authority, in consultation with the officer, shall devise
27 criteria for allocating tax credit amounts if the approved amounts
28 combined exceed the total amount in each fiscal year, including
29 rules that allocate over multiple fiscal years a single credit amount
30 granted in excess of \$2,000,000. The criteria shall include a
31 project's historic importance, positive impact on the surrounding
32 neighborhood, economic sustainability, geographic diversity, and
33 consistency with Statewide growth and development policies and
34 plans.

35 (cf: P.L.2020, c.156, s.6)

36

37 5. Section 10 of P.L.2020, c.156 (C.34:1B-278) is amended to
38 read as follows:

39 10. As used in sections 9 through 19 of P.L.2020, c.156
40 (C.34:1B-277 through C.34:1B-287):

41 "Authority" means the New Jersey Economic Development
42 Authority established by section 4 of P.L.1974, c.80 (C.34:1B-4).

43 "Board" means the Board of the New Jersey Economic
44 Development Authority, established pursuant to section 4 of
45 P.L.1974, c.80 (C.34:1B-4).

46 "Brownfield site" means any former or current commercial or
47 industrial site that is currently vacant or underutilized and on which

1 there has been, or there is suspected to have been, a discharge of a
2 contaminant or on which there is contaminated building material.

3 "Building services" means any cleaning or routine building
4 maintenance work, including, but not limited to, sweeping,
5 vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse
6 or trash, window cleaning, securing, patrolling, or other work in
7 connection with the care or securing of an existing building,
8 including services typically provided by a door-attendant or
9 conierge. "Building services" shall not include any skilled
10 maintenance work, professional services, or other public work for
11 which a contractor is required to pay the "prevailing wage" as
12 defined in section 2 of P.L.1963, c.150 (C.34:11-56.26).

13 "Contaminated building material" means components of a
14 structure where abatement or removal of asbestos, or remediation of
15 materials containing hazardous substances defined pursuant to
16 section 3 of P.L.1976, c.141 (C.58:10-23.11b), is required by
17 applicable federal, state, or local rules or regulations.

18 "Contamination" or "contaminant" means any discharged
19 hazardous substance as defined pursuant to section 3 of P.L.1976,
20 c.141 (C.58:10-23.11b), hazardous waste as defined pursuant to
21 section 1 of P.L.1976, c.99 (C.13:1E-38), pollutant as defined
22 pursuant to section 3 of P.L.1977, c.74 (C.58:10A-3), or
23 contaminated building material.

24 "Department" means the Department of Environmental
25 Protection.

26 "Developer" means any person that enters or proposes to enter
27 into a redevelopment agreement with the authority pursuant to the
28 provisions of section 13 of P.L.2020, c.156 (C.34:1B-281).

29 "Director" means the Director of the Division of Taxation in the
30 Department of the Treasury.

31 "Government-restricted municipality" means a municipality in
32 this State with a municipal revitalization index distress score of at
33 least 75, that met the criteria for designation as an urban aid
34 municipality in the 2019 State fiscal year, and that, on the effective
35 date of P.L.2020, c.156 (C.34:1B-269 et al.), is subject to financial
36 restrictions imposed pursuant to the "Municipal Stabilization and
37 Recovery Act," P.L.2016, c.4 (C.52:27BBBB-1 et seq.), or is
38 restricted in its ability to levy property taxes on property in that
39 municipality as a result of the State of New Jersey owning or
40 controlling property representing at least 25 percent of the total land
41 area of the municipality or as a result of the federal government of
42 the United States owning or controlling at least 50 acres of the total
43 land area of the municipality, which is dedicated as a national
44 natural landmark.

45 "Licensed site remediation professional" means an individual
46 who is licensed by the Site Remediation Professional Licensing
47 Board pursuant to section 7 of P.L.2009, c.60 (C.58:10C-7) or the
48 department pursuant to section 12 of P.L.2009, c.60 (C.58:10C-12).

1 "Program" means the Brownfields Redevelopment Incentive
2 Program established by section 11 of P.L.2020, c.156 (C.34:1B-
3 279).

4 "Project financing gap" means the part of the total remediation
5 cost, including reasonable and appropriate return on investment,
6 that remains to be financed after all other sources of capital have
7 been accounted for, including, but not limited to, developer
8 contributed capital, which shall not be less than 20 percent of the
9 total remediation cost, and investor or financial entity capital or
10 loans for which the developer, after making all good faith efforts to
11 raise additional capital, certifies that additional capital cannot be
12 raised from other sources; provided, however, that for a
13 redevelopment project located in a government-restricted
14 municipality, the developer contributed capital shall not be less than
15 10 percent of the cost of rehabilitation. Developer contributed
16 capital may consist of cash, deferred development fees, costs for
17 project feasibility incurred within the 12 months prior to
18 application, property value less any mortgages when the developer
19 owns the project site, and any other investment by the developer in
20 the project deemed acceptable by the authority, as provided by
21 regulations promulgated by the authority. Property value shall be
22 valued at the lesser of either: a. the purchase price, provided the
23 property was purchased pursuant to an arm's length transaction
24 within 12 months of application; or b. the value as determined by a
25 current appraisal.

26 "Qualified incentive tract" means: a. a population census tract
27 having a poverty rate of 20 percent or more; or b. a census tract in
28 which the median family income for the census tract does not
29 exceed 80 percent of the greater of the Statewide median family
30 income or the median family income of the metropolitan statistical
31 area in which the census tract is situated.

32 "Redevelopment agreement" means an agreement between the
33 authority and a developer under which the developer agrees to
34 perform any work or undertaking necessary for the remediation of a
35 **【contaminated】** brownfield site located at the site of the
36 redevelopment project, and for the clearance, development or
37 redevelopment, construction, reconstruction, or rehabilitation of any
38 structure or improvement of commercial, industrial, or public
39 structures or improvements within an area of land whereon a
40 brownfield site is located.

41 "Redevelopment project" means a specific construction project
42 or improvement undertaken, pursuant to the terms of a
43 redevelopment agreement, by a developer within an area of land
44 whereon a brownfield site is located. A redevelopment project may
45 involve construction or improvement upon lands, buildings,
46 improvements, or real and personal property, or any interest therein,
47 including lands under water, riparian rights, space rights, and air

1 rights, acquired, owned, developed or redeveloped, constructed,
2 reconstructed, rehabilitated, or improved.

3 "Remediation" or "remediate" means all necessary actions to
4 investigate and clean up or respond to any known, suspected, or
5 threatened discharge of contaminants, including, as necessary, the
6 preliminary assessment, site investigation, remedial investigation,
7 and remedial action, or any portion thereof, as those terms are
8 defined in section 23 of P.L.1993, c.139 (C.58:10B-1); and
9 hazardous materials abatement; hazardous materials or waste
10 disposal; building and structural remedial activities, including, but
11 not limited to, demolition, asbestos abatement, polychlorinated
12 biphenyl removal, contaminated wood or paint removal, or other
13 infrastructure remedial activities; provided, however, "remediation"
14 or "remediate" shall not include the payment of compensation for
15 damage to, or loss of, natural resources.

16 "Remediation costs" means all reasonable costs associated with
17 the remediation of a contaminated site, except any costs incurred in
18 financing the remediation.

19 (cf: P.L.2020, c.156, s.10)

20

21 6. Section 12 of P.L.2020, c.156 (C.34:1B-280) is amended to
22 read as follows:

23 12. a. A developer seeking a tax credit for a redevelopment
24 project shall submit an application to the authority and the
25 department in a form and manner prescribed in regulations adopted
26 by the authority, in consultation with the department, pursuant to
27 the provisions of the "Administrative Procedure Act," P.L.1968,
28 c.410 (C.52:14B-1 et seq.).

29 b. A redevelopment project shall be eligible for a tax credit
30 only if the developer demonstrates to the authority and the
31 department at the time of application that:

32 (1) except as provided in subsection j. of this section, the
33 developer has not commenced any remediation or clean up at the
34 site of the redevelopment project, except for preliminary
35 assessments and investigations, prior to applying for a tax credit
36 pursuant to this section, but intends to remediate and redevelop the
37 site immediately upon approval of the tax credit;

38 (2) the redevelopment project is located on a brownfield site;

39 (3) without the tax credit, the redevelopment project is not
40 economically feasible;

41 (4) a project financing gap exists;

42 (5) the developer has obtained and submitted to the authority a
43 letter evidencing support for the redevelopment project from the
44 governing body of the municipality in which the redevelopment
45 project is located; and

46 (6) each worker employed to perform remediation, **[or]**
47 construction, or building services work at the redevelopment project
48 shall be paid not less than the prevailing wage rate for the worker's

1 craft or trade, as determined by the Commissioner of Labor and
2 Workforce Development pursuant to P.L.1963, c.150 (C.34:11-
3 56.25 et seq.). The prevailing wage requirements shall apply for
4 remediation or construction work through the completion of the
5 redevelopment project, and the prevailing wage requirements shall
6 apply for building services work at the site of the redevelopment
7 project for 10 years following completion of the redevelopment
8 project. In the event a redevelopment project, or the aggregate of
9 all redevelopment projects approved for an award under the
10 program, constitute a lease of more than 35 percent of a facility, the
11 prevailing wage requirements shall apply to the entire facility.

12 c. A redevelopment project that received a reimbursement
13 pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26
14 through 58:10B-31) shall not be eligible to apply for a tax credit
15 under the program. If the authority receives an application and
16 supporting documentation for approval of a reimbursement pursuant
17 to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through
18 58:10B-31) prior to the effective date of sections 9 through 19 of
19 P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287), then the
20 authority may consider the application and award a tax credit to a
21 developer, provided that the authority shall take final action on all
22 applications for approval of a reimbursement pursuant to sections
23 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through 58:10B-31)
24 no later than July 1, 2019. No applications shall be submitted
25 pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26
26 through 58:10B-31) after the effective date of sections 9 through 19
27 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287).

28 d. (1) Prior to approval of an application, the authority shall
29 confirm with the Department of Labor and Workforce
30 Development, the Department of Environmental Protection, and the
31 Department of the Treasury **【shall each report to the chief executive**
32 **officer of the authority】** whether the developer is in substantial
33 good standing with the respective department, or has entered into an
34 agreement with the respective department that includes a practical
35 corrective action plan for the developer. The authority may also
36 contract with an independent third party to perform a background
37 check on the developer. The developer shall certify that any
38 contractors or subcontractors that perform work at the
39 redevelopment project: (1) are registered as required by “The Public
40 Works Contractor Registration Act,” P.L.1999, c.238 (C.34:11-
41 56.48 et seq.); (2) have not been debarred by Department of Labor
42 and Workforce Development from engaging in or bidding on Public
43 Works Contracts in New Jersey, and (3) possess a tax clearance
44 certificate issued by the Division of Taxation in the Department of
45 the Treasury. Provided that the developer is in substantial good
46 standing with the Department of Labor and Workforce
47 Development, the Department of Environmental Protection, and the
48 Department of the Treasury, or has entered into such an agreement,

1 and following approval of an application by the board, the authority
2 shall enter into a redevelopment agreement with the developer, as
3 provided for in section 13 of P.L.2020, c.156 (C.34:1B-281).

4 (2) The authority, in consultation with the department, may
5 impose additional requirements upon an applicant through rule or
6 regulation adopted pursuant to the provisions of the "Administrative
7 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), if the
8 authority or the department determines the additional requirements
9 to be necessary and appropriate to effectuate the purposes of
10 sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through
11 C.34:1B-287).

12 e. The authority, in consultation with the department, shall
13 conduct a review of the applications through a competitive
14 application process whereby the authority and the department shall
15 evaluate all applications submitted by a date certain, as if all
16 received applications were submitted on that date. In addition to
17 the eligibility criteria set forth in subsection b. of this section, the
18 authority, in consultation with the department, may consider
19 additional factors that may include, but shall not be limited to: the
20 economic feasibility of the redevelopment project; the benefit of the
21 redevelopment project to the community in which the remediation
22 project is located; the degree to which the redevelopment project
23 enhances and promotes job creation and economic development and
24 reduces environmental or public health stressors in an overburdened
25 community, as those terms are defined by section 2 of **[P.L.2020,**
26 **c.92 (C.13:1D-157)]** P.L.2020, c.92 (C.13:1D-158), and attendant
27 department regulations; and, if the developer has a board of
28 directors, the extent to which that board of directors is diverse and
29 representative of the community in which the redevelopment project
30 is located. The authority, in consultation with the department, shall
31 submit applications that comply with the eligibility criteria set forth
32 in this section, fulfill the additional factors considered by the
33 authority pursuant to this subsection, satisfy the submission
34 requirements, and provide adequate information for the subject
35 application, to the board for final approval.

36 f. The authority shall award tax credits to redevelopment
37 projects until either the available tax credits are exhausted or all
38 redevelopment projects that are eligible for a tax credit pursuant to
39 the provisions of sections 9 through 19 of P.L.2020, c.156
40 (C.34:1B-277 through C.34:1B-287) receive a tax credit, whichever
41 occurs first. If insufficient funding exists to allow a tax credit to a
42 developer in accordance with the provisions of subsection a. of
43 section 16 of P.L.2020, c.156 (C.34:1B-284), the authority may
44 offer the developer a value of the tax credit below the amount
45 provided for in subsection a. of section 16 of P.L.2020, c.156
46 (C.34:1B-284).

47 g. A developer shall pay to the authority or to the department,
48 as appropriate, the full amount of the direct costs of an analysis

1 concerning the developer's application for a tax credit, which a
2 third party retained by the authority or department performs, if the
3 authority or department deems such retention to be necessary.

4 h. If the authority determines that a developer made a material
5 misrepresentation on the developer's application, the developer
6 shall forfeit all tax credits awarded under the program.

7 i. If circumstances require a developer to amend its application
8 to the authority, then the developer, or an authorized agent of the
9 developer, shall certify to the authority that the information
10 provided in its amended application is true, under the penalty of
11 perjury.

12 j. A developer **【that】** who has commenced remediation or
13 clean up at the site and who could not reasonably have known the
14 full extent of the site contamination **【when the developer of a**
15 **redevelopment project prior to application】** prior to commencing
16 the remediation may still apply for a tax credit under the program, if
17 the developer certifies to the authority, under the penalty of perjury,
18 that the developer **【could not】** cannot reasonably **【have**
19 **commenced】** finish the remediation and commence the
20 redevelopment project absent the tax credit.

21 (cf: P.L.2020, c.156, s.12)

22

23 7. Section 13 of P.L.2020, c.156 (C.34:1B-281) is amended to
24 read as follows:

25 13. a. Following approval of an application by the board, but
26 prior to the start of any remediation or clean up at the site of the
27 redevelopment project, except activities disclosed at the time of
28 approval, the authority shall enter into a redevelopment agreement
29 with the developer. The chief executive officer of the authority
30 shall negotiate the terms and conditions of the redevelopment
31 agreement on behalf of the State.

32 b. The redevelopment agreement shall specify the amount of
33 the tax credit to be awarded to the developer, the date on which the
34 developer shall complete the remediation, and the projected project
35 remediation cost. The redevelopment agreement shall require the
36 developer to submit progress reports to the authority and to the
37 department every six months pursuant to section 15 of P.L.2020,
38 c.156 (C.34:1B-283).

39 c. The authority shall not enter into a redevelopment agreement
40 with a developer unless:

41 (1) the redevelopment project complies with standards
42 established by the authority in accordance with the green building
43 manual prepared by the Commissioner of Community Affairs
44 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 to reduce environmental degradation
47 and encourage long-term cost reduction;

1 (2) the redevelopment project complies with the authority's
2 affirmative action requirements, adopted pursuant to section 4 of
3 P.L.1979, c.303 (C.34:1B-5.4); and

4 (3) the developer pays each worker employed to perform
5 remediation work **[or]** , construction work, or building services
6 work at the redevelopment project not less than the prevailing wage
7 rate in accordance with the requirements of paragraph (6) of
8 subsection b. of section 12 of P.L.2020, c.156 (C.34:1B-280) for the
9 worker's craft or trade, as determined by the Commissioner of
10 Labor and Workforce Development pursuant to P.L.1963, c.150
11 (C.34:11-56.25 et seq.).

12 d. The authority shall not enter into a redevelopment agreement
13 unless the developer demonstrates, to the satisfaction of the
14 Department of Environmental Protection, that the developer did not
15 discharge a hazardous substance at the brownfield site proposed to
16 be in the redevelopment agreement, is not in any way responsible
17 for the hazardous substance, and is not a corporate successor to the
18 discharger or to any person in any way responsible for the
19 hazardous substance or to anyone liable for cleanup and removal
20 costs pursuant to section 8 of P.L.1976, c.141 (C.58:10-23.11g).

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
29 labor organization or cooperating labor organizations which
30 represent retail or distribution center 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 a 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
38 would not be feasible if a labor harmony agreement is required.
39 The authority shall support the determination by a written finding,
40 which provides the specific basis for the determination.

41 (3) As used in this subsection, "labor harmony agreement"
42 means an agreement between a business that serves as the owner or
43 operator of a retail establishment or distribution center and one or
44 more labor organizations, which requires, for the duration of the
45 agreement: that any participating labor organization and its
46 members agree to refrain from picketing, work stoppages, boycotts,
47 or other economic interference against the business; and that the
48 business agrees to maintain a neutral posture with respect to efforts

1 of any participating labor organization to represent employees at an
2 establishment or other unit in the retail establishment or distribution
3 center, agrees to permit the labor organization to have access to the
4 employees, and agrees to guarantee to the labor organization the
5 right to obtain recognition as the exclusive collective bargaining
6 representatives of the employees in an establishment or unit at the
7 retail establishment or distribution center by demonstrating to the
8 New Jersey State Board of Mediation, Division of Private
9 Employment Dispute Settlement, or a mutually agreed-upon,
10 neutral, third-party, that a majority of workers in the unit have
11 shown their preference for the labor organization to be their
12 representative by signing authorization cards indicating that
13 preference. The labor organization or organizations shall be from a
14 list of labor organizations that have requested to be on the list and
15 that the Commissioner of Labor and Workforce Development has
16 determined represent substantial numbers of retail or distribution
17 center employees in the State.

18 f. The redevelopment agreement shall provide that issuance of
19 a tax credit under the program shall be conditioned upon the
20 subrogation to the department of all rights of the developer to
21 recover remediation costs from any other person who discharges a
22 hazardous substance or is in any way responsible, pursuant to
23 section 8 of P.L.1976, c.141 (C.58:10-23.11g), for a hazardous
24 substance that was discharged at the brownfield site.

25 g. A developer may seek a revision to the redevelopment
26 agreement if the developer cannot complete the remediation on or
27 before the date set forth in the redevelopment agreement. A
28 developer's ability to change the date on which the developer shall
29 complete the remediation shall be subject to the availability of tax
30 credits in the year of the revised date of completion.

31 h. A developer shall submit to the authority satisfactory
32 evidence of the actual remediation costs, as certified by a certified
33 public accountant, and a Licensed Site Remediation Professional for
34 costs under the jurisdiction of the "Site Remediation Reform Act,"
35 sections 1 through 29 of P.L.2009, c.60 (C.58:10C-1 et seq.), and as
36 applicable, other appropriate licensed or certified professional for
37 costs that are not under the jurisdiction of the "Site Remediation
38 Reform Act," evidence of completion of the remediation as
39 demonstrated by a Response Action Outcome where the
40 remediation is subject to the "Site Remediation Reform Act," a
41 certification from the appropriate licensed or certified professional
42 for other remedial activities, and a certification that all information
43 provided by the developer to the authority is true, including
44 information contained in the application, the redevelopment
45 agreement, any amendment to the redevelopment agreement, and
46 any other information submitted by the developer to the authority
47 pursuant to sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277
48 through C34:1B-287). The developer, or an authorized agent of the

1 developer, shall certify under the penalty of perjury that the
2 information provided pursuant to this subsection is true.

3 i. The redevelopment agreement shall include a **[requirement**
4 **that the chief executive officer of the authority receive annual**
5 **reports from]** provision allowing the authority to recapture the tax
6 credits for any year in which the Department of Environmental
7 Protection, the Department of Labor and Workforce Development,
8 **[and]** or the Department of the Treasury that **[demonstrate]**
9 advises the authority that the developer **[, and each contractors and**
10 **subcontractor performing work on the redevelopment project,]** is
11 not in substantial good standing with the respective department,
12 **[or]** nor has the developer entered into an agreement with the
13 respective department that includes a practical corrective action
14 plan for the developer. The redevelopment agreement shall also
15 include a provision allowing authority to recapture the tax credits
16 for any year in which **[any such report is not received]** the
17 developer fails to confirm that each contractor or subcontractor
18 performing work at the redevelopment project: (1) is registered as
19 required by “The Public Works Contractor Registration Act,”
20 P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has not been debarred
21 by Department of Labor and Workforce Development from
22 engaging in or bidding on Public Works Contracts in New Jersey,
23 and (3) possesses a tax clearance certificate issued by the Division
24 of Taxation in the Department of the Treasury. The redevelopment
25 agreement shall also require a developer to engage in on-site
26 consultations with the Division of Workplace Safety and Health in
27 the Department of Health.

28 (cf: P.L.2020, c.156, s.13)

29

30 8. Section 16 of P.L.2020, c.156 (C.34:1B-284) is amended to
31 read as follows:

32 16. a. Upon completion of the **[redevelopment project]**
33 remediation, the developer shall seek certification from the
34 department that:

35 (1) the **[redevelopment project]** remediation is complete;

36 (2) the developer complied with the requirements of section 15
37 of P.L.2020, c.156 (C.34:1B-283), including the requirements of
38 any memorandum of agreement or other oversight document that
39 the developer may have executed with the Commissioner of
40 Environmental Protection pursuant to that section; and

41 (3) the remediation costs were actually and reasonably incurred.

42 Upon receipt of certification, and confirmation by the authority
43 that the developer's obligations under the redevelopment agreement
44 have been met, a developer shall be awarded a credit against the tax
45 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
46 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),
47 section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 as

1 follows: (a) for project located in a qualified incentive tract or
2 government-restricted municipality, in an amount not to exceed 60
3 percent of the actual remediation costs, or 60 percent of the
4 projected remediation costs as set forth in the redevelopment
5 agreement, or \$8,000,000, whichever is least; and (b) for all other
6 projects, in an amount not to exceed [40] 50 percent of the actual
7 remediation costs, or [40] 50 percent of the projected remediation
8 costs as set forth in the redevelopment agreement, or \$4,000,000,
9 whichever is least. The developer, or an authorized agent of the
10 developer, shall certify that the information provided to the
11 department and the authority pursuant to this subsection is true
12 under the penalty of perjury.

13 b. When filing an application for certification pursuant to
14 subsection a. of this section, the developer shall submit to the
15 department: (1) the total remediation costs incurred by the
16 developer for the remediation of the subject property located at the
17 site of the redevelopment project, as provided in the redevelopment
18 agreement, and certified by a certified public accountant, and a
19 Licensed Site Remediation Professional for costs under the
20 jurisdiction of the "Site Remediation Reform Act," sections 1
21 through 29 of P.L.2009, c.60 (C.58:10C-1 et seq.), and as
22 applicable, other appropriate licensed or certified professional for
23 costs that are not under the jurisdiction of the "Site Remediation
24 Reform Act"; (2) evidence of completion of the remediation, as
25 demonstrated by a Response Action Outcome where the
26 remediation is subject to the "Site Remediation Reform Act"; (3) a
27 certification from the appropriate licensed or certified professional
28 for other remedial activities; (4) information concerning the
29 occupancy rate of the buildings or other work areas located on the
30 property subject to the redevelopment agreement [,] ; and (5) such
31 other information as the department deems necessary in order to
32 make the certifications and findings pursuant to this section.

33 c. A developer shall apply the credit awarded against the
34 developer's liability for the tax imposed pursuant to section 5 of
35 P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132
36 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231
37 (C.17:32-15), or N.J.S.17B:23-5 for the privilege period during
38 which the department awards the developer a tax credit pursuant to
39 subsection a. of this section. A developer shall not carry forward
40 any unused credit.

41 d. The director shall prescribe the order of priority of the
42 application of the credit awarded under this section and any other
43 credits allowed by law against the tax imposed under section 5 of
44 P.L.1945, c.162 (C.54:10A-5). The amount of the credit applied
45 under this section against the tax imposed pursuant to section 5 of
46 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with
47 any other credits allowed by law, shall not reduce the tax liability to

1 an amount less than the statutory minimum provided in subsection
2 (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

3 (cf: P.L.2020, c.156, s.16)

4

5 9. Section 17 of P.L.2020, c.156 (C.34:1B-285) is amended to
6 read as follows:

7 17. a. A developer may apply to the director and the chief
8 executive officer of the authority for a tax credit transfer certificate,
9 during the privilege period in which the director awards the
10 developer a tax credit pursuant to section 16 of P.L.2020, c.156
11 (C.34:1B-284), in lieu of the developer being allowed to apply any
12 amount of the tax credit against the developer's State tax liability.
13 The tax credit transfer certificate, upon receipt thereof by the
14 developer from the director and the chief executive officer of the
15 authority, may be sold or assigned, in the privilege period during
16 which the developer receives the tax credit transfer certificate from
17 the director, to another person, who may apply the credit against a
18 tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
19 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),
20 section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The
21 tax credit transfer certificate provided to the developer shall include
22 a statement waiving the developer's right to claim the credit that the
23 developer has elected to sell or assign.

24 b. The developer shall not sell or assign a tax credit transfer
25 certificate allowed under this section for consideration received by
26 the developer of less than 85 percent of the transferred credit
27 amount before considering any further discounting to present value
28 which shall be permitted, except a developer of a residential project
29 consisting of newly-constructed residential units that has received
30 federal low income housing tax credits under 26 U.S.C.
31 **[s.42(b)(2)(B)(i)]** s.42(b)(1)(B)(i) may assign a tax credit transfer
32 certificate for consideration of no less than 75 percent subject to the
33 submission of a plan to the authority and the New Jersey Housing
34 and Mortgage Finance Agency to use the proceeds derived from the
35 assignment of tax credits to complete the residential project. The
36 tax credit transfer certificate issued to a developer by the director
37 shall be subject to any limitations and conditions imposed on the
38 application of State tax credits pursuant to section 16 of P.L.2020,
39 c.156 (C.34:1B-284) and any other terms and conditions that the
40 director may prescribe.

41 c. A purchaser or assignee of a tax credit transfer certificate
42 pursuant to this section shall not make any subsequent transfers,
43 assignments, or sales of the tax credit transfer certificate.

44 d. The authority shall publish on its Internet website the
45 following information concerning each tax credit transfer certificate
46 approved by the authority and the director pursuant to this section:

47 (1) the name of the transferor;

48 (2) the name of the transferee;

- 1 (3) the value of the tax credit transfer certificate;
2 (4) the State tax against which the transferee may apply the tax
3 credit; and
4 (5) the consideration received by the transferor.
5 (cf: P.L.2020, c.156, s.17)

6
7 10. Section 19 of P.L.2020, c.156 (C.34:1B-287) is amended to
8 read as follows:

9 19. Notwithstanding the provisions 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, in consultation
12 with the Commissioner of Environmental Protection, may adopt,
13 immediately upon filing with the Office of Administrative Law,
14 regulations that the chief executive officer and commissioner deem
15 necessary to implement the provisions of sections 9 through 19 of
16 P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287), which
17 regulations shall be effective for a period not to exceed **[180]** 360
18 days from the date of the filing. The chief executive officer, in
19 consultation with the Commissioner of Environmental Protection,
20 shall thereafter amend, adopt, or readopt the regulations in
21 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
22 et seq.). The rules shall require annual reporting by developers that
23 receive tax credits pursuant to the program, in addition to the
24 regular progress updates. **[Developers]** As part of the authority's
25 review of the annual reports required from a developer, the
26 authority shall [obtain certifications by] confirm with the
27 Department of Labor and Workforce Development, the Department
28 of Environmental Protection, and the Department of the Treasury
29 **[stating]** that the developer is in substantial good standing with the
30 respective department, or has entered into an agreement with the
31 respective department that includes a practical corrective action
32 plan, and the developer shall certify that any contractors or
33 subcontractors performing work at the redevelopment project: (1)
34 are registered as required by "The Public Works Contractor
35 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have
36 not been debarred by Department of Labor and Workforce
37 Development from engaging in or bidding on Public Works
38 Contracts in New Jersey, and (3) possess a tax clearance certificate
39 issued by the Division of Taxation in the Department of the
40 Treasury. The rules and regulations adopted pursuant to this
41 section shall also include a provision to require that **[developers]** ,
42 in any year in which the developer is not in substantial good
43 standing with the Department of Labor and Workforce
44 Development, the Department of Environmental Protection, or the
45 Department of the Treasury, the developer may forfeit all tax credits
46 awarded in [any] that year [in which any such report is not
47 received], and to allow the authority to extend, in individual cases,

1 the deadline for any annual reporting **【or certification】** requirement
2 established pursuant to this section.

3 (cf: P.L.2020, c.156, s.19)

4

5 11. Section 24 of P.L.2020, c.156 (C.34:1B-292) is amended to
6 read as follows:

7 24. a. The authority shall sell the tax credits authorized pursuant
8 to section 22 of P.L.2020, c.156 (C.34:1B-290) to purchasers
9 through a competitive auction process.

10 b. The authority shall determine the form and manner in which
11 potential purchasers may bid for tax credits available under the
12 program. To be awarded a tax credit under the program, a potential
13 purchaser shall:

14 (1) specify the requested amount of tax credits, which shall not
15 be less than **【\$1,000,000】** \$500,000;

16 (2) specify the amount the potential purchaser will pay in
17 exchange for the requested amount of tax credits, which shall not be
18 less than **【85】** 75 percent of the requested dollar amount of tax
19 credits;

20 (3) commit to serve on the New Jersey Innovation Evergreen
21 Advisory Board, established pursuant to section 32 of P.L.2020,
22 c.156 (C.34:1B-300), and to otherwise provide mentorship,
23 networking, and collaboration opportunities to qualified businesses
24 that receive funding under the program; and

25 (4) provide any other information that the chief executive
26 officer of the authority determines is necessary.

27 c. Prior to an auction, the authority shall establish and disclose
28 to bidders the weighted criteria the authority will utilize, which the
29 authority shall base on the price offered to purchase the tax credits
30 and the quality of the mentorship and networking opportunities and
31 other support of the State's innovation ecosystem offered by a
32 purchaser in its bid. The authority may pro rate the amount of tax
33 credits allocated to each purchaser. A potential purchaser that
34 submits a bid for tax credits under this section shall receive a
35 written notice from the authority indicating whether the authority
36 has approved it as a purchaser of tax credits and, if so, the amount
37 of tax credits approved.

38 d. Except as provided in section 22 of P.L.2020, c.156
39 (C.34:1B-290), the authority shall hold one competitive auction per
40 calendar year.

41 e. The authority may contract with an independent third party
42 to conduct the competitive bidding process through which State tax
43 credits issued by the authority may be sold.

44 (cf: P.L.2020, c.156, s.24)

45

46 12. Section 29 of P.L.2020, c.156 (C.34:1B-297) is amended to
47 read as follows:

1 29. a. The authority shall certify or refuse to certify a venture
2 firm as a qualified venture firm based on the criteria for
3 certification set forth in section 28 of P.L.2020, c.156 (C.34:1B-
4 296), and subsections b. and c. of this section.

5 b. The authority shall not certify a venture firm as a qualified
6 venture firm if the venture firm has: (1) an equity capitalization, net
7 assets, or written commitments of less than \$10,000,000 in the form
8 of cash or cash equivalents on the date the determination for
9 certification is made; or (2) fewer than two principals or persons
10 employed to direct the qualified investment of capital with at least
11 five years of money management experience in the venture capital
12 or private equity sectors on the date the determination for
13 certification is made. The authority may adopt, pursuant to the
14 provisions of the "Administrative Procedure Act," P.L.1968, c.410
15 (C.52:14B-1 et seq.), rules setting forth additional disqualifying
16 criteria and adjusting the minimum equity capitalization, net assets,
17 or written commitments of a qualified venture firm.

18 c. Prior to certifying a venture firm as a qualified venture firm,
19 the authority shall confirm with the Department of Labor and
20 Workforce Development, the Department of Environmental
21 Protection, and the Department of the Treasury **【shall each report to**
22 **the chief executive officer of the authority】** whether the venture
23 firm is in substantial good standing with the respective department,
24 or has entered into an agreement with the respective department that
25 includes a practical corrective action plan for the venture firm. The
26 authority may also contract with an independent third party to
27 perform a background check on the venture firm.

28 d. The authority shall provide written notification to each
29 venture firm that is certified as a qualified venture firm by the
30 authority and shall provide written notification to each venture firm
31 that the authority refuses to certify as a qualified venture firm,
32 communicating in detail the grounds for the authority's refusal. The
33 authority shall review each qualified venture firm annually for the
34 disqualifying criteria set forth in subsection b. of this section or
35 other reasonable industry-accepted standards as determined by the
36 authority. The authority may decertify a qualified venture firm at
37 any time pursuant to the disqualifying criteria set forth in
38 subsection b. of this section. Decertification shall not affect any
39 previously made qualified investment or the fund's commitment to
40 make a follow-on investment in a qualified business.

41 (cf: P.L.2020, c.156, s.29)

42
43 13. Section 37 of P.L.2020, c.156 (C.34:1B-305) is amended to
44 read as follows:

45 37. As used in sections 35 through 42 of P.L.2020, c.156
46 (C.34:1B-303 through C.34:1B-310):

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 "Department" means the Department of Agriculture.

5 "Eligible equipment costs" means expenditures for the
6 procurement of such equipment as is needed to allow a
7 supermarket, grocery store, mid-sized food retailer, **[or]** small food
8 retailer, or other eligible entity to store, refrigerate, transport, or
9 otherwise maintain nutritious foods, including fresh fruits and
10 vegetables, for retail purposes, but within a standard range based
11 upon industry standards, as determined by the authority.

12 "Eligible technology costs" means expenditures for the
13 procurement or upgrade of technology systems to support online
14 ordering and e-commerce, including but not limited to computer
15 hardware, software, internet connectivity, and database systems.

16 "Food desert community" means a physically contiguous area in
17 the State in which residents have limited access to nutritious foods,
18 such as fresh fruits and vegetables, **[through supermarkets and**
19 **grocery stores,]** and which has been designated as a food desert
20 community pursuant to subsection b. of section 38 of P.L.2020,
21 c.156 (C.34:1B-306).

22 "Initial operating costs" means expenditures for the operation of
23 a supermarket or grocery store within the first three years after
24 opening to the public, but within a standard range based upon
25 industry standards, as determined by the authority.

26 "Mid-sized food retailer" means a medium-sized retail outlet
27 with at least 2,500 but less than 16,000 square feet, of which at least
28 75 percent is occupied by food and related products.

29 "Program" means the Food Desert Relief Program established in
30 section 38 of P.L.2020, c.156 (C.34:1B-306).

31 "Project cost" means the costs incurred in connection with the
32 establishment of a supermarket or grocery store within a food desert
33 community by the developer until the opening of the supermarket or
34 grocery store to the public, including the costs relating to lands,
35 buildings, improvements, real or personal property, or any interest
36 therein, including leases discounted to present value, including
37 lands under water, riparian rights, space rights and air rights
38 acquired, owned, developed or redeveloped, constructed,
39 reconstructed, rehabilitated or improved, any environmental
40 remediation costs, plus costs not directly related to construction,
41 including capitalized interest paid to third parties, of an amount not
42 to exceed 20 percent of the total costs, **[capitalized interest paid to**
43 **third parties,]** and the cost of infrastructure improvements,
44 including ancillary infrastructure projects.

45 "Project financing gap" means the part of the total project cost,
46 including return on investment, that remains to be financed after all
47 other sources of capital have been accounted for, including, but not

1 limited to, developer-contributed capital, which shall not be less
2 than 20 percent of the total project cost, which may include the
3 value of any existing land and improvements in the project area
4 owned or controlled by the developer, and the cost of infrastructure
5 improvements in the public right-of-way, and investor or financial
6 entity capital or loans for which the developer, after making all
7 good faith efforts to raise additional capital, certifies that additional
8 capital cannot be raised from other sources on a non-recourse basis.

9 "Small food retailer" means a small retail outlet, with less than
10 2,500 square feet, that sells a limited selection of foods and other
11 products, such as a bodega, convenience store, corner store,
12 neighborhood store, small grocery, mobile food vendor, farmers'
13 market, food co-op, or small-scale store.

14 "Supermarket or grocery store" means a retail outlet with at least
15 16,000 square feet, of which at least 90 percent is occupied by food
16 and related products.

17 (cf: P.L.2020, c.156, s.37)

18

19 14. Section 38 of P.L.2020, c.156 (C.34:1B-306) is amended to
20 read as follows:

21 38. a. (1) There is established the Food Desert Relief Program
22 to be administered by the New Jersey Economic Development
23 Authority. The program shall include tax credit components, as
24 provided in sections 39 and 40 of P.L.2020, c.156 (C.34:1B-307
25 and C.34:1B-308), in order to incentivize businesses to establish
26 and retain new supermarkets and grocery stores in food desert
27 communities.

28 (2) The total value of tax credits approved by the authority
29 pursuant to sections 39 and 40 of P.L.2020, c.156 (C.34:1B-307 and
30 C.34:1B-308) shall not exceed the limitations set forth in section 98
31 of P.L.2020, c.156 (C.34:1B-362).

32 b. The authority, in consultation with the Department of
33 Agriculture and the Department of Community Affairs, shall
34 initially designate not more than 50 separate geographic areas that
35 **【are most in need of a supermarket or grocery store】** have limited
36 access to nutritious foods as food desert communities in this State.
37 The authority, in consultation with the Department of Agriculture
38 and the Department of Community Affairs, shall develop criteria for
39 the designation of food desert communities, but each separate food
40 desert community shall consist of a distinct geographic area with a
41 single defined border. The criteria shall, at a minimum, incorporate
42 analysis of municipal or census tract poverty statistics, food desert
43 information from the Economic Research Service of the United
44 States Department of Agriculture, **【and】** healthier food retail tract
45 information from the federal Centers for Disease Control and
46 Prevention, and residents' access to nutritious foods, such as fresh
47 fruits and vegetables, through supermarkets and grocery stores. The
48 authority, in consultation with the departments, may also consider

1 in making food desert community designations pursuant to this
2 subsection, data related to municipal or census tract population size
3 and population density **【in making food desert community**
4 **designations pursuant to this subsection】**, the number of residents
5 who receive Supplemental Nutrition Assistance Program (SNAP)
6 benefits within a municipality, the extent to which a municipality's
7 residents have access to a personal vehicle, and a municipality's
8 Municipal Revitalization Index distress score, obesity rate, and
9 unemployment rate. The authority, in consultation with the
10 departments, shall continuously evaluate areas previously
11 designated as food desert communities and assess whether they still
12 meet the criteria for designation as a food desert community and
13 may designate additional food desert communities once every three
14 years following the effective date of sections 35 through 42 of
15 P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310).

16 c. To receive a tax credit under section 39 or 40 of P.L.2020,
17 c.156 (C.34:1B-307 or C.34:1B-308), a taxpayer shall submit an
18 application to the authority in the form and manner prescribed by
19 the authority and in accordance with criteria established by the
20 authority, which at minimum will include a commitment to accept
21 benefits from federal nutrition assistance programs, such as the
22 Supplemental Nutrition Assistance Program (SNAP) and the
23 Special Supplemental Nutrition Program for Women, Infants, and
24 Children (WIC). Following the approval of an application, the
25 authority may, pursuant to an award agreement, award tax credits to
26 an eligible taxpayer that:

27 (1) develops and opens for business to the public the first or
28 second supermarket or grocery store in a designated food desert
29 community; or

30 (2) owns and operates the first or second supermarket or grocery
31 store in a designated food desert community.

32 d. (1) The authority may sell all or a portion of the tax credits
33 made available in a fiscal year pursuant to subsection a. of this
34 section and dedicate the proceeds from such sale to provide grants
35 and loans to qualifying supermarkets, grocery stores, mid-sized
36 food retailers, **【and】** small food retailers, and any other eligible
37 entity. The amount of any grant or loan provided pursuant to this
38 subsection shall be in accordance with the need of the supermarket,
39 grocery store, mid-sized food retailer, **【or】** small food retailer, or
40 any other eligible entity, as determined by the authority. The
41 authority shall sell tax credits pursuant to this section in the manner
42 determined by the authority; provided, however, the authority shall
43 not sell tax credits for less than 85 percent of the tax credit amount.
44 Grants and loans made available pursuant to this subsection shall be
45 awarded to entities that:

46 (a) are eligible for tax credits under subsection c. of this section
47 in lieu of tax credits; **【or】**

1 (b) own and operate a mid-sized food retailer or small food
2 retailer that commits to selling nutritious foods, including fresh
3 fruits and vegetables, in a designated food desert community; or

4 (c) at the discretion of the authority, support initiatives to
5 strengthen food security of residents in food desert communities.

6 (2) A supermarket, grocery store, mid-sized food retailer, **[or]**
7 small food retailer, or other eligible entity shall submit an
8 application to the authority to receive a grant or loan pursuant to
9 this subsection. The application shall be submitted in the form and
10 manner prescribed by the authority and in accordance with criteria
11 established by the authority. An entity eligible for a grant or loan
12 under subparagraph (a) of paragraph (1) of this subsection shall not
13 be required to submit a separate application to the authority for the
14 grant or loan, provided that the entity has submitted an application
15 to the authority pursuant to subsection c. of this section.

16 (3) Prior to awarding a grant or loan to an applicant
17 supermarket, grocery store, mid-sized food retailer, **[or]** small food
18 retailer, or other eligible entity pursuant to this subsection, the
19 authority shall confirm with the Department of Labor and
20 Workforce Development, the Department of Environmental
21 Protection, and the Department of the Treasury **[shall each report to**
22 **the chief executive officer of the authority]** whether the applicant is
23 in substantial good standing with the respective department, or has
24 entered into an agreement with the respective department that
25 includes a practical corrective action plan for the applicant. The
26 applicant shall certify that any contractors or subcontractors that
27 perform work at the qualifying supermarket or grocery store: (1) are
28 registered as required by “The Public Works Contractor
29 Registration Act,” P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have
30 not been debarred by Department of Labor and Workforce
31 Development from engaging in or bidding on Public Works
32 Contracts in the State; and (3) possess a tax clearance certificate
33 issued by the Division of Taxation in the Department of the
34 Treasury. The authority may also contract with an independent
35 third party to perform a background check on the entity.

36 (4) An applicant supermarket, grocery store, mid-sized food
37 retailer, **[or]** small food retailer, or other eligible entity shall, as
38 required at the discretion of the authority, submit to the authority
39 satisfactory information pertaining to the eligible equipment costs
40 and eligible technology costs, as certified by a certified public
41 accountant, certifications that all information provided by the
42 applicant to the authority is true, including information contained in
43 the application, any agreement pertaining to the award of grants or
44 loans under the program, any amendment to such an agreement, and
45 any other information submitted by the applicant to the authority
46 pursuant to sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303
47 through C.34:1B-310), and evidence of the eligible equipment costs

1 and eligible technology costs of the applicant. The applicant, or an
2 authorized agent of the applicant, shall certify under the penalty of
3 perjury that the information provided pursuant to this subsection is
4 true.

5 e. The authority may establish a technical assistance fund to
6 assist any entity that is eligible for a tax credit, grant, or loan under
7 this section. The authority, through the technical assistance fund,
8 may make grants to entities to assist qualifying supermarkets,
9 grocery stores, mid-sized food retailers, **[or]** small food retailers, or
10 other eligible entities in implementation of best practices for
11 increasing the accessibility of nutritious foods in food desert
12 communities. Technical assistance shall be provided either directly
13 by the authority or through a not-for-profit or for-profit entity and
14 made available in English as well as the two most commonly
15 spoken languages in New Jersey other than English. At the
16 discretion of the authority, funds to support technical assistance
17 may be provided in addition to, or in lieu of, any tax credit, grant,
18 or loan awarded under sections 35 through 42 of P.L.2020, c.156
19 (C.34:1B-303 through C.34:1B-310).

20 f. (1) The authority shall require that any tax credits, grants, or
21 loans awarded by the authority under the program be utilized by the
22 recipient for one or more of the following purposes, which shall be
23 set forth in the award agreement:

24 (a) to mitigate a project financing gap;

25 (b) to mitigate the initial operating costs of the supermarket or
26 grocery store; or

27 (c) to mitigate the eligible equipment costs or eligible
28 technology costs of the supermarket, grocery store, mid-sized food
29 retailer, **[or]** small food retailer, or other eligible entity in order to
30 make nutritious foods more accessible and affordable to residents
31 within food deserts; or

32 (d) to support initiatives to ensure food security of residents in
33 food desert communities.

34 (2) The value of tax credits **[or]** grants, or loans awarded to
35 individual entities under the program shall not exceed:

36 (a) in the case of an entity eligible under paragraph (1) of
37 subsection c. of this section, 40 percent of the total project cost for
38 the first supermarket or grocery store in a designated food desert
39 community, and 20 percent of the total project cost for the second
40 supermarket or grocery store in the food desert community; and

41 (b) in the case of an entity eligible under paragraph (2) of
42 subsection c. of this section, the initial operating costs of the first
43 supermarket or grocery store in a designated food desert
44 community, and one-half of the initial operating costs of the second
45 supermarket or grocery store in the food desert community; and

46 (c) in the case of an entity eligible for a grant or loan under
47 subparagraph (b) of paragraph (1) of subsection d. of this section,
48 the eligible equipment costs and eligible technology costs of the

1 supermarket, grocery store, mid-sized food retailer, **[or]** small food
2 retailer, or other eligible entity.

3 g. An entity that develops and opens a new supermarket or
4 grocery store in a designated food desert community shall be
5 eligible for a tax credit only if the entity demonstrates to the
6 authority at the time of application that each worker employed to
7 perform construction at the project shall be paid not less than the
8 prevailing wage rate for the worker's craft or trade, as determined
9 by the Commissioner of Labor and Workforce Development
10 pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005,
11 c.379 (C.34:11-56.58 et seq.).

12 h. (1) Except as provided in paragraph (2) of this subsection, a
13 labor harmony agreement shall be required if the State has a
14 proprietary interest in a supermarket or grocery store and the
15 agreement shall remain in effect for as long as the State acts as a
16 market participant in the project. The provisions of this paragraph
17 shall apply to a supermarket or grocery store that will have more
18 than 10 employees.

19 (2) A labor harmony agreement under paragraph (1) of this
20 subsection shall not be required if the authority determines that the
21 supermarket or grocery store would not be feasible if a labor
22 harmony agreement is required. The authority shall support the
23 determination by a written finding, which provides the specific
24 basis for the determination.

25 (3) As used in this subsection, "labor harmony agreement"
26 means an agreement between a business that serves as the owner or
27 operator of a supermarket or grocery store and one or more labor
28 organizations, which requires, for the duration of the agreement:
29 that any participating labor organization and its members agree to
30 refrain from picketing, work stoppages, boycotts, or other economic
31 interference against the business; and that the business agrees to
32 maintain a neutral posture with respect to efforts of any
33 participating labor organization to represent employees at a
34 supermarket or grocery store, agrees to permit the labor
35 organization to have access to the employees, and agrees to
36 guarantee to the labor organization the right to obtain recognition as
37 the exclusive collective bargaining representatives of the employees
38 at a supermarket or grocery store by demonstrating to the New
39 Jersey State Board of Mediation, Division of Private Employment
40 Dispute Settlement, or a mutually agreed-upon, neutral, third-party,
41 that a majority of workers in the unit have shown their preference
42 for the labor organization to be their representative by signing
43 authorization cards indicating that preference. The labor
44 organization or organizations shall be from a list of labor
45 organizations that have requested to be on the list and that the
46 Commissioner of Labor and Workforce Development has
47 determined represent substantial numbers of supermarket or grocery
48 store employees in the State.

1 i. A recipient shall certify that all factual representations made
2 by the recipient in the application or award agreement are true
3 under the penalty of perjury. A material misrepresentation of fact
4 in either the application or award agreement may result in recession
5 and recapture of any grants or tax credits awarded, or acceleration
6 of any loans made, under sections 35 through 42 of P.L.2020, c.156
7 (C.34:1B-303 through C.34:1B-310).

8 (cf: P.L.2020, c.156, s.38)

9
10 15. Section 39 of P.L.2020, c.156 (C.34:1B-307) is amended to
11 read as follows:

12 39. a. For privilege periods beginning on or after January 1 next
13 following the effective date of sections 35 through 42 of P.L.2020,
14 c.156 (C.34:1B-303 through C.34:1B-310), a taxpayer eligible
15 under subsection c. of section 38 of P.L.2020, c.156 (C.34:1B-306)
16 shall be awarded a credit against the tax due pursuant to section 5 of
17 P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132
18 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231
19 (C.17:32-15), or N.J.S.17B:23-5. A taxpayer that qualifies for the
20 award of a tax credit under this section may claim 25 percent of the
21 total amount awarded in the privilege period in which the taxpayer
22 establishes and opens the supermarket or grocery store for business,
23 and an additional 25 percent of the total amount awarded in each of
24 the three privilege periods next following the initial opening,
25 provided that the supermarket or grocery store remains in business
26 and open to the public. For a taxpayer to be allowed a tax credit
27 pursuant to this section, the taxpayer shall meet the requirements of
28 this section, and the rules and regulations adopted pursuant to
29 section 41 of P.L.2020, c.156 (C.34:1B-309).

30 b. The order of priority of the application of the credit allowed
31 pursuant to this section and any other credits allowed against the tax
32 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for
33 a privilege period shall be as prescribed by the Director of the
34 Division of Taxation in the Department of the Treasury. The
35 amount of the credit applied pursuant to this section against the tax
36 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
37 shall not reduce a taxpayer's tax liability for a privilege period to an
38 amount less than the statutory minimum provided in subsection (e)
39 of section 5 of P.L.1945, c.162 (C.54:10A-5). Any credit shall be
40 valid in the privilege period in which the certification is approved
41 and any unused portion thereof may be carried forward into the next
42 10 privilege periods or until exhausted, whichever is earlier.

43 c. The authority shall award tax credits to taxpayers until either
44 the available tax credits are exhausted or all projects that are
45 eligible for a tax credit pursuant to the provisions of sections 35
46 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310)
47 receive a tax credit, whichever occurs first. If insufficient funding
48 exists to allow a tax credit to a taxpayer in accordance with the

1 provisions of subsection a. of section 38 of P.L.2020, c.156
2 (C.34:1B-306), the authority may offer the taxpayer a tax credit in
3 an amount less than that provided in subsection a. of this section.

4 d. Prior to awarding a tax credit to a supermarket or grocery
5 store, the authority shall confirm with the Department of Labor and
6 Workforce Development, the Department of Environmental
7 Protection, and the Department of the Treasury **[shall each report to**
8 **the chief executive officer of the authority whether]** that the
9 qualifying supermarket or grocery store is in substantial good
10 standing with the respective department, or has entered into an
11 agreement with the respective department that includes a practical
12 corrective action plan for the supermarket or grocery store, and the
13 qualifying supermarket or grocery store shall certify that any
14 contractors or subcontractors performing work at the qualifying
15 supermarket or grocery store: (1) are registered as required by “The
16 Public Works Contractor Registration Act,” P.L.1999, c.238
17 (C.34:11-56.48 et seq.); (2) have not been debarred by Department
18 of Labor and Workforce Development from engaging in or bidding
19 on Public Works Contracts in the State; and (3) possess a tax
20 clearance certificate issued by the Division of Taxation in the
21 Department of the Treasury. The authority may also contract with
22 an independent third party to perform a background check on the
23 developer.

24 e. A supermarket or grocery store shall, as required at the
25 discretion of the authority, submit to the authority satisfactory
26 information pertaining to the project cost, project financing gap,
27 and the initial operating costs, as certified by a certified public
28 accountant, certifications that all information provided by the
29 supermarket or grocery store to the authority is true, including
30 information contained in the application, any agreement pertaining
31 to the award of tax credits under the program, any amendment to
32 such an agreement, and any other information submitted by the
33 supermarket or grocery store to the authority pursuant to sections 35
34 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310),
35 and evidence of the initial opening and continued operation of the
36 supermarket or grocery store. The supermarket or grocery store, or
37 an authorized agent of the supermarket or grocery store, shall
38 certify under the penalty of perjury that the information provided
39 pursuant to this subsection is true.

40 (cf: P.L.2020, c.156, s.39)

41

42 16. Section 40 of P.L.2020, c.156 (C.34:1B-308) is amended to
43 read as follows:

44 40. a. For taxable years beginning on or after January 1 next
45 following the effective date of sections 35 through 42 of P.L.2020,
46 c.156 (C.34:1B-303 through C.34:1B-310), a taxpayer eligible
47 under subsection c. of section 38 of P.L.2020, c.156 (C.34:1B-306)
48 shall be awarded a credit against the tax due pursuant to

1 N.J.S.54A:1-1 et seq. A taxpayer that qualifies for the award of a
2 tax credit under this section may claim 25 percent of the total
3 amount awarded in the taxable year in which the taxpayer
4 establishes and opens the supermarket or grocery store for business,
5 and may claim 25 percent of the total amount awarded in each of
6 the three taxable years next following the initial opening, provided
7 that the supermarket or grocery store remains in business and open
8 to the public. For a taxpayer to be awarded a tax credit pursuant to
9 this section, the taxpayer shall meet the requirements of this
10 section, and the rules and regulations adopted pursuant to section 41
11 of P.L.2020, c.156 (C.34:1B-309).

12 b. The order of priority of the application of the credit allowed
13 pursuant to this section and any other credits allowed against the tax
14 imposed pursuant to N.J.S.54A:1-1 et seq. for a taxable year shall
15 be as prescribed by the Director of the Division of Taxation in the
16 Department of the Treasury, in consultation with the chief executive
17 officer of the authority. The amount of the credit applied pursuant
18 to this section against the tax imposed pursuant to N.J.S.54A:1-1 et
19 seq. shall not reduce a taxpayer's tax liability for a taxable year to
20 an amount less than zero. Any credit shall be valid in the taxable
21 year in which the certification is approved and any unused portion
22 thereof may be carried forward into the next 10 taxable years or
23 until depleted, whichever is earlier.

24 c. A business entity that is classified as a partnership for
25 federal income tax purposes shall not be allowed the credit directly
26 under N.J.S.54A:1-1 et seq., but the amount of credit of the
27 taxpayer in respect of a distributive share of partnership income
28 shall be determined by allocating to the taxpayer that proportion of
29 the credit acquired by the partnership that is equal to the taxpayer's
30 share, whether or not distributed, of the total distributive income or
31 gain of the partnership for its taxable year ending within or with the
32 taxpayer's taxable year.

33 A taxpayer that is a New Jersey S corporation shall not be
34 allowed the credit directly under N.J.S.54A:1-1 et seq., but the
35 amount of credit of a taxpayer in respect of a pro rata share of S
36 corporation income shall be determined by allocating to the
37 taxpayer that proportion of the credit acquired by the New Jersey S
38 corporation that is equal to the taxpayer's share, whether or not
39 distributed, of the total pro rata share of S corporation income of the
40 New Jersey S corporation for its taxable year ending within or with
41 the taxpayer's taxable year.

42 d. The authority shall award tax credits to taxpayers until either
43 the available tax credits are exhausted or all projects that are
44 eligible for a tax credit pursuant to the provisions of sections 35
45 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310)
46 receive a tax credit, whichever occurs first. If insufficient funding
47 exists to allow a tax credit to a taxpayer in accordance with the
48 provisions of subsection a. of section 38 of P.L.2020, c.156

1 (C.34:1B-306), the authority may offer the taxpayer a tax credit in
2 an amount less than that provided in subsection a. of this section
3 **[40]**.

4 e. Prior to awarding a tax credit to a supermarket or grocery
5 store, the authority shall confirm with the Department of Labor and
6 Workforce Development, the Department of Environmental
7 Protection, and the Department of the Treasury **[shall each report to**
8 **the chief executive officer of the authority whether a]** that the
9 qualifying supermarket or grocery store **[, and each contractor and**
10 **subcontractor performing construction work at the qualifying**
11 **supermarket or grocery store,]** is in substantial good standing with
12 the respective department, or has entered into an agreement with the
13 respective department that includes a practical corrective action
14 plan, and the qualifying supermarket or grocery store shall confirm
15 that any contractors and subcontractors performing construction
16 work at the qualifying supermarket or grocery store: (1) are
17 registered as required by “The Public Works Contractor
18 Registration Act,” P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have
19 not been debarred by Department of Labor and Workforce
20 Development from engaging in or bidding on Public Works
21 Contracts in the State; and (3) possesses a tax clearance certificate
22 issued by the Division of Taxation in the Department of the
23 Treasury. The authority may also contract with an independent
24 third party to perform a background check on the **[developer]**
25 qualifying supermarket or grocery store.

26 f. A supermarket or grocery store shall, as required at the
27 discretion of the authority, submit to the authority satisfactory
28 information pertaining to the project cost, project financing gap,
29 and the initial operating costs, as certified by a certified public
30 accountant, certifications that all information provided by the
31 supermarket or grocery store to the authority is true, including
32 information contained in the application, any agreement pertaining
33 to the award of tax credits under the program, any amendment to
34 such an agreement, and any other information submitted by the
35 supermarket or grocery store to the authority pursuant to sections 35
36 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310),
37 and evidence of the initial opening and continued operation of the
38 supermarket or grocery store. The supermarket or grocery store, or
39 an authorized agent of the supermarket or grocery store, shall
40 certify under the penalty of perjury that the information provided
41 pursuant to this subsection is true.

42 (cf: P.L.2020, c.156, s.40)

43

44 17. Section 41 of P.L.2020, c.156 (C.34:1B-309) is amended to
45 read as follows:

46 41. **[The]** Notwithstanding the provisions of the
47 “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, in
2 consultation with the department and the Director of the Division of
3 Taxation in the Department of the Treasury, [shall] may adopt,
4 [pursuant to the "Administrative Procedure Act," P.L.1968, c.410
5 (C.52:14B-1 et seq.)] immediately upon filing with the Office of
6 Administrative Law, rules and regulations necessary to carry out the
7 provisions of sections 35 through 42 of P.L.2020, c.156 (C.34:1B-
8 303 through C.34:1B-310)), which rules and regulations shall be
9 effective for a period not to exceed 360 days from the date of the
10 filing. The chief executive officer shall thereafter amend, adopt, or
11 readopt the rules and regulations in accordance with the
12 requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).
13 (cf: P.L.2020, c.156, s.41)

14

15 18. Section 45 of P.L.2020, c.156 (C.34:1B-313) is amended to
16 read as follows:

17 45. As used in sections 43 through 53 of P.L.2020, c.156
18 (C.34:1B-311 through C.34:1B-321):

19 "Affiliate" means an entity that directly or indirectly controls, is
20 under common control with, or is controlled by an anchor
21 institution partner anchor institution, or a partner business. Control
22 exists in all cases in which the entity is a member of a controlled
23 group of corporations as defined pursuant to section 1563 of the
24 federal Internal Revenue Code (26 U.S.C. s.1563) or the entity is an
25 organization in a group of organizations under common control that
26 is subject to the regulations applicable to organizations pursuant to
27 subsection (b) or (c) of section 414 of the federal Internal Revenue
28 Code (26 U.S.C. s.414). A taxpayer may establish by clear and
29 convincing evidence, as determined by the Director of the Division
30 of Taxation in the Department of the Treasury, that control exists in
31 situations involving lesser percentages of ownership than required
32 by the above referenced federal statutes.

33 "Anchor institution" means a governmental entity or nonprofit
34 entity incorporated pursuant to Title 15 of the Revised Statutes or
35 Title 15A of the New Jersey Statutes having a primary mission and
36 specific policy goals that align with those of the authority under the
37 program and that is a comprehensive health care system, a public
38 research university, a private research university, a major cultural
39 scientific, research, or philanthropic institution, or a public college
40 which is separate from public research universities, or an
41 experienced nonprofit or governmental economic or community
42 development entity certified as an anchor institution by the board
43 pursuant to subsection a. of section 46 of P.L.2020, c.156 (C.34:1B-
44 314).

45 "Authority" means the New Jersey Economic Development
46 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
6 period that is granted to an anchor institution or, if applicable, a
7 partner anchor institution, to distribute to the authority the agreed
8 upon returns on investment for the award of tax credits pursuant to
9 the program; provided, however, at the election of the authority or
10 upon the request of an anchor institution or, if applicable, a partner
11 anchor institution in order to benefit the community-anchored
12 project, and as determined in the sole discretion of the authority, the
13 authority may grant up to two consecutive five-year extensions of
14 the commitment period.

15 "Community-anchored project" means a capital project that is
16 located in an area that is designated as a New Jersey State
17 opportunity zone, an area of the State designated pursuant to the
18 "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as
19 Planning Area 1 (Metropolitan), or a municipality with a Municipal
20 Revitalization Index distress score of at least 50 and for which an
21 anchor institution and, if applicable, any partner anchor institution
22 is to be awarded tax credits by the authority pursuant to a tax credit
23 agreement which establishes the award of tax credits as an
24 investment by the authority in the project, provided that the project
25 will result in a capital investment of at least \$10,000,000 in a New
26 Jersey State opportunity zone or in any other area of the State, but a
27 project that is not located in a New Jersey State opportunity zone is
28 to be primarily designed to result in the economic expansion of a
29 targeted industry in this State.

30 "Comprehensive health care system" means an entity in this State
31 with the primary purpose of offering comprehensive health care
32 services.

33 "Comprehensive health care services" means the basic health
34 care services provided under a health benefits plan, including
35 medical and surgical services provided by licensed health care
36 providers who may include, but are not limited to, family
37 physicians, internists, cardiologists, psychiatrists, rheumatologists,
38 dermatologists, orthopedists, obstetricians, gynecologists,
39 neurologists, endocrinologists, radiologists, nephrologists,
40 emergency services physicians, ophthalmologists, pediatricians,
41 pathologists, general surgeons, osteopathic physicians, physical
42 therapists and chiropractors. Basic benefits may also include
43 inpatient or outpatient services rendered at a licensed hospital,
44 covered services performed at an ambulatory surgical facility, and
45 ambulance services. "Comprehensive health care services" shall
46 include only services provided by licensed health care providers.

47 "Director" means the Director of the Division of Taxation in the
48 Department of the Treasury.

1 "Eligibility period" means the period in which an anchor
2 institution or, if applicable, a partner anchor institution may claim,
3 sell, transfer, or otherwise use a tax credit under the New Jersey
4 Community-Anchored Development Program, beginning with the
5 tax period in which the authority accepts certification of the
6 business that it has met the capital investment requirements of the
7 program and extending thereafter for a term of not more than 10
8 years.

9 "Eligible position" means a full-time position in a business in
10 this State which the business has filled with a full-time employee.
11 An eligible position shall not include an independent contractor or a
12 consultant.

13 "Experienced nonprofit or governmental economic or community
14 development entity" means a nonprofit entity incorporated pursuant
15 to Title 15 of the Revised Statutes or Title 15A of the New Jersey
16 Statutes with a substantial number of years of experience that has a
17 core mission and a community track record of advancing economic
18 or community development in at least one area of the State, that the
19 senior management has undertaken multiple successful partnerships
20 with government entities, educational institutions, and the private
21 sector in carrying out development projects, that has successfully
22 developed multiple types of mixed-use projects, [that owns or
23 controls significant real estate assets,] and that has appropriate
24 prior experience in successfully developing mixed-use projects of
25 comparable or greater size, value and complexity to that being
26 proposed, structuring, securing, and utilizing complex financing in
27 the development of projects of comparable or greater size, value,
28 and complexity to that being proposed, as determined by the board.
29 An experienced nonprofit or governmental economic or community
30 development entity shall not be eligible to participate in the
31 program in connection with a project that is primarily residential or
32 retail.

33 "Major cultural institution" means a public or nonsectarian
34 nonprofit institution within this State that engages in the cultural,
35 intellectual, scientific, environmental, educational, or artistic
36 enrichment of the people of this State, and which is designated by
37 the board as a major cultural institution.

38 "New full-time job" means an eligible position created by an
39 anchor institution, partner anchor institution or a partner business at
40 the community-anchored project that did not previously exist in this
41 State. For the purposes of determining a number of new full-time
42 jobs, the eligible positions of an affiliate shall be considered
43 eligible positions of the business.

44 "New Jersey State opportunity zone" means a federal population
45 census tract in this State that was eligible to be designated as a
46 qualified opportunity zone pursuant to 26 U.S.C. s.1400Z-1.

47 "Partner anchor institution" means an anchor institution that
48 partners with one or more anchor institutions to make an equity

1 investment in or to provide a loan or other financial support for a
2 community-anchored project.

3 "Partner business" means a corporation, partnership, firm,
4 enterprise, franchise, association, trust, sole proprietorship, or other
5 legal entity, but shall not include a public entity that enters into an
6 agreement with an anchor institution or, if applicable, a partner
7 anchor institution to rent and occupy commercial space within a
8 community-anchored project. Under the program a partner
9 business, subject to agreement with the anchor institution or, if
10 applicable, a partner anchor institution, may lease one or more
11 portions of the partner business's space in the community-anchored
12 project to one or more other persons or entities.

13 "Private research university" means Princeton University and any
14 other institution of higher education in this State designated by the
15 board as a private research university, based on criteria and metrics
16 established by the board.

17 "Program" means the New Jersey Community-Anchored
18 Development Program established pursuant to section 46 of
19 P.L.2020, c.156 (C.34:1B-314).

20 "Public research university" means Rutgers, The State University
21 of New Jersey, Rowan University, the New Jersey Institute of
22 Technology, and Montclair State University.

23 "Qualified business accelerator or incubator facility" means a
24 commercial space that contains office, laboratory, or industrial
25 space and which is located near, and presents opportunities for
26 collaboration with, a public research university, a private research
27 university, teaching hospital, college, or university, and within
28 which at least 50 percent of the gross leasable area is restricted for
29 use by one or more targeted industry start-up companies during the
30 commitment period.

31 "Targeted industry" means any industry identified from time to
32 time by the authority which shall initially include advanced
33 transportation and logistics, advanced manufacturing, aviation,
34 autonomous vehicle and zero-emission vehicle research or
35 development, clean energy, life sciences, hemp processing,
36 information and high technology, finance and insurance,
37 professional services, film and digital media, non-retail food and
38 beverage businesses including food innovation, and other
39 innovative industries that disrupt current technologies or business
40 models.

41 "Tax credit agreement" means a tax credit agreement entered into
42 pursuant to section 50 of P.L.2020, c.156 (C.34:1B-318) between
43 the authority and an anchor institution or, if applicable, a partner
44 anchor institution.

45 "Work First New Jersey program" means the Work First New
46 Jersey program established pursuant to P.L.1997, c. 38 (C.44:10-55
47 et seq.).

48 (cf: P.L.2020, c.156, s.45)

1 19. Section 47 of P.L.2020, c.156 (C.34:1B-315) is amended to
2 read as follows:

3 47. a. An anchor institution and, if applicable, each partner
4 anchor institution shall be eligible to receive a tax credit under the
5 program only if the anchor institution and, if applicable, each
6 partner anchor institution submits a program application to the
7 authority that results in completion of a community-anchored
8 project through a capital investment in a New Jersey State
9 opportunity zone or, if the community-anchored project is primarily
10 designed to result in the economic expansion of a targeted industry
11 in this State, in an area of the State designated pursuant to the "State
12 Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning
13 Area 1 (Metropolitan) or in a municipality with a Municipal
14 Revitalization Index distress score of at least 50.

15 b. At the time of application, an anchor institution and, if
16 applicable, each partner anchor institution seeking tax credits
17 pursuant to the program shall demonstrate to the authority:

18 (1) that the proposed community-anchored project will result in
19 a capital investment in a New Jersey State opportunity zone or, if
20 the project is primarily designed to result in the economic
21 expansion of a targeted industry in this State, in an area of the State
22 designated pursuant to the "State Planning Act," P.L.1985, c.398
23 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan) or in a
24 municipality with a Municipal Revitalization Index distress score of
25 at least 50;

26 (2) the structure and terms of the financial, corporate, and real
27 estate instruments to be utilized to successfully complete and then
28 operate the community-anchored project, including, but not limited
29 to, the proposed economic and business relationship between the
30 anchor institution and, if applicable, each partner anchor institution
31 and any partner business;

32 (3) that the anchor institution and, if applicable, each partner
33 anchor institution, along with any partner business and each partner
34 institution participating in a community-anchored project, has not
35 commenced any construction at the site of the community-anchored
36 project prior to submitting an application, unless the authority
37 determines that the community-anchored project would not be
38 completed otherwise or, in the event the community-anchored
39 project is to be undertaken in phases, the requested tax credit covers
40 only phases for which construction has not yet commenced;

41 (4) the value of the tax credit that is necessary in each year of
42 the eligibility period, in order for the anchor institution and, if
43 applicable, each partner anchor institution to finance the
44 establishment of the community-anchored project;

45 (5) the total aggregate value of the tax credit for the entire
46 eligibility period that is necessary in order for the anchor institution
47 and, if applicable, each partner anchor institution to finance the
48 establishment of the community-anchored project;

1 (6) that the award of tax credits under the program will be
2 converted into an investment by the authority into the community-
3 anchored project, and demonstrate to the authority the anticipated
4 current and deferred returns, as applicable, on that investment;

5 (7) that the community-anchored project shall comply with the
6 standards established by the authority through regulation based on
7 the green building manual prepared by the Commissioner of
8 Community Affairs pursuant to section 1 of P.L.2007, c.132
9 (C.52:27D-130.6), regarding the use of renewable energy, energy-
10 efficient technology, and non-renewable resources in order to
11 reduce environmental degradation and encourage long-term cost
12 reduction;

13 (8) that the community-anchored project shall comply with the
14 authority's affirmative action requirements, adopted pursuant to
15 section 4 of P.L.1979, c.303 (C.34:1B-5.4);

16 (9) a description of the significant economic, social, planning,
17 employment, environmental, fiscal, and other benefits that would
18 accrue to the State, county, or municipality from the community-
19 anchored project;

20 (10)that during the eligibility period, each worker employed to
21 perform construction work and building services work at the
22 community-anchored project shall be paid not less than the
23 prevailing wage rate for the worker's craft or trade, as determined
24 by the Commissioner of Labor and Workforce Development
25 pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005,
26 c.379 (C.34:11-56.58 et seq.). In the event the community-
27 anchored project constitutes a lease of more than 55 percent of a
28 single facility, these requirements shall apply to construction work
29 and building services work at the entire facility. In the event the
30 community-anchored project constitutes a lease of more than 35
31 percent of a single facility, these requirements shall apply to
32 construction work at the entire facility;

33 (11)that during the eligibility period, the anchor institution and,
34 if applicable, each partner anchor institution shall partner with one
35 or more local community organizations that provide support and
36 services to Work First New Jersey program recipients, in order to
37 provide work activity opportunities and other appropriate services
38 to Work First New Jersey program recipients, which activities and
39 services may include, but shall not be limited to: work-study
40 programs, internships, sector-based contextualized literacy training,
41 skills-based training in growth industries in the State, and job
42 retention and advancement services;

43 (12)the extent to which the community-anchored development
44 will result in the expansion of a targeted industry in this State;

45 (13)that the timing of the award and investment of tax credits
46 under the program shall allow for the successful completion and
47 operation of the community-anchored project; and

1 (14)that the community-anchored project is viable and that the
2 anchor institution and, if applicable, each partner anchor institution
3 is a credible partner for completing the community-anchored project
4 and providing the agreed-upon potential returns to the authority, as
5 detailed in the tax credit agreement entered into pursuant to section
6 50 of P.L.2020, c.156 (C.34:1B-318).

7 c. Prior to the board considering an application submitted by an
8 anchor institution and, if applicable, each partner anchor institution,
9 the authority shall confirm with the Department of Labor and
10 Workforce Development, the Department of Environmental
11 Protection, and the Department of the Treasury [shall each report to
12 the chief executive officer of the authority] whether the anchor
13 institution and, if applicable, each partner anchor institution and any
14 partner business is in substantial good standing with the respective
15 department, or has entered into an agreement with the respective
16 department that includes a practical corrective action plan. The
17 anchor institution shall certify that any contractors or
18 subcontractors that will perform work at the community-anchored
19 project: (1) are registered as required by “The Public Works
20 Contractor Registration Act,” P.L.1999, c.238 (C.34:11-56.48 et
21 seq.); (2) have not been debarred by Department of Labor and
22 Workforce Development from engaging in or bidding on Public
23 Works Contracts in the State; and (3) possess a tax clearance
24 certificate issued by the Division of Taxation in the Department of
25 the Treasury. The authority may also contract with an independent
26 third party to perform a background check on an anchor institution
27 and, if applicable, each partner anchor institution and any partner
28 business.

29 d. In order to facilitate the creation of new partnerships with
30 anchor institutions and, if applicable, partner anchor institutions, the
31 authority shall publish on the authority's website a list of names and
32 contact information for each anchor institution that has submitted
33 an application pursuant to this section.

34 (cf: P.L.2020, c.156, s.47)

35
36 20. Section 49 of P.L.2020, c.156 (C.34:1B-317) is amended to
37 read as follows:

38 49. a. The authority shall award tax credits under the program
39 through a competitive application process consisting of up to two
40 award rounds each year. The authority shall provide notice to the
41 public of the opening and closing dates for submission of program
42 applications on the authority's Internet website.

43 b. (1) The authority shall review applications for tax credits
44 submitted to the authority by the deadline date of the award round
45 and shall evaluate each application as if it were received on the
46 deadline date, without providing any preference for early
47 submissions. To determine priority for an award of a tax credit, all
48 applications for community-anchored projects that satisfy the

1 criteria set forth in sections 47 and 48 of P.L.2020, c.156 (C.34:1B-
2 315 and C.34:1B-316) in a given award round shall be ranked on
3 the basis of a scoring system developed by the authority through
4 regulations adopted pursuant to the provisions of the
5 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
6 seq.). Prior to the commencement of an award round, the authority
7 shall determine the minimum score for the award round that an
8 anchor institution or, if applicable, each partner anchor institution is
9 required to attain to be eligible for a tax credit.

10 (2) The authority may establish different criteria for community-
11 anchored projects that are located in a New Jersey State opportunity
12 zone and community-anchored projects that are primarily designed
13 to result in the economic expansion of a targeted industry in this
14 State.

15 c. The scoring system developed by the authority pursuant to
16 subsection b. of this section shall assess applications for tax credits
17 based on the following competitive criteria, which shall include, but
18 shall not be limited to:

19 (1) the amount of tax credit requested by the anchor institution
20 and, if applicable, each partner anchor institution compared to the
21 overall investments required for the completion of the community-
22 anchored project, along with the amount of the potential return on
23 the authority's investment of tax credits to the State by the end of
24 the commitment period, the amount of the tax credit, if any, that is
25 unlikely to be realized as a return on investment to the State, and
26 the proposed terms and structure for the authority's investment in
27 the project, including applicable current and deferred returns;

28 (2) the financial benefit of the community-anchored project to
29 the community in which the community-anchored project will be
30 located;

31 (3) apprenticeships or workforce programs to be offered because
32 of the community-anchored project;

33 (4) the ability of the community-anchored project to absorb and
34 adapt to changing environmental conditions and deliver its
35 objectives;

36 (5) how the community-anchored project will advance State,
37 regional, and local development and planning strategies;

38 (6) the relationship of the community-anchored project to a
39 comprehensive local development strategy, including its relation to
40 other development and redevelopment projects in the municipality;

41 (7) the degree to which the community-anchored project
42 enhances and promotes job creation and economic development;

43 (8) the extent of economic and related social distress in the
44 municipality and the immediate area surrounding the community-
45 anchored project;

46 (9) the extent to which the community-anchored project
47 provides for the development of **workforce housing and** housing
48 for individuals with special needs;

- 1 (10) the extent to which the community-anchored project
2 constitutes the expansion of the anchor institution and, if applicable,
3 each partner anchor institution to different areas of the State;
- 4 (11) the extent to which the community-anchored project
5 provides for infrastructure, parking, retail, green space, or other
6 public amenities creating a mixed-use community-anchored project;
- 7 (12) the inclusion of a qualified business accelerator or incubator
8 facility as a part of the community-anchored project;
- 9 (13) the length of the commitment period for the community-
10 anchored project;
- 11 (14) the quality and number of new full-time jobs that will be
12 created by the anchor institution, partner anchor institution or a
13 partner business at the community-anchored project;
- 14 (15) the quality and number of existing full-time jobs that will be
15 retained by the anchor institution, partner anchor institution, or a
16 partner business in the State as a result of completing the
17 community-anchored project, with the criteria specifying, in scoring
18 the application, that the retention of an existing full-time job shall
19 be given not more than one-third the weight of a new full-time job
20 of a similar quality; and
- 21 (16) if the anchor institution has a board of directors, the extent
22 to which that board of directors is diverse and representative of the
23 community in which the community-anchored project is located.
- 24 d. Notwithstanding the provisions of subsection c. of this
25 section, the authority may adopt, pursuant to the provisions of the
26 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
27 seq.), rules and regulations adjusting competitive criteria required
28 under the program when necessary to respond to the prevailing
29 economic conditions in the State.
- 30 e. Prior to the award of a tax credit to an anchor institution or,
31 if applicable, each partner anchor institution, to be converted into
32 an authority investment in a community-anchored project, the
33 authority shall confirm with the Department of Labor and
34 Workforce Development, the Department of Environmental
35 Protection, and the Department of the Treasury **【shall each report to**
36 **the chief executive officer of the authority as to whether】** that the
37 anchor institution and, if applicable, each partner anchor institution,
38 along with any partner business identified in a program application,
39 **【and each contractor and subcontractor performing work at the**
40 **community-anchored project,】** is in substantial good standing with
41 the respective department, or has entered into an agreement with the
42 respective department that includes a practical corrective action
43 plan for the anchor institution and, if applicable, each partner
44 anchor institution and any partner business, and the anchor
45 institution shall confirm that any contractors and subcontractors
46 performing work at the community-anchored project: (1) are
47 registered as required by "The Public Works Contractor
48 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have

1 not been debarred by Department of Labor and Workforce
2 Development from engaging in or bidding on Public Works
3 Contracts in the State; and (3) possess a tax clearance certificate
4 issued by the Division of Taxation in the Department of the
5 Treasury. Provided that all parties are in **【substantial good**
6 **standing, or have entered into such an agreement】** compliance with
7 this subsection, the authority shall allocate tax credits to
8 community-anchored projects according to the community-
9 anchored project's score and until either the available tax credits are
10 exhausted or all community-anchored projects obtaining the
11 minimum score receive a tax credit, whichever occurs first. If
12 insufficient funding exists to fully fund all eligible community-
13 anchored projects, a community-anchored project may be offered
14 partial funding.

15 f. Applications that do not receive the minimum score
16 established by the authority for that award round shall not receive
17 further consideration for a tax credit by the authority in that award
18 round; however, an anchor institution or partner anchor institution
19 may revise or complete a new application to be submitted in a
20 subsequent award round.

21 g. If an anchor institution or partner anchor institution declines
22 a tax credit offered by the authority, the authority shall offer the tax
23 credit to the applicant with the application having the next highest
24 score, and having obtained at least the minimum score in that award
25 round.

26 (cf: P.L.2020, c.156, s.49)

27

28 21. Section 50 of P.L.2020, c.156 (C.34:1B-318) is amended to
29 read as follows:

30 50. a. Following approval and selection of an application
31 pursuant to sections 48 and 49 of P.L.2020, c.156 (C.34:1B-316 and
32 C.34:1B-317), the authority shall enter into a tax credit agreement
33 with the anchor institution and, if applicable, each partner anchor
34 institution. The chief executive officer of the authority shall
35 negotiate the terms and conditions of the tax credit agreement on
36 behalf of the State.

37 b. (1) A tax credit agreement shall specify the amount of the tax
38 credit that the authority shall award to the anchor institution and, if
39 applicable, each partner anchor institution for conversion into an
40 authority investment and specify the duration of the eligibility
41 period, which shall not exceed 10 years. The tax credit agreement
42 shall provide an estimated date of completion for the community-
43 anchored project and include a requirement for periodic progress
44 reports through completion, including the submittal of executed
45 financing commitments and documents or agreements that evidence
46 site control.

47 (2) If, as a result of a default under the tax credit agreement, the
48 authority rescinds a tax credit in the same calendar year in which

1 the authority approved the tax credit, then the authority may assign
2 the tax credit to another applicant that attained the minimum score
3 determined pursuant to section 49 of P.L.2020, c.156 (C.34:1B-
4 317).

5 c. The terms of the tax credit agreement shall:

6 (1) provide for a verification of project financing at the time the
7 anchor institution, each partner anchor institution, and any partner
8 business provides executed financing commitments to the authority
9 and a verification of the anchor institution's projected cash flow and
10 each partner anchor institution's cash flow at the time of
11 certification that the project is completed;

12 (2) specify the length of the commitment period for the
13 community-anchored project and the terms by which the anchor
14 institution and, if applicable, each partner anchor institution shall
15 provide to the authority current or deferred returns on investment
16 generated by the community-anchored project and commit to a
17 structure for returns on investment;

18 (3) allow the anchor institution and, if applicable, each partner
19 anchor institution to distribute returns on investment to the
20 authority for the tax credits in the amount specified in the tax credit
21 agreement at any time within the commitment period, but require
22 such distribution to occur if the community-anchored project is sold
23 before the end of the commitment period;

24 (4) specify amounts of returns to be retained by the anchor
25 institution and, if applicable, each partner anchor institution for
26 capital reserves, programming, or other purposes;

27 (5) identify the value of any monetary or financial benefit
28 offered or provided by the anchor institution and, if applicable, each
29 partner anchor institution to any partner business that works with
30 the anchor institution and, if applicable, each partner anchor
31 institution to complete and operate the community-anchored
32 project;

33 (6) identify any benefits created by the anchor institution and, if
34 applicable, each partner anchor institution for a partner business
35 through equity investment in or debt-financing of a community-
36 anchored project and specify the formula by which such benefits are
37 passed through to a partner business;

38 (7) specify that the authority or the State may purchase tax
39 credits offered for sale by an anchor institution and, if applicable,
40 each partner anchor institution for 90 percent of the stated value of
41 the tax credit before considering any further discounting to present
42 value which shall be permitted;

43 (8) at a minimum, require an anchor institution and, if
44 applicable, each partner anchor institution to provide oversight of
45 the community-anchored project through ongoing reporting by a
46 partner business to the anchor institution and, if applicable, each
47 partner anchor institution, and subsequent ongoing reporting by the

1 anchor institution and, if applicable, each partner anchor institution
2 to the authority;

3 (9) specify other measures through which the authority shall
4 ensure oversight of outstanding tax credit investments, and, in the
5 event that an anchor institution or partner anchor institution fails to
6 meet its obligations under the tax credit agreement or any program
7 requirement, establish the right of the authority to assume direct
8 oversight of any or all projects for which the anchor institution or
9 partner anchor institution has entered into investment agreements
10 and require the anchor institution or partner anchor institution to
11 pursue any remedies it may have against a partner business; and

12 (10) at a minimum, require that the anchor institution, each
13 partner anchor institution, and any partner businesses, adopt
14 specific nondiscrimination policies for the operation of a
15 community-anchored project.

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 and, if applicable, each partner institution
19 **[that are to include separate certifications by] and any partner**
20 **business. As part of the authority's review of the annual reports**
21 **required from each anchor institution and, if applicable, each**
22 **partner institution, the authority shall confirm with** the Department
23 of Environmental Protection, the Department of Labor and
24 Workforce Development, and the Department of the Treasury
25 **[demonstrating] that** the anchor institution and, if applicable, each
26 partner institution **and** any partner business **], and each contractor**
27 **and subcontractor performing work at the community-anchored**
28 **project] is in substantial good standing with [that] the respective**
29 **department, or [have] has entered into an agreement with [that]**
30 **such** department that includes a **practical** corrective action plan **],**
31 **and the] for the anchor institution and, if applicable, each partner**
32 **anchor institution and any partner business, and the anchor**
33 **institution shall confirm that any contractors and subcontractors**
34 **performing work at the community-anchored project: (1) are**
35 **registered as required by "The Public Works Contractor**
36 **Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have**
37 **not been debarred by Department of Labor and Workforce**
38 **Development from engaging in or bidding on Public Works**
39 **Contracts in the State; and (3) possess a tax clearance certificate**
40 **issued by the Division of Taxation in the Department of the**
41 **Treasury. The** tax credit agreement shall include a provision that
42 the anchor institution and, if applicable, each partner institution
43 shall forfeit the tax credit in any year in which an uncured default
44 exists under the tax credit agreement **or the anchor institution and,**
45 **if applicable, each partner institution is neither in substantial good**
46 **standing with the Department of Environmental Protection, the**
47 **Department of Labor and Workforce Development, or the**

1 Department of the Treasury nor has entered into a practical
2 corrective action plan. The tax credit agreement shall, however,
3 allow the authority to extend, in individual cases, the deadline for
4 any annual reporting **【or certification】** requirement.

5 e. An anchor institution and, if applicable, each partner
6 institution shall, as required at the discretion of the authority,
7 submit to the authority satisfactory evidence of actual project costs,
8 as certified by a certified public accountant, evidence of a
9 temporary certificate of occupancy, or other event evidencing
10 project completion. The anchor institution and, if applicable, each
11 partner institution, or an authorized agent of the anchor institution
12 or partner institution, shall certify under the penalty of perjury that
13 the information provided pursuant to this subsection is true.

14 (cf: P.L.2020, c.156, s.50)

15

16 22. Section 55 of P.L.2020, c.156 (C.34:1B-323) is amended to
17 read as follows:

18 55. As used in sections 54 through 67 of P.L.2020, c.156
19 (C.34:1B-322 through C.34:1B-335):

20 "Agency" means the New Jersey Housing and Mortgage Finance
21 Agency established pursuant to P.L.1983, c.530 (C.55:14K-1 et
22 seq.).

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 "Aviation district" means all areas within the boundaries of the
26 Atlantic City International Airport, established pursuant to section
27 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation
28 Administration William J. Hughes Technical Center and the area
29 within a one-mile radius of the outermost boundary of the Atlantic
30 City International Airport and the Federal Aviation Administration
31 William J. Hughes Technical Center.

32 "Board" means the Board of the New Jersey Economic
33 Development Authority, established by section 4 of P.L.1974, c.80
34 (C.34:1B-4).

35 "Building services" means any cleaning or routine building
36 maintenance work, including but not limited to sweeping,
37 vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse
38 or trash, window cleaning, securing, patrolling, or other work in
39 connection with the care or securing of an existing building,
40 including services typically provided by a door-attendant or
41 concierge. "Building services" shall not include any skilled
42 maintenance work, professional services, or other public work for
43 which a contractor is required to pay the "prevailing wage" as
44 defined in section 2 of P.L.1963, c.150 (C.34:11-56.26).

45 "Cash flow" means the profit or loss that an investment property
46 earns from rent, deposits, and other fees after financial obligations,
47 such as debt, maintenance, government payments, and other
48 expenses, have been paid.

1 "Collaborative workspace" means coworking, accelerator,
2 incubator, or other shared working environments that promote
3 collaboration, interaction, socialization, and coordination among
4 tenants through the clustering of multiple businesses or individuals.
5 For this purpose, the collaborative workspace shall be the greater
6 of: 2,500 of dedicated square feet or 10 percent of the total property
7 on which the redevelopment project is situated. The collaborative
8 workspace shall include a community manager, be focused on
9 collaboration among the community members, and include
10 regularly scheduled education events for the community members.
11 The collaborative workspace shall also include a physical open
12 space that supports the engagement of its community members.

13 "Commercial project" means a **【building】** redevelopment
14 project, which is predominantly commercial and contains 100,000
15 or more square feet of office and retail space, industrial space, or
16 film studios, professional stages, television studios, recording
17 studios, screening rooms, or other infrastructure for film
18 production, for purchase or lease and may include a parking
19 component.

20 "Developer" means a person who enters or proposes to enter into
21 an incentive award agreement pursuant to the provisions of section
22 60 of P.L.2020, c.156 (C.34:1B-328), including, but not limited, to
23 a lender that completes a redevelopment project, operates a
24 redevelopment project, or completes and operates a redevelopment
25 project.

26 "Director" means the Director of the Division of Taxation in the
27 Department of the Treasury.

28 "Distressed municipality" means a municipality that is qualified
29 to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a
30 municipality under the supervision of the Local Finance Board
31 pursuant to the provisions of the "Local Government Supervision
32 Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality
33 identified by the Director of the Division of Local Government
34 Services in the Department of Community Affairs to be facing
35 serious fiscal distress, a SDA municipality, or a municipality in
36 which a major rail station is located.

37 "Economic development incentive" means a financial incentive,
38 awarded by the authority, or agreed to between the authority and a
39 business or person, for the purpose of stimulating economic
40 development or redevelopment in New Jersey, including, but not
41 limited to, a bond, grant, loan, loan guarantee, matching fund, tax
42 credit, or other tax expenditure.

43 "Eligibility period" means the period not to exceed 15 years for a
44 commercial or mixed-use project or the period not to exceed 10
45 years for a residential project specified in an incentive award
46 agreement during which a developer may claim a tax credit under
47 the program.

1 “Enhanced area” means (1) a municipality that contains an urban
2 transit hub, as defined in section 2 of P.L.2007, c.346 (C.34:1B-
3 208); (2) the five municipalities with the highest poverty rates
4 according to the 2017 Municipal Revitalization Index; and (3) the
5 three municipalities with the highest percentage of SNAP recipients
6 according to the 2017 Municipal Revitalization Index.

7 "Food delivery source" means access to nutritious foods, such as
8 fresh fruits and vegetables, through grocery operators, including,
9 but not limited to a full-service supermarket or grocery store, and
10 other healthy food retailers of at least **【18,000】** 16,000 square feet,
11 including, but not limited to, a prepared food establishment selling
12 primarily nutritious ready-to-serve meals.

13 "Food desert community" means a physically contiguous area in
14 the State in which residents have limited access to nutritious foods,
15 such as fresh fruits and vegetables, **【through supermarkets and**
16 **grocery stores】** and that has been designated as a food desert
17 community pursuant to subsection b. of section 38 of P.L.2020,
18 c.156 (C.34:1B-306).

19 "Government-restricted municipality" means a municipality in
20 this State with a municipal revitalization index distress score of at
21 least **【7】** 75, that met the criteria for designation as an urban aid
22 municipality in the 2019 State fiscal year, and that, on the effective
23 date of P.L.2020, c.156 (C.34:1B-269 et al.), is subject to financial
24 restrictions imposed pursuant to the “Municipal Stabilization and
25 Recovery Act,” P.L.2016, c.4 (C.52:27BBBB-1 et seq.), or is
26 restricted in its ability to levy property taxes on property in that
27 municipality as a result of the State of New Jersey owning or
28 controlling property representing at least 25 percent of the total land
29 area of the municipality or as a result of the federal government of
30 the United States owning or controlling at least 50 acres of the total
31 land area of the municipality, which is dedicated as a national
32 natural landmark.

33 "Health care or health services center" means an establishment
34 where patients are admitted for examination and treatment by one or
35 more physicians, dentists, psychologists, or other medical
36 practitioners.

37 "Incentive area" means an aviation district, a port district, or an
38 area designated pursuant to the "State Planning Act," P.L.1985,
39 c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan),
40 Planning Area 2 (Suburban), or a Designated Center, provided an
41 area designated as Planning Area 2 (Suburban) or a Designated
42 Center shall be located within a one-half mile radius of the mid-
43 point, with bicycle and pedestrian connectivity, of a New Jersey
44 Transit Corporation, Port Authority Transit Corporation, or Port
45 Authority Trans-Hudson Corporation rail, bus, or ferry station,
46 including all light rail stations, or a high frequency bus stop as
47 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.2020, c.156 (C.34:1B-322 through C.34:1B-335).

5 "Incentive award agreement" means the contract executed
6 between a developer and the authority pursuant to section 60 of
7 P.L.2020, c.156 (C.34:1B-328), which sets forth the terms and
8 conditions under which the developer may receive the incentive
9 awards authorized pursuant to the provisions of sections 54 through
10 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335).

11 "Incubator facility" means a commercial property, which
12 contains 5,000 or more square feet of office, laboratory, or
13 industrial space, which is located near, and presents opportunities
14 for collaboration with, a research institution, teaching hospital,
15 college, or university, and within which at least 75 percent of the
16 gross leasable area is restricted for use by one or more technology
17 startup companies.

18 "Individuals with special needs" means individuals with mental
19 illness, individuals with physical or developmental disabilities, and
20 individuals in other emerging special needs groups identified by the
21 authority, based on guidelines established for the administration of
22 the Special Needs Housing Trust Fund established pursuant to
23 section 1 of P.L.2005, c.163 (C.34:1B-21.25a) or developed in
24 consultation with other State agencies.

25 "Low-income housing" means housing affordable according to
26 federal Department of Housing and Urban Development or other
27 recognized standards for home ownership and rental costs and
28 occupied or reserved for occupancy by households with a gross
29 household income equal to 50 percent or less of the median gross
30 household income for households of the same size within the
31 housing region in which the housing is located.

32 "Major rail station" means a railroad station that is located within
33 a qualified incentive area and that provides to the public access to a
34 minimum of six rail passenger service lines operated by the New
35 Jersey Transit Corporation.

36 "Minimum environmental and sustainability standards" means
37 standards established by the authority in accordance with the green
38 building manual prepared by the Commissioner of Community
39 Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6),
40 regarding the use of renewable energy, energy-efficient technology,
41 and non-renewable resources to reduce environmental degradation
42 and encourage long-term cost reduction.

43 "Moderate-income housing" means housing affordable according
44 to federal Department of Housing and Urban Development or other
45 recognized standards for home ownership and rental costs and
46 occupied or reserved for occupancy by households with a gross
47 household income equal to more than 50 percent, but less than 80
48 percent, of the median gross household income for households of

1 the same size within the housing region in which the housing is
2 located.

3 "Municipal Revitalization Index" means the index by the
4 Department of Community Affairs ranking New Jersey's
5 municipalities according to eight separate indicators that measure
6 diverse aspects of social, economic, physical, and fiscal conditions
7 in each locality.

8 "Port district" means the portions of a qualified incentive area
9 that are located within:

10 a. the "Port of New York District" of the Port Authority of
11 New York and New Jersey, as defined in Article II of the Compact
12 Between the States of New York and New Jersey of 1921; or

13 b. a 15-mile radius of the outermost boundary of each marine
14 terminal facility established, acquired, constructed, rehabilitated, or
15 improved by the South Jersey Port District established pursuant to
16 "The South Jersey Port Corporation Act," P.L.1968, c.60
17 (C.12:11A-1 et seq.).

18 "Program" means the New Jersey Aspire Program established by
19 section 56 of P.L.2020, c.156 (C.34:1B-324).

20 "Project cost" means the costs incurred in connection with a
21 redevelopment project by a developer until the issuance of a
22 permanent certificate of occupancy, or until such other time
23 specified by the authority, for a specific investment or
24 improvement, including the costs relating to lands, except the cost
25 of acquiring such lands, buildings, improvements, real or personal
26 property, or any interest therein, including leases discounted to
27 present value, including lands under water, riparian rights, space
28 rights, and air rights acquired, owned, developed or redeveloped,
29 constructed, reconstructed, rehabilitated, or improved, any
30 environmental remediation costs, plus costs not directly related to
31 construction, including capitalized interest paid to third parties, of
32 an amount not to exceed 20 percent of the total costs **],** capitalized
33 interest paid to third parties,**]** and the cost of infrastructure
34 improvements, including ancillary infrastructure projects. The
35 **[**cost of acquisition of land or**]** fees associated with the application
36 or administration of a grant under sections 54 through 67 of
37 P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335) 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; provided, however, that for a
48 redevelopment project located in a government-restricted

1 municipality, the developer contributed capital shall not be less than
2 10 percent of the total project cost. Developer contributed capital
3 may consist of cash, deferred development fees, costs for project
4 feasibility incurred within the 12 months prior to application,
5 property value less any mortgages when the developer owns the
6 project site, and any other investment by the developer in the
7 project deemed acceptable by the authority, as provided by
8 regulations promulgated by the authority. Property value shall be
9 valued at the lesser of: (i) the purchase price, provided the property
10 was purchased pursuant to an arm's length transaction within 12
11 months of application; or (ii) the value as determined by a current
12 appraisal.

13 "Project labor agreement" means a form of pre-hire collective
14 bargaining agreement covering terms and conditions of a specific
15 project that satisfies the requirements set forth in section 5 of
16 P.L.2002, c.44 (C.52:38-5).

17 "Qualified incentive tract" means (i) a population census tract
18 having a poverty rate of 20 percent or more; or (ii) a census tract in
19 which the median family income for the census tract does not
20 exceed 80 percent of the greater of the Statewide median family
21 income or the median family income of the metropolitan statistical
22 area in which the census tract is situated.

23 "Quality childcare facility" is a child care center licensed by the
24 Department of Children and Families or a registered family child
25 care home with the Department of Human Services, operating
26 continuously, which has not been subject to an enforcement action,
27 and which has and maintains a [total] licensed capacity [of at least
28 60] for children age [6] 13 years or younger who attend for less
29 than 24 hours a day.

30 "Redevelopment project" means a specific construction project
31 or improvement or phase of a project or improvement undertaken
32 by a developer, owner or tenant, or both, and any ancillary
33 infrastructure project. A redevelopment project may involve
34 construction or improvement upon lands, buildings, improvements,
35 or real and personal property, or any interest therein, including
36 lands under water, riparian rights, space rights, and air rights,
37 acquired, owned, developed or redeveloped, constructed,
38 reconstructed, rehabilitated, or improved.

39 "Residential project" means a redevelopment project that is
40 predominantly residential, intended for multi-family residency, and
41 may include a parking component.

42 "SDA district" means an SDA district as defined in section 3 of
43 P.L.2000, c.72 (C.18A:7G-3).

44 "SDA municipality" means a municipality in which an SDA
45 district is situated.

46 "Technology startup company" means a for-profit business that
47 has been in operation fewer than seven years at the time that it
48 initially occupies or expands in a qualified business facility and is

1 developing or possesses a proprietary technology or business
2 method of a high technology or life science-related product,
3 process, or service, which proprietary technology or business
4 method the business intends to move to commercialization. The
5 business shall be deemed to have begun operation on the date that
6 the business first hired at least one employee in a full-time position.

7 "Total project cost" means the costs incurred in connection with
8 the redevelopment project by the developer until the issuance of a
9 permanent certificate of occupancy, or upon such other event
10 evidencing project completion as set forth in the incentive grant
11 agreement, for a specific investment or improvement.

12 "Tourism destination project" means a non-gaming business
13 facility that will be among the most visited privately owned or
14 operated tourism or recreation sites in the State, and which has been
15 determined by the authority to be in an area appropriate for
16 development and in need of economic development incentive
17 assistance, including a non-gaming business within an established
18 Tourism District with a significant impact on the economic viability
19 of that district.

20 "Transit hub" means an urban transit hub, as defined in section 2
21 of P.L.2007, c.346 (C.34:1B-208), that is located within an eligible
22 municipality, as defined in section 2 of P.L.2007, c.346 (C.34:1B-
23 208) and also located within a qualified incentive area.

24 "Transit hub municipality" means a Transit Village or a
25 municipality: a. which qualifies for State aid pursuant to P.L.1978,
26 c.14 (C.52:27D-178 et seq.), or which has continued to be a
27 qualified municipality thereunder pursuant to P.L.2007, c.111; and
28 b. in which 30 percent or more of the value of real property was
29 exempt from local property taxation during tax year 2006. The
30 percentage of exempt property shall be calculated by dividing the
31 total exempt value by the sum of the net valuation which is taxable
32 and that which is tax exempt.

33 "Transit Village" means a municipality that has been designated
34 as a transit village by the Commissioner of Transportation and the
35 Transit Village Task Force established pursuant to P.L.1985, c.398
36 (C.27:1A-5).

37 **["Workforce housing" means housing that is affordable**
38 **according to federal Department of Housing and Urban**
39 **Development or other recognized standards for home ownership**
40 **and rental costs, and occupied or reserved for occupancy by**
41 **households with a gross household income of more than 80 percent,**
42 **but less than 120 percent, of the median gross household income for**
43 **households of the same size within the housing region in which the**
44 **housing is located.]**

45 (cf: P.L.2020, c.156, s.55)

46

47 23. Section 57 of P.L.2020, c.156 (C.34:1B-325) is amended to
48 read as follows:

1 57. a. Prior to March 1, 2027, a developer shall be eligible to
2 receive an incentive award for a redevelopment project only if the
3 developer demonstrates to the authority at the time of application
4 that:

5 (1) without the incentive award, the redevelopment project is
6 not economically feasible;

7 (2) a project financing gap exists, or the authority determines
8 that the redevelopment project will generate a below market rate of
9 return;

10 (3) the redevelopment project, except a film studio, professional
11 stage, television studio, recording studio, screening room, or other
12 infrastructure used for film production, is located in the incentive
13 area;

14 (4) except for demolition and site remediation activities, the
15 developer has not commenced any construction at the site of the
16 redevelopment project prior to submitting an application, unless the
17 authority determines that the redevelopment project would not be
18 completed otherwise or, in the event the redevelopment project is to
19 be undertaken in phases, the requested incentive award is limited to
20 only phases for which construction has not yet commenced;

21 (5) the redevelopment project shall comply with minimum
22 environmental and sustainability standards;

23 (6) the redevelopment project shall comply with the authority's
24 affirmative action requirements, adopted pursuant to section 4 of
25 P.L.1979, c.303 (C.34:1B-5.4);

26 (7) during the eligibility period, each worker employed to
27 perform construction work or building services work at the
28 redevelopment project shall be paid not less than the prevailing
29 wage rate for the worker's craft or trade, as determined by the
30 Commissioner of Labor and Workforce Development pursuant to
31 P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379
32 (C.34:11-56.58 et seq.). In the event a redevelopment project is
33 undertaken by a tenant and the tenant has a leasehold of more than
34 55 percent of space in the building owned or controlled by the
35 developer, the requirement that each worker employed to perform
36 building service work at the building be paid not less than the
37 prevailing wage shall apply to the entire building;

38 (8) (a) the redevelopment project shall be completed, and the
39 developer shall be issued a certificate of occupancy for the
40 redevelopment project facilities by the applicable enforcing agency
41 within four years of executing the incentive award agreement, or in
42 the case of a redevelopment project with a project cost in excess of
43 \$50,000,000, the incentive phase agreement corresponding to the
44 redevelopment project; or

45 (b) in the discretion of the authority, a redevelopment project
46 with a project cost in excess of \$50,000,000, and that is authorized
47 to be completed in phases, may be allowed no more than six years
48 from the date on which the incentive award agreement is executed

1 to be issued a certificate of occupancy by the applicable
2 enforcement agency;

3 (9) the developer has complied with all requirements for filing
4 tax and information returns and for paying or remitting required
5 State taxes and fees by submitting, as a part of the application, a tax
6 clearance certificate, as described in section 1 of P.L.2007, c.101
7 (C.54:50-39); and

8 (10)the developer is not more than 24 months in arrears at the
9 time of application.

10 b. In addition to the requirements set forth in subsection a. of
11 this section, for a commercial project to qualify for an incentive
12 award the developer shall demonstrate that **【**:

13 (1) the incremental increase of State revenues realized from the
14 commercial project upon its completion shall be in excess of the
15 amount necessary to reimburse the developer for its project
16 financing gap; and

17 (2)**】** the developer shall **【**have an equity participation**】** contribute
18 capital of at least 20 percent of the total project cost, except that if a
19 redevelopment project is located in a government-restricted
20 municipality, the developer shall contribute capital of at least 10
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.) **【**and at least 5 percent of the residential units constructed
42 as workforce housing, 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. If the municipality in which the property is located
2 has received substantive certification from the council and such a
3 reservation is not required under the approved affordable housing
4 plan or the municipality has been given a judgment of repose or a
5 judgment of compliance by the court, and such a reservation is not
6 required under the approved affordable housing plan, then the
7 developer shall reserve at least 10 percent, but not more than 50
8 percent, of the residential units constructed for occupancy by low-
9 and moderate-income households with affordability controls as
10 required under the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-
11 301 et al.) and at least 15 percent of the residential units constructed
12 as workforce housing】.

13 e. Prior to the board considering an application submitted by a
14 developer, the authority shall confirm with the Department of Labor
15 and Workforce Development, the Department of Environmental
16 Protection, and the Department of the Treasury 【shall each report to
17 the chief executive officer of the authority】 whether the developer
18 is in substantial good standing with the respective department, or
19 has entered into an agreement with the respective department that
20 includes a practical corrective action plan for the developer. The
21 developer shall certify that any contractors or subcontractors that
22 will perform work at the redevelopment project: (1) are registered
23 as required by "The Public Works Contractor Registration Act,"
24 P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have not been debarred
25 by Department of Labor and Workforce Development from
26 engaging in or bidding on Public Works Contracts in the State; and
27 (3) possess a tax clearance certificate issued by the Division of
28 Taxation in the Department of the Treasury. The authority may also
29 contract with an independent third party to perform a background
30 check on the developer.

31 (cf: P.L.2020, c.156, s.57)

32

33 24. Section 58 of P.L.2020, c.156 (C.34:1B-326) is amended to
34 read as follows:

35 58. a. Prior to March 1, 2027, 【a developer that meets the
36 eligibility criteria in】 for redevelopment projects eligible pursuant
37 to section 57 of P.L.2020, c.156 (C.34:1B-325) 【and is】 for which a
38 developer is seeking an incentive award for 【a】 the redevelopment
39 project, the developer shall submit an application to the authority
40 and, in the case of a residential project, shall submit an application
41 to the authority and the agency, in a form and manner prescribed in
42 regulations adopted by the authority, in consultation with the
43 agency, pursuant to the provisions of the "Administrative Procedure
44 Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The authority shall
45 accept applications for incentive awards during the grant periods
46 established pursuant to section 59 of P.L.2020, c.156 (C.34:1B-
47 327).

1 b. The authority shall not consider an application for a
2 commercial project unless the developer submits a letter evidencing
3 support for the commercial project from the governing body of the
4 municipality in which the commercial project is located with the
5 application.

6 c. The authority shall review the project cost, evaluate and
7 validate the project financing gap estimated by the developer, and
8 conduct a State fiscal impact analysis to ensure that the overall
9 public assistance provided to the project will result in a net positive
10 benefit to the State, provided that the net benefit analysis shall not
11 apply to capital investment for a food delivery source; a health care
12 or health services center with a minimum of 10,000 square feet of
13 space devoted to health care or health services that is located in a
14 municipality with a Municipal Revitalization Index distress score of
15 at least 50 lacking adequate access, as determined by the
16 Commissioner of Health; or a residential project. In determining
17 whether a project will result in a net positive benefit to the State,
18 the authority shall not consider the value of any taxes exempted,
19 abated, rebated, or retained under the "Five-Year Exemption and
20 Abatement Law," P.L.1991, c.441 (C.40A:21-1 et seq.), the "Long
21 Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et al.),
22 the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303
23 (C.52:27H-60 et seq.), or any other law that has the effect of
24 lowering or eliminating the developer's State or local tax liability.
25 The determination made pursuant to this subsection shall be based
26 on the potential tax liability of the developer without regard for
27 potential tax losses if the developer were to locate in another state.
28 The authority shall assess the cost of these reviews to the applicant.
29 A developer shall pay to the authority the full amount of the direct
30 costs of an analysis concerning the developer's application for a tax
31 credit that a third party retained by the authority performs, if the
32 authority deems such retention to be necessary. The authority shall
33 evaluate the net economic benefits on a present value basis under
34 which the requested tax credit allocation amount is discounted to
35 present value at the same discount rate as the projected benefits
36 from the implementation of the proposed redevelopment project for
37 which an award of tax credits is being sought.

38 d. For a redevelopment project subject to the requirement of
39 subsection c. of this section to be eligible for any tax credits under
40 the program, a developer shall demonstrate to the authority that the
41 award of tax credits will yield a net positive benefit to the State
42 equaling an amount determined by the authority through regulation
43 that exceeds the requested tax credit amount. The developer shall
44 certify, under the penalty of perjury, that all documents submitted,
45 and factual assertions made, to the authority to demonstrate that the
46 award of tax credits will yield a net positive benefit to the State in
47 accordance with this subsection are true and accurate at the time of
48 submission. A redevelopment project located in a government-

1 restricted municipality shall yield a net positive benefit to the State
2 that exceeds the requested tax credit amount, but the net benefit
3 requirement set by the authority for such redevelopment projects
4 may be up to 35 percentage points lower than the net benefit
5 requirement set by the authority for all other eligible redevelopment
6 projects.

7 e. If at any time during the eligibility period the authority
8 determines that the developer made a material misrepresentation on
9 the developer's application, the developer shall forfeit the incentive
10 award.

11 f. If circumstances require a developer to amend its application
12 to the authority, then the developer, or an authorized agent of the
13 developer, shall certify to the authority that the information
14 provided in its amended application is true under the penalty of
15 perjury.

16 (cf: P.L.2020, c.156, s.58)

17

18 25. Section 59 of P.L.2020, c.156 (C.34:1B-327) is amended to
19 read as follows:

20 59. a. Prior to March 1, 2027, for redevelopment projects
21 eligible pursuant to section 57 of P.L.2020, c.156 (C.34:1B-325),
22 the authority shall award incentive awards based on the order in
23 which complete, qualifying applications were received by the
24 authority. If a developer intends to apply to both the authority and
25 the agency for subsidies, the developer shall notify the agency
26 simultaneously with any application made to the authority. The
27 authority shall transmit its grant determination for such residential
28 projects to the agency along with any information developed by the
29 authority and confirmation of the authority's intent to provide an
30 incentive award or award to the project. Approval of an application
31 by the agency shall be the final determination required for an
32 incentive award for a residential project under this section.

33 b. Prior to allocating an incentive award to a redevelopment
34 project, the authority shall confirm with the Department of Labor
35 and Workforce Development, the Department of Environmental
36 Protection, and the Department of the Treasury [shall each report to
37 the chief executive officer of the authority whether the developer
38 and each contractor and subcontractor performing work at the
39 redevelopment project] that the developer is in substantial good
40 standing with the respective department, or a developer not in
41 substantial good standing with each department has entered into an
42 agreement with the respective department that includes a practical
43 corrective action plan for the developer, and that the developer shall
44 confirm that each contractor or subcontractor performing work at
45 the redevelopment project: (1) is registered as required by "The
46 Public Works Contractor Registration Act," P.L.1999, c.238
47 (C.34:11-56.48 et seq.); (2) has not been debarred by Department of
48 Labor and Workforce Development from engaging in or bidding on

1 Public Works Contracts in the State; and (3) possesses a tax
2 clearance certificate issued by the Division of Taxation in the
3 Department of the Treasury. The authority may also contract with
4 an independent third party to perform a background check on the
5 developer. Provided that the developer, and all contractors and
6 subcontractors, are in [substantial good standing, or have entered
7 into such agreements] compliance with this subsection, the
8 authority shall allocate incentive awards to redevelopment projects
9 according to the redevelopment project's score and until either the
10 available incentive awards are exhausted or all redevelopment
11 projects obtaining the minimum score receive an incentive award,
12 whichever occurs first. If insufficient funding exists to fully fund
13 all eligible projects, a project may be offered partial funding.
14 (cf: P.L.2020, c.156, s.59)
15

16 26. Section 60 of P.L.2020, c.156 (C.34:1B-328) is amended to
17 read as follows:

18 60. a. (1) Following approval and selection of an application
19 pursuant to sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and
20 C.34:1B-327), the authority shall enter into an incentive award
21 agreement with the developer. The chief executive officer of the
22 authority shall negotiate the terms and conditions of the incentive
23 award agreement on behalf of the State.

24 (2) For a phased project, the incentive phase agreement shall set
25 forth, for each phase of the project and for the total project, the
26 capital investment requirements and the time periods in which each
27 phase of the project shall be commenced and completed. The
28 awarding of tax credits shall be conditioned on the developer's
29 compliance with the requirements of the agreement. A
30 redevelopment project may be completed in phases in accordance
31 with rules adopted by the authority if the redevelopment project has
32 a total project cost in excess of \$50,000,000.

33 b. An incentive award agreement shall specify the amount of
34 the incentive award the authority shall award to the developer and
35 the duration of the eligibility period, which shall not exceed 15
36 years for a commercial or mixed-use project and shall not exceed 10
37 years for a residential project. The incentive award agreement shall
38 provide an estimated date of completion and include a requirement
39 for periodic progress reports, including the submittal of executed
40 financing commitments and documents that evidence site control.
41 If the authority does not receive periodic progress reports, or if the
42 progress reports demonstrate unsatisfactory progress, then the
43 authority may rescind the incentive award. If the authority rescinds
44 an incentive award in the same calendar year in which the authority
45 approved the incentive award, then the authority may assign the
46 incentive award to another applicant. The incentive award
47 agreement may also provide for a verification of the financing gap
48 at the time the developer provides executed financing commitments

1 to the authority and a verification of the developer's projected cash
2 flow at the time of certification that the project is completed.

3 c. To ensure the protection of taxpayer money, if the authority
4 determines at project certification that the actual capital financing
5 approach utilized by the project has resulted in a financing gap that
6 is smaller than the financing gap determined at board approval, the
7 authority shall reduce the amount of the tax credit or accept
8 payment from the developer on a pro rata basis. If there is no
9 project financing gap due to the actual capital financing approach
10 utilized by the project, then the developer shall forfeit the incentive
11 award. **【This test shall be conducted at】** At the end of the **【third】**
12 seventh year of the eligibility period **【whereupon】** , the authority
13 shall evaluate the developer's **【cash flow】** rate of return on
14 investment and compare that **【cash flow】** rate of return on
15 investment to the **【projected cash flow】** reasonable and appropriate
16 rate of return at the time of board approval. **【For a commercial**
17 **project, if】** If the actual **【cash flow】** rate of return on investment
18 exceeds the 【projected cash flow】 reasonable and appropriate rate
19 of return on investment at the time of board approval by more than
20 15 percent, the authority shall require the developer to pay up to
21 **【15】** 20 percent of the amount **【of the excess, which payment shall**
22 **be deposited in the State General Fund. To the extent applicable, in**
23 **the case of a residential project, the developer's return on**
24 **investment shall be subject to the provisions of section 7 of**
25 **P.L.1983, c.530 (C.55:14K-7)】** in excess of the reasonable and
26 appropriate rate of return on investment. The authority shall require
27 an escrow account to be held by the authority until the end of the
28 eligibility period. Following the final year of the eligibility period,
29 the authority shall determine if the developer's rate of return
30 exceeded the reasonable and appropriate rate of return determined
31 at board approval. If the final rate of return does not exceed the
32 reasonable and appropriate rate of return determined at board
33 approval, the authority shall release to the developer the escrowed
34 funds. If the project final rate of return exceeds the reasonable and
35 appropriate rate of return determined at board approval, the
36 authority shall require the developer to pay up to 20 percent of the
37 amount of the excess, which shall include the funds held in escrow,
38 and such funds shall be deposited in the State General Fund,

39 d. The incentive award agreement shall include a requirement
40 that **【the chief executive officer of the authority receive annual**
41 **reports from】** the authority confirm with the Department of
42 Environmental Protection, the Department of Labor and Workforce
43 Development, and the Department of the Treasury **【demonstrating】**
44 that the developer **【and each contractor and subcontractor**
45 **performing work at the redevelopment project】** is in substantial
46 good standing with the respective department, or the developer has

1 entered into an agreement with the respective department that
2 includes a practical corrective action for the developer, and the
3 developer shall confirm that each contractor or subcontractor
4 performing work at the redevelopment project: (1) is registered as
5 required by “The Public Works Contractor Registration Act,”
6 P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has not been debarred
7 by Department of Labor and Workforce Development from
8 engaging in or bidding on Public Works Contracts in the State; and
9 (3) possesses a tax clearance certificate issued by the Division of
10 Taxation in the Department of the Treasury. The incentive award
11 agreement shall also include a provision that the developer shall
12 forfeit the incentive award in any year in which **【any such report is**
13 **not received】** the developer is neither in substantial good standing
14 with each department nor has entered into a practical corrective
15 action. 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, the
19 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
29 employees in the State.

30 (2) A labor harmony agreement shall be required only if the
31 State has a proprietary interest in the redevelopment project and
32 shall remain in effect for as long as the State acts as a market
33 participant in the redevelopment project. The authority may enter
34 into an incentive award agreement with a developer without the
35 labor harmony agreement required under paragraph (1) of this
36 subsection if the authority determines that the redevelopment
37 project would not be able to go forward if a labor harmony
38 agreement is required. The authority shall support the
39 determination by a written finding, which provides the specific
40 basis for the determination.

41 (3) As used in this subsection:

42 "Hospitality establishment" means a hotel, motel, or any
43 business, however organized, that sells food, beverages, or both for
44 consumption by patrons on the premises.

45 "Labor harmony agreement" means an agreement between a
46 business that serves as the owner or operator of a retail
47 establishment or distribution center and one or more labor
48 organizations, which requires, for the duration of the agreement:

1 that any participating labor organization and its members agree to
2 refrain from picketing, work stoppages, boycotts, or other economic
3 interference against the business; and that the business agrees to
4 maintain a neutral posture with respect to efforts of any
5 participating labor organization to represent employees at an
6 establishment or other unit in the retail establishment or distribution
7 center, agrees to permit the labor organization to have access to the
8 employees, and agrees to guarantee to the labor organization the
9 right to obtain recognition as the exclusive collective bargaining
10 representatives of the employees in an establishment or unit at the
11 retail establishment or distribution center by demonstrating to the
12 New Jersey State Board of Mediation, Division of Private
13 Employment Dispute Settlement, or a mutually agreed-upon,
14 neutral, third-party, that a majority of workers in the unit have
15 shown their preference for the labor organization to be their
16 representative by signing authorization cards indicating that
17 preference. The labor organization or organizations shall be from a
18 list of labor organizations which have requested to be on the list and
19 which the Commissioner of Labor and Workforce Development has
20 determined represent substantial numbers of retail or distribution
21 center employees in the State.

22 f. (1) For a redevelopment project whose total project cost equals
23 or exceeds \$10 million, in addition to the incentive award
24 agreement, a developer shall enter into a community benefits
25 agreement with the authority and the county or municipality in
26 which the redevelopment project is located. The agreement may
27 include, but shall not be limited to, requirements for training,
28 employment, and youth development and free services to
29 underserved communities in and around the community in which
30 the redevelopment project is located. Prior to entering a community
31 benefits agreement, the governing body of the county or
32 municipality in which the redevelopment project is located shall
33 hold at least one public hearing at which the governing body shall
34 hear testimony from residents, community groups, and other
35 stakeholders on the needs of the community that the agreement
36 should address.

37 (2) The community benefits agreement shall provide for the
38 creation of a community advisory committee to oversee the
39 implementation of the agreement, monitor successes, ensure
40 compliance with the terms of the agreement, and produce an annual
41 public report. The community advisory committee created pursuant
42 to this paragraph shall be comprised of representatives of diverse
43 community groups and residents of the county or municipality in
44 which the redevelopment project is located.

45 (3) At the time the developer submits the annual report required
46 pursuant to section 62 of P.L.2020, c.156 (C.34:1B-330) to the
47 authority, the developer shall certify, under the penalty of perjury,
48 that it is in compliance with the terms of the community benefits

1 agreement. If the developer fails to provide the certification
2 required pursuant to this paragraph or the authority determines that
3 the developer is not in compliance with the terms of the community
4 benefits agreement based on the reports submitted by the
5 community advisory committee pursuant to paragraph (2) of this
6 subsection, then the authority may rescind an award or recapture all
7 or part of any tax credits awarded.

8 (4) A developer shall not be required to enter into a community
9 benefits agreement pursuant to this subsection if the developer
10 submits to the authority a copy of either the developer's approval
11 letter from the authority or a redevelopment agreement [that]
12 applicable to the qualified business facility, provided that the
13 approval letter or redevelopment agreement is certified by the
14 municipality in which the redevelopment project is located, and
15 includes provisions that meet or exceed the standards required for a
16 community benefits agreement in this subsection, as determined by
17 the chief executive officer pursuant to rules adopted by the
18 authority.

19 g. A developer shall submit, prior to the first disbursement of
20 tax credits under the incentive award agreement, but no later than
21 six months following project completion, satisfactory evidence of
22 actual project costs, as certified by a certified public accountant,
23 evidence of a temporary certificate of occupancy, or other event
24 evidencing project completion that begins the eligibility period
25 indicated in the incentive award agreement. The developer, or an
26 authorized agent of the developer, shall certify that the information
27 provided pursuant to this subsection is true under the penalty of
28 perjury. Claims, records, or statements submitted by a developer to
29 the authority in order to receive tax credits shall not be considered
30 claims, records, or statements made in connection with State tax
31 laws.

32 h. The incentive award agreement shall include a provision
33 allowing the authority to extend, in individual cases, the deadline
34 for any annual reporting or certification requirement.

35 (cf: P.L.2020, c.156, s.60)

36

37 27. Section 61 of P.L.2020, c.156 (C.34:1B-329) is amended to
38 read as follows:

39 61. a. Up to the limits established in subsection b. of this
40 section and in accordance with an incentive award agreement,
41 beginning upon the receipt of occupancy permits for any portion of
42 the redevelopment project, or upon any other event evidencing
43 project completion as set forth in the incentive award agreement, a
44 developer shall be allowed a total tax credit that shall not exceed:

45 (1) 60 percent of the total project cost for the new construction
46 of a residential project that receives a four-percent allocation from
47 the federal Low Income Housing Tax Credit Program administered
48 by the agency;

1 (2) 50 percent of the total project cost for a commercial project
2 that is located in a government-restricted municipality; or

3 (3) 45 percent of the total project cost **【of the】** for any other
4 redevelopment project **【,** except for a commercial project that is
5 located in a government-restricted municipality, in which case the
6 total tax credit allowed shall not exceed 50 percent of the total
7 project cost of the commercial project**】**.

8 b. The value of all tax credits approved by the authority under
9 the program for a redevelopment project phase shall not exceed
10 **【\$50,000,000】** :

11 (1) \$60,000,000 per redevelopment project 【if】 or phase for a
12 residential project that is allowed a tax credit under paragraph (1) of
13 subsection a. of this section, or a redevelopment project or phase
14 that is located in a qualified incentive tract, government-restricted
15 municipality, or municipality with a Municipal Revitalization Index
16 distress score of at least 50 【, or \$32,000,000】 ; and

17 (2) \$42,000,000 for any other redevelopment project or phase.
18 (cf: P.L.2020, c.156, s.61)

19

20 28. Section 63 of P.L.2020, c.156 (C.34:1B-331) is amended to
21 read as follows:

22 63. a. A developer may apply to the director and the chief
23 executive officer of the authority for a tax credit transfer certificate,
24 covering one or more years, in lieu of the developer being allowed
25 any amount of the credit against the tax liability of the developer.
26 The tax credit transfer certificate, upon receipt thereof by the
27 developer from the director and the chief executive officer of the
28 authority, may be sold or assigned, in full or in part in an amount
29 not less than \$25,000, in the privilege period during which the
30 developer receives the tax credit transfer certificate from the
31 director, to another person, who may apply the credit against a tax
32 liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
33 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),
34 section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The
35 certificate provided to the developer shall include a statement
36 waiving the developer's right to claim the amount of the credit that
37 the developer has elected to sell or assign against the developer's
38 tax liability.

39 b. The developer shall not sell or assign, including a collateral
40 assignment, a tax credit transfer certificate allowed under this
41 section for consideration received by the developer of less than 85
42 percent of the transferred credit amount before considering any
43 further discounting to present value which shall be permitted,
44 except a developer of a residential project consisting of newly-
45 constructed residential units may assign a tax credit transfer
46 certificate for consideration of less than 85 percent subject to the
47 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)】~~ s.42(b)(1)(B)(i) may assign a tax credit transfer
6 certificate for consideration of no less than ~~【75】~~ 65 percent subject
7 to the submission of a plan to the authority and the New Jersey
8 Housing and Mortgage Finance Agency to use the proceeds derived
9 from the assignment of tax credits to complete the residential
10 project. The tax credit transfer certificate issued to a developer by
11 the director shall be subject to any limitations and conditions
12 imposed on the application of State tax credits pursuant to sections
13 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-
14 335) and any other terms and conditions that the director may
15 prescribe.

16 c. A purchaser or assignee of a tax credit transfer certificate
17 pursuant to this section shall not make any subsequent transfers,
18 assignments, or sales of the tax credit transfer certificate.

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 transferrer;
- 23 (2) the name of the transferee;
- 24 (3) the value of the tax credit transfer certificate; and
- 25 (4) the consideration received by the transferrer.

26 (cf: P.L.2020, c.156, s.63)

27

28 29. Section 65 of P.L.2020, c.156 (C.34:1B-333) is amended to
29 read as follows:

30 65. a. As used in this section, "transformative project" means a
31 redevelopment project that has a project financing gap, that has a
32 total project cost of at least \$100,000,000, and that includes 500,000
33 or more square feet of new or substantially renovated industrial,
34 commercial, or residential space or that includes 250,000 or more
35 square feet of film studios, professional stages, television studios,
36 recording studios, screening rooms, or other infrastructure for film
37 production and which is of special economic importance as
38 measured by the level of new jobs, new capital investment,
39 opportunities to leverage leadership in a high-priority targeted
40 industry, or other state priorities as determined by the authority
41 pursuant to rules and regulations promulgated to implement this
42 section. A transformative project may be completed in phases,
43 which phases may be determined by the authority based on factors
44 such as written architectural plans and specifications completed
45 before or during the physical work, certificates of occupancy, or
46 financial and operational plans. The criteria developed by the
47 authority shall include, but shall not be limited to:

1 (1) the extent to which the proposed transformative project
2 would create modern facilities that enhance the State's
3 competitiveness in attracting targeted industries;

4 (2) (a) for a residential **【or mixed-use】** project, the construction
5 of 1,000 or more new residential units **【,】** ;

6 (b) for a residential project containing less than 1,000 new
7 residential units, the construction of 250 or more new residential
8 units if the project is located in a government-restricted
9 municipality, 350 or more residential units if the project is located
10 in an enhanced area, or 600 or more residential units for all other
11 mixed-use projects;

12 (c) for a residential project containing less than 1,000 new
13 residential units, the construction of 100,000 square feet or more of
14 retail or commercial space, with the majority being commercial; and

15 (d) for a residential project, 20 percent of **【which】** the new
16 residential units shall be constructed for occupancy by low- and
17 moderate-income households with affordability controls as required
18 under the "Fair Housing Act," P.L.1985, c. 222 (C.52:27D-301 et
19 al.) **【and at least 5 percent of the residential units constructed as**
20 workforce housing, unless: the municipality in which the property is
21 located has received substantive certification from the council and
22 such a reservation is not required under the approved affordable
23 housing plan; the municipality has been given a judgment of repose
24 or a judgment of compliance by the court, and such a reservation is
25 not required under the approved affordable housing plan. If the
26 municipality in which the property is located has received
27 substantive certification from the council and such a reservation is
28 not required under the approved affordable housing plan or the
29 municipality has been given a judgment of repose or a judgment of
30 compliance by the court, and such a reservation is not required
31 under the approved affordable housing plan, then the developer
32 shall reserve at least 10 percent, but not more than 50 percent, of
33 the residential units constructed for occupancy by low- and
34 moderate-income households with affordability controls as required
35 under the "Fair Housing Act," P.L.1985, c. 222 (C.52:27D-301 et
36 al.) and at least 15 percent of the residential units constructed as
37 workforce housing**】**; and

38 (3) the extent to which the proposed project would leverage the
39 competitive economic development advantages of the State's mass
40 transit assets, higher education assets, and other economic
41 development assets in attracting or retaining both employers and
42 skilled workers generally or in targeted industries.

43 A "transformative project" shall not include a redevelopment
44 project at which more than 50 percent of the premises is occupied
45 by one or more businesses engaged in final point of sale retail.

46 b. (1) The authority may award **【an】** incentive **【award to no**
47 **more than ten**】** awards to transformative projects in accordance**

1 with the provisions of sections **[59]** 55 through 67 of P.L.2020,
2 c.156 (**[C.34:1B-327]** C.34:1B-323 through C.34:1B-335) **;**
3 provided, however, a transformative project shall not be subject to
4 the competitive application procedure set forth in section 59 of
5 P.L.2020, c.156 (C.34:1B-327)].

6 (2) (a) For transformative projects completed in phases, the
7 developer shall enter into a transformative phase agreement with the
8 authority.

9 (b) As used in this subsection, “transformative phase
10 agreement” shall mean a sub-agreement of the incentive award
11 agreement that governs the timing, capital investment, and other
12 applicable details of the respective phase of a phased project.

13 (3) Notwithstanding the provisions of section 57 of P.L.2020,
14 c.156 (C.34:1B-325), or any other section of P.L.2020, c.156
15 (C.34:1B-269 et al.), to the contrary, for transformative projects
16 completed in phases, the transformative project shall be completed,
17 and the developer shall be issued certificates of occupancy for all
18 phases of the transformative project facilities by the applicable
19 enforcing agency, within eight years of executing either the
20 incentive award agreement or the first transformative phase
21 agreement corresponding to the transformative project.

22 (4) Notwithstanding the provisions of sections 55 and 60 of
23 P.L.2020, c.156 (C.34:1B-323 and C.34:1B-328), or any other
24 section of P.L.2020, c.156 (C.34:1B-269 et al.), to the contrary,
25 each phase of a transformative project completed in phases shall
26 have a separate eligibility period. After completing each phase, the
27 developer shall submit a certification that the phase is completed.
28 If the authority approves the certification, the tax credit allowed to
29 the developer shall be increased by the tax credit amount
30 corresponding to that phase. Notwithstanding the different
31 eligibility periods for each phase, all conditions and requirements
32 applicable during an eligibility period pursuant to sections 55
33 through 67 of P.L.2020, c.156 (C.34:1B-323 through C.34:1B-335)
34 shall apply to the entire transformative project until the end of the
35 eligibility period for the last phase.

36 (5) Notwithstanding the provisions of section 60 of P.L.2020,
37 c.156 (C.34:1B-328), or any other section of P.L.2020, c.156
38 (C.34:1B-269 et al.), to the contrary, for a transformative project
39 completed in phases, a review of the project financing gap shall be
40 performed at the certification of completion of each phase, and the
41 authority shall re-evaluate the developer’s rate of return in the
42 seventh year and at the end of the eligibility period for the last
43 phase, provided that the authority may also re-evaluate the
44 developer’s rate of return during the fifth year of any earlier phase.

45 (6) A transformative project receiving an incentive award
46 pursuant to this section, other than a project that includes 250,000
47 or more square feet of film studios, professional stages, television
48 studios, recording studios, screening rooms or other infrastructure

1 for film production, shall be located in an incentive area, a
2 distressed municipality, a government-restricted municipality, or an
3 **【urban transit hub municipality】** an enhanced area. A
4 transformative project receiving an incentive award pursuant to this
5 section that includes 250,000 or more square feet of film studios,
6 professional stages, television studios, recording studios, screening
7 rooms or other infrastructure for film production may be located
8 anywhere in the State. No more than two transformative projects
9 receiving an incentive award pursuant to this section shall be
10 located in the same municipality. The authority shall not consider
11 an application for a transformative project unless the applicant
12 submits with its application a letter evidencing support for the
13 transformative project from the governing body of the municipality
14 in which the transformative project is located.

15 c. The authority shall review the transformative project cost,
16 evaluate and validate the project financing gap estimated by the
17 developer, and conduct a State fiscal impact analysis to ensure that
18 the overall public assistance provided to the transformative project
19 will result in a net positive benefit to the State. In determining
20 whether a transformative project will result in a net positive benefit
21 to the State, the authority shall not consider the value of any taxes
22 exempted, abated, rebated, or retained under the "Five-Year
23 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et
24 seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431
25 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act,"
26 P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the
27 effect of lowering or eliminating the developer's State or local tax
28 liability. The determination made pursuant to this subsection shall
29 be based on the potential tax liability of the developer without
30 regard for potential tax losses if the developer were to locate in
31 another state. The authority shall assess the cost of these reviews to
32 the applicant. A developer shall pay to the authority the full
33 amount of the direct costs of an analysis concerning the developer's
34 application for an incentive award that a third party retained by the
35 authority performs, if the authority deems such retention to be
36 necessary. The authority shall evaluate the net economic benefits
37 on a present value basis under which the requested tax credit
38 allocation amount is discounted to present value at the same
39 discount rate as the projected benefits from the implementation of
40 the proposed transformative project for which an award of tax
41 credits is being sought. Projects that are predominantly residential
42 shall be excluded from the calculation of the net benefit test
43 required pursuant to this subsection.

44 d. In determining net benefits for any business or person
45 considering locating in a transformative project and applying to
46 receive from the authority any other economic development
47 incentive subsequent to the award of transformative project tax
48 credits pursuant to section 65 of P.L.2020, c.156 (C.34:1B-333), the

1 authority shall not credit the business or person with any benefit
2 that was previously credited to the transformative project pursuant
3 to section 65 of P.L.2020, c.156 (C.34:1B-333).

4 e. The authority shall administer the credits awarded pursuant
5 to this section in accordance with the provisions of sections 62 and
6 63 of P.L.2020, c.156 (C.34:1B-330 and C.34:1B-331).

7 f. Prior to allocating an incentive award to a developer, the
8 authority shall confirm with the Department of Labor and
9 Workforce Development, the Department of Environmental
10 Protection, and the Department of the Treasury **【**shall each report to
11 the chief executive officer of the authority whether the developer
12 and each contractor and subcontractor performing work at the
13 transformative project**】** that the developer is in substantial good
14 standing with the respective department, or the developer has
15 entered into an agreement with the respective department that
16 includes a practical corrective action plan, and the developer shall
17 certify that each contractor or subcontractor performing work at the
18 transformative project: (1) is registered as required by “The Public
19 Works Contractor Registration Act,” P.L.1999, c.238 (C.34:11-
20 56.48 et seq.); (2) has not been debarred by Department of Labor
21 and Workforce Development from engaging in or bidding on Public
22 Works Contracts in the State; and (3) possesses a tax clearance
23 certificate issued by the Division of Taxation in the Department of
24 the Treasury. The authority may also contract with an independent
25 third party to perform a background check on the **【applicant】**
26 developer.

27 g. Notwithstanding the limitation on incentive awards set forth
28 in subsection b. of section 61 and section 98 of P.L.2020, c.156
29 (C.34:1B-329 and C.34:1B-362) to the contrary, the authority may
30 allow a developer of a transformative project a tax credit, as
31 reimbursement for certain project financing gap costs, in an amount
32 not to exceed **【30】** 40 percent of the total project cost, the total
33 value of the project financing gap, or **【\$250,000,000】** \$350,000,000
34 whichever is less; provided, however, that for a transformative
35 project that is developed in phases, the \$350,000,000 limitation on
36 incentive awards set forth in this subsection shall apply to the total
37 aggregate award for all phases of the transformative project.

38 (cf: P.L.2020, c.156, s.65)

39
40 30. Section 69 of P.L.2020, c.156 (C.34:1B-337) is amended to
41 read as follows:

42 69. As used in sections 68 through 81 of P.L.2020, c.156
43 (C.34:1B-336 et al.):

44 "Affiliate" means an entity that directly or indirectly controls, is
45 under common control with, or is controlled by the 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

1 1563 of the Internal Revenue Code of 1986 (26 U.S.C. s.1563), or
2 the entity is an organization in a group of organizations under
3 common control, as defined pursuant to subsection (c) of section
4 414 of the Internal Revenue Code of 1986 (26 U.S.C. s.414). A
5 taxpayer may establish by clear and convincing evidence, as
6 determined by the Director of the Division of Taxation in the
7 Department of the Treasury, that control exists in situations
8 involving lesser percentages of ownership than required by sections
9 1563 and 414 of the Internal Revenue Code of 1986 (26 U.S.C.
10 ss.1563 and 414).

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 "Aviation district" means all areas within the boundaries of the
14 Atlantic City International Airport, established pursuant to section
15 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation
16 Administration William J. Hughes Technical Center and the area
17 within a one-mile radius of the outermost boundary of the Atlantic
18 City International Airport and the Federal Aviation Administration
19 William J. Hughes Technical Center.

20 "Board" means the Board of the New Jersey Economic
21 Development Authority, established by section 4 of P.L.1974, c.80
22 (C.34:1B-4).

23 "Building services" means any cleaning or routine building
24 maintenance work, including but not limited to sweeping,
25 vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse
26 or trash, window cleaning, securing, patrolling, or other work in
27 connection with the care or securing of an existing building,
28 including services typically provided by a door-attendant or
29 concierge. "Building services" shall not include any skilled
30 maintenance work, professional services, or other public work for
31 which a contractor is required to pay the "prevailing wage" as
32 defined in section 2 of P.L.1963, c.150 (C.34:11-56.26).

33 "Business" means an applicant proposing to own or lease
34 premises in a qualified business facility that is: a corporation that is
35 subject to the tax imposed pursuant to section 5 of P.L.1945, c.162
36 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and
37 C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or
38 N.J.S.17B:23-5, or is a partnership, S corporation, limited liability
39 company, or non-profit corporation. A business shall include an
40 affiliate of the business if that business applies for a credit based
41 upon any capital investment made by or full-time employees of an
42 affiliate. If the business or tenant is a cooperative or part of a
43 cooperative, then the cooperative may qualify for credits by
44 counting the full-time employees and capital investments of its
45 member organizations, and the cooperative may distribute credits to
46 its member organizations. If the business or tenant is a cooperative
47 that leases to its member organizations, the lease shall be treated as
48 a lease to an affiliate or affiliates. [A business shall include an

1 affiliate of the business if that business applies for a credit based
2 upon any capital investment made by full-time employees of an
3 affiliate.】

4 "Capital investment" means expenses that a business or an
5 affiliate of the business incurs, or is incurred on behalf of the
6 business or affiliate by its landlord, following its submission of an
7 application to the authority pursuant to section 72 of P.L.2020,
8 c.156 (C.34:1B-340), but prior to the project completion date, as
9 shall be defined in the project agreement, for: a. site preparation and
10 construction, repair, renovation, improvement, equipping, or
11 furnishing on real property or of a building, structure, facility, or
12 improvement to real property; b. obtaining and installing
13 furnishings and machinery, apparatus, or equipment, including but
14 not limited to material goods subject to bonus depreciation under
15 sections 168 and 179 of the federal Internal Revenue Code (26
16 U.S.C. ss.168 and 179), for the operation of a business on real
17 property or in a building, structure, facility, or improvement to real
18 property; or any combination of the foregoing.

19 "College or university" means a county college, an independent
20 institution of higher education, a public research university, or a
21 State college.

22 "Commitment period" means a period that is 1.5 times the
23 eligibility period specified in the project agreement entered into
24 pursuant to section 73 of P.L.2020, c.156 (C.34:1B-341), rounded
25 up, for each applicable phase agreement.

26 "County college" means an educational institution established by
27 one or more counties, pursuant to chapter 64A of Title 18A of the
28 New Jersey Statutes.

29 "Director" means the Director of the Division of Taxation in the
30 Department of the Treasury.

31 "Distressed municipality" means a municipality that is qualified
32 to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a
33 municipality under the supervision of the Local Finance Board
34 pursuant to the provisions of the "Local Government Supervision
35 Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality
36 identified by the Director of the Division of Local Government
37 Services in the Department of Community Affairs to be facing
38 serious fiscal distress, a SDA municipality, or a municipality in
39 which a major rail station is located.

40 "Doctoral university" means a university located within New
41 Jersey that is classified as a doctoral university under the Carnegie
42 Classification of Institutions of Higher Education's Basic
43 Classification methodology on the effective date of P.L.2017, c.221.

44 "Eligibility period" means the period in which an eligible
45 business may claim a tax credit under the program for a given
46 project phase, beginning with the tax period in which the authority
47 accepts certification of the eligible business that it has met the
48 capital investment and employment requirements of the program for

1 the respective project phase, and extending thereafter for a term of
2 not more than seven years, with the term to be determined at the
3 discretion of the applicant, provided that the term of the eligibility
4 period may consist of nonconsecutive tax years if the applicant
5 elects at any time after the end of the first tax period of the
6 eligibility period to defer the continuation of the eligibility period to
7 a subsequent tax period. The authority may extend the eligibility
8 period one additional tax period to accommodate a prorated
9 payment pursuant to paragraph (2) of subsection a. of section 77 of
10 P.L.2020, c.156 (C.34:1B-345).

11 "Eligible business" means any business that satisfies the criteria
12 set forth in section 71 of P.L.2020, c.156 (C.34:1B-339) at the time
13 of application for tax credits under the program.

14 "Eligible position" or "full-time job" means a full-time position
15 in a business in this State which the business has filled with a full-
16 time employee. An eligible position shall not include an
17 independent contractor or a consultant.

18 "Employment and Investment Corridor" means the portions of
19 the qualified incentive area that are not located within a distressed
20 municipality and which:

21 a. are designated pursuant to the "State Planning Act,"
22 P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1
23 (Metropolitan), Planning Area 2 (Suburban), a designated center
24 under the State Development and Redevelopment Plan, or a
25 designated growth center in an endorsed plan **【until June 30, 2013,】**
26 or until the State Planning Commission revises and readopts New
27 Jersey's State **【Strategic】** Development and Redevelopment Plan
28 and adopts regulations to revise this definition;

29 b. intersect with portions of: a port district, a qualified
30 incentive tract, or federally-owned land approved for closure under
31 a federal Commission on Base Realignment and Closure action;

32 c. are the proposed site of a qualified incubator facility, a
33 tourism destination project, or transit oriented development; or

34 d. contain: a vacant commercial building having over 400,000
35 square feet of office, laboratory, or industrial space, or any
36 combination 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 "Enhanced area" means (1) a municipality that contains an urban
42 transit hub as defined in section 2 of P.L.2007, c.346 (C.34:1B-
43 208), (2) the five municipalities with the highest poverty rates
44 according to the 2017 Municipal Revitalization Index, and (3) the
45 three municipalities with the highest percentage of SNAP recipients
46 according to the 2017 Municipal Revitalization Index.

47 "Full-time employee" means a person:

1 a. who is employed by a business for consideration for at least
2 35 hours a week, or who renders any other standard of service
3 generally accepted by custom or practice as full-time employment,
4 and whose wages are subject to withholding as provided in the
5 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.;

6 b. who is employed by a professional employer organization
7 pursuant to an employee leasing agreement between the business
8 and the professional employer organization, pursuant to P.L.2001,
9 c.260 (C.34:8-67 et seq.) for at least 35 hours a week, or who
10 renders any other standard of service generally accepted by custom
11 or practice as full-time employment, and whose wages are subject
12 to withholding as provided in the "New Jersey Gross Income Tax
13 Act," N.J.S.54A:1-1 et seq.; or

14 c. who is a resident of another State, but whose income is not
15 subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
16 et seq., due to a reciprocity agreement with the other state, or who
17 is a partner of a business who works for the partnership for at least
18 35 hours a week, or who renders any other standard of service
19 generally accepted by custom or practice as full-time employment,
20 and whose distributive share of income, gain, loss, or deduction, or
21 whose guaranteed payments, or any combination thereof, is subject
22 to the payment of estimated taxes, as provided in the "New Jersey
23 Gross Income Tax Act," N.J.S.54A:1-1 et seq., due to a reciprocity
24 agreement with the other state.

25 **【A "full time employee" further means a person who, except for
26 purposes of the Statewide workforce, is provided, by the business,
27 with employee health benefits under a health benefits plan
28 authorized pursuant to State or federal law and who is paid no less
29 than \$15 per hour or 120 percent of the minimum wage fixed under
30 subsection a. of section 5 of P.L.1966, c.113 (C.34:11-56a4),
31 whichever is higher.】**

32 With respect to a logistics, manufacturing, energy, defense,
33 aviation, or maritime business, excluding primarily warehouse or
34 distribution operations, located in a port district having a container
35 terminal, the requirement that employee health benefits are to be
36 provided shall be deemed to be satisfied if the benefits are provided
37 in accordance with industry practice by a third party obligated to
38 provide such benefits pursuant to a collective bargaining agreement.

39 A "full-time employee" shall include, but shall not be limited to,
40 an employee that has been hired by way of a labor union hiring hall
41 or its equivalent. 35 hours of employment per week **【per qualified
42 business facility】** in the State shall constitute one "full-time
43 employee," regardless of whether or not the hours of work were
44 performed by one or more persons.

45 "Full-time employee" shall not include any person who works as
46 an independent contractor or on a consulting basis for the business
47 or a contract worker whose income is subject to withholding as
48 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1

1 et seq., except that any person working as an independent contractor
2 or contract worker whose income is subject to withholding as
3 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
4 et seq., for the business shall be deemed a full-time employee if the
5 business demonstrates to the authority that: (a) the person working
6 as an independent contractor for the business works at least 35
7 hours per week or renders any other standard service generally
8 accepted by custom or practice as full-time employment, and the
9 person is provided with employee health benefits under a health
10 benefits plan authorized pursuant to State or federal law; and (b) the
11 business provides documentation to the authority to permit the
12 authority to verify the compensation paid to, and the time worked
13 by, the person working as an independent contractor. The business
14 shall provide to the authority an annual report that identifies the
15 number of persons working as independent contractors for the
16 business and their contractual or partnering relationship with the
17 business.

18 "Full-time employee" shall not include any person who, at the
19 time of project application, works in New Jersey for consideration
20 for at least 35 hours per week for the business, or who renders any
21 other standard of service generally accepted by custom or practice
22 as full-time employment, but who, prior to project application, was
23 not provided, by the business, with employee health benefits under
24 a health benefits plan authorized pursuant to State or federal law.

25 "Government-restricted municipality" means a municipality in
26 this State with a municipal revitalization index distress score of at
27 least 75, that met the criteria for designation as an urban aid
28 municipality in the 2019 State fiscal year, and that, on the effective
29 date of P.L.2020, c.156 (C.34:1B-269 et al.), is subject to financial
30 restrictions imposed pursuant to the "Municipal Stabilization and
31 Recovery Act," P.L.2016, c.4 (C.52:27BBBB-1 et seq.), or is
32 restricted in its ability to levy property taxes on property in that
33 municipality as a result of the State of New Jersey owning or
34 controlling property representing at least 25 percent of the total land
35 area of the municipality or as a result of the federal government of
36 the United States owning or controlling at least 50 acres of the total
37 land area of the municipality, which is dedicated as a national
38 natural landmark.

39 **["Incentive agreement" means the contract between the business
40 and the authority, which sets forth the terms and conditions under
41 which the business shall be eligible to receive the incentives
42 authorized pursuant to the program.]**

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 "Incentive area" means:

- 47 a. an aviation district;
48 b. a port district;

- 1 c. a distressed municipality or **【transit hub municipality】**
2 enhanced area;
- 3 d. an area designated pursuant to the "State Planning Act,"
4 P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1
5 (Metropolitan), Planning Area 2 (Suburban), Planning Area 3
6 (Fringe Planning Area); or a Designated Center under the State
7 Development and Redevelopment Plan **【**, provided an area
8 designated as Planning Area 2 (Suburban) or Planning Area 3
9 (Fringe Planning Area) or a Designated Center shall be located
10 within a one-half mile radius of the mid-point, with bicycle and
11 pedestrian connectivity, of a New Jersey Transit Corporation, Port
12 Authority Transit Corporation, or Port Authority Trans-Hudson
13 Corporation rail, bus, or ferry station, including all light rail
14 stations, or a high frequency bus stop as certified by the New Jersey
15 Transit Corporation.**】**;
- 16 e. an area located within a smart growth area and planning area
17 designated in a master plan adopted by the New Jersey
18 Meadowlands Commission pursuant to subsection (i) of section 6 of
19 P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan
20 adopted by the New Jersey Meadowlands Commission pursuant to
21 section 20 of P.L.1968, c.404 (C.13:17-21);
- 22 f. an area located within any land owned by the New Jersey
23 Sports and Exposition Authority, established pursuant to P.L.1971,
24 c.137 (C.5:10-1 et seq.), within the boundaries of the Hackensack
25 Meadowlands District as delineated in section 4 of P.L.1968, c.404
26 (C.13:17-4);
- 27 g. an area located within a regional growth area, rural
28 development area zoned for industrial use as of the effective date of
29 P.L.2016, c.75, or town, village, or a military and federal
30 installation area designated in the comprehensive management plan
31 prepared and adopted by the Pinelands Commission pursuant to the
32 "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.);
- 33 h. an area located within a government-restricted municipality;
- 34 i. an area located within land approved for closure under any
35 federal Commission on Base Realignment and Closure action;
- 36 j. an area located within an area designated pursuant to the
37 "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as
38 Planning Area 4A (Rural Planning Area), Planning Area 4B
39 (Rural/Environmentally Sensitive), or Planning Area 5
40 (Environmentally Sensitive), so long as that area designated as
41 Planning Area 4A (Rural Planning Area), Planning Area 4B
42 (Rural/Environmentally Sensitive), or Planning Area 5
43 (Environmentally Sensitive) is located within: (1) a designated
44 center under the State Development and Redevelopment Plan; (2) a
45 designated growth center in an endorsed plan until the State
46 Planning Commission revises and readopts New Jersey's State
47 **【Strategic】** Development and Redevelopment Plan and adopts
48 regulations to revise this definition as it pertains to Statewide

1 planning areas; (3) any area determined to be in need of
2 redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79
3 (C.40A:12A-5 and C.40A:12A-6) or in need of rehabilitation
4 pursuant to section 14 of P.L.1992, c.79 (C.40A:12A-14); (4) any
5 area on which a structure exists or previously existed including any
6 desired expansion of the footprint of the existing or previously
7 existing structure provided the expansion otherwise complies with
8 all applicable federal, State, county, and local permits and
9 approvals; or (5) any area on which an existing tourism destination
10 project is located; or

11 k. an area located in a qualified opportunity zone.

12 **["Incentive phase agreement" means a sub-agreement of the**
13 **incentive agreement that governs the timing, capital investment,**
14 **employment levels, and other applicable details of the respective**
15 **phase.]**

16 "Independent institution of higher education" means a college or
17 university incorporated and located in New Jersey, which by virtue
18 of law, character, or license is a nonprofit educational institution
19 authorized to grant academic degrees and which provides a level of
20 education that is equivalent to the education provided by the State's
21 public institutions of higher education, as attested by the receipt of
22 and continuation of regional accreditation by the Middle States
23 Association of Colleges and Schools, and which is eligible to
24 receive State aid under the provisions of the Constitution of the
25 United States and the Constitution of the State of New Jersey, but
26 does not include any educational institution dedicated primarily to
27 the education or training of ministers, priests, rabbis, or other
28 professional persons in the field of religion.

29 "Industrial premises" or "industrial space" means premises or
30 space in which at least 51 percent of the square footage will be or
31 has been used for the assembling, processing, manufacturing, or any
32 combination thereof, of finished or partially finished products from
33 materials or fabricated parts, including, but not limited to, factories
34 or as a warehouse if the business uses the warehouse as part of the
35 chain of distribution for products assembled, processed,
36 manufactured, or any combination thereof, by the business at the
37 qualified business facility; for the breaking or demolishing of
38 finished or partially finished products; or for the production of oil
39 or gas or the generation or transformation of electricity.

40 "Industrial use" means assembling, processing, manufacturing, or
41 any combination thereof, of finished or partially finished products
42 from materials or fabricated parts; the breaking or demolishing of
43 finished or partially finished products; or the production of oil or
44 gas or the generation or transformation of electricity. "Industrial
45 use" includes farming purposes as that term is defined under 26
46 U.S.C. s.6420(c)(3)(A), undertaken in an industrial space.

1 "Infrastructure Fund" means the Recovery Infrastructure Fund
2 established pursuant to section 79 of P.L.2020, c.156 (C.52:27D-
3 520) to fund local infrastructure improvements.

4 "Labor harmony agreement" means an agreement between a
5 business that serves as the owner or operator of a retail
6 establishment or distribution center and one or more labor
7 organizations, which requires, for the duration of the agreement:
8 that any participating labor organization and its members agree to
9 refrain from picketing, work stoppages, boycotts, or other economic
10 interference against the business; and that the business agrees to
11 maintain a neutral posture with respect to efforts of any
12 participating labor organization to represent employees at an
13 establishment or other unit in the retail establishment or distribution
14 center, agrees to permit the labor organization to have access to the
15 employees, and agrees to guarantee to the labor organization the
16 right to obtain recognition as the exclusive collective bargaining
17 representatives of the employees in an establishment or unit at the
18 retail establishment or distribution center by demonstrating to the
19 New Jersey State Board of Mediation, Division of Private
20 Employment Dispute Settlement, or a mutually agreed-upon,
21 neutral, third-party, that a majority of workers in the unit have
22 shown their preference for the labor organization to be their
23 representative by signing authorization cards indicating that
24 preference. The labor organization or organizations shall be from a
25 list of labor organizations which have requested to be on the list and
26 which the Commissioner of Labor and Workforce Development has
27 determined represent substantial numbers of retail or distribution
28 center employees in the State.

29 "Major rail station" means a railroad station that is located within
30 a qualified incentive area and that provides to the public access to a
31 minimum of six rail passenger service lines operated by the New
32 Jersey Transit Corporation.

33 "Mega project" means a project of special economic importance,
34 as determined pursuant to regulations adopted by the board, as
35 measured by the level of new jobs, new capital investment, and
36 opportunities to leverage leadership in a high-priority targeted
37 industry, as determined by the authority pursuant to rules and
38 regulations promulgated to implement sections 68 through 81 of
39 P.L.2020, c.156 (C.34:1B-336 et al.).

40 "Minimum environmental and sustainability standards" means
41 standards established by the authority in accordance with the green
42 building manual prepared by the Commissioner of Community
43 Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6),
44 regarding the use of renewable energy, energy-efficient technology,
45 and non-renewable resources to reduce environmental degradation
46 and encourage long-term cost reduction.

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 "New full-time job" means an eligible position created by a
5 business **【at a qualified business facility】** that did not previously
6 exist in this State. For the purposes of determining the number of
7 new full-time jobs, the eligible positions of an affiliate shall be
8 considered eligible positions of the business.

9 "Other eligible area" means the portions of the incentive area
10 that are not located within a distressed municipality, or the
11 employment and investment corridor.

12 "Partnership" means an entity classified as a partnership for
13 federal income tax purposes.

14 "Port district" means the portions of an incentive area that are
15 located within the "Port of New York District" of the Port Authority
16 of New York and New Jersey, as defined in Article II of the
17 Compact Between the States of New York and New Jersey of 1921;
18 or a 15-mile radius of the outermost boundary of each marine
19 terminal facility established, acquired, constructed, rehabilitated, or
20 improved by the South Jersey Port District established pursuant to
21 "The South Jersey Port Corporation Act," P.L.1968, c.60
22 (C.12:11A-1 et seq.).

23 "Professional employer organization" means an employee leasing
24 company registered with the Department of Labor and Workforce
25 Development pursuant to P.L.2001, c.260 (C.34:8-67 et seq.).

26 "Program" means the Emerge Program established by section 70
27 of P.L.2020, c.156 (C.34:1B-338).

28 "Project" means the capital investment **【and the employment**
29 **commitment】** at a qualified business facility and the employment
30 commitment pursuant to the project agreement.

31 "Project agreement" means the contract executed between an
32 eligible business and the authority pursuant to section 73 of
33 P.L.2020, c.156 (C.34:1B-341), which sets forth the terms and
34 conditions under which the eligible business may receive the
35 incentives authorized pursuant to the program.

36 "Project labor agreement" means a form of pre-hire collective
37 bargaining agreement covering terms and conditions of a specific
38 project that satisfies the requirements set forth in section 5 of
39 P.L.2002, c.44 (C.52:38-5).

40 "Project phase agreement" means a sub-agreement of the project
41 agreement that governs the timing, capital investment, employment
42 levels, and other applicable details of the respective phase.

43 "Public research university" means a public research university
44 as defined in section 3 of P.L.1994, c.48 (C.18A:3B-3).

45 "Qualified business facility" means any building, complex of
46 buildings, or structural components of buildings, and all machinery
47 and equipment located therein, used in connection with the
48 operation of a business that is not engaged in final point of sale

1 retail business at that location, unless the building, complex of
2 buildings or structural components of buildings, and all machinery
3 and equipment therein, are used in connection with the operation of
4 a tourism destination project located in the Atlantic City Tourism
5 District as established pursuant to section 5 of P.L.2011, c.18
6 (C.5:12-219).

7 "Qualified incentive tract" means: a. a population census tract
8 having a poverty rate of 20 percent or more; or b. a census tract in
9 which the median family income for the census tract does not
10 exceed 80 percent of the greater of the Statewide median family
11 income or the median family income of the metropolitan statistical
12 area in which the census tract is situated.

13 "Qualified incubator facility" means a commercial building
14 located within an incentive area: that contains 5,000 or more square
15 feet of office, laboratory, or industrial space; that is located near,
16 and presents opportunities for collaboration with, a research
17 institution, teaching hospital, college, or university; and within
18 which at least 50 percent of the gross leasable area is restricted for
19 use by one or more technology startup companies during the
20 commitment period.

21 "Qualified opportunity zone" means a federal population census
22 tract in this State that was eligible to be designated as a qualified
23 opportunity zone pursuant to 26 U.S.C. s.1400Z-1.

24 "Quality child care facility" is a child care center licensed by the
25 Department of Children and Families or a registered family child
26 care home with the Department of Human Services, operating
27 continuously, which has not been subject to an enforcement action,
28 and which has and maintains a **【total】** licensed capacity **【of at least**
29 **60】** for children age 【6】 13 years or younger who attend for less
30 than 24 hours a day.

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
33 which, because of a potential relocation by the business **【, 】** or is at
34 risk of being lost to another state or country 【or of being
35 eliminated】. For the purposes of determining the number of
36 retained full-time jobs, the eligible positions of an affiliate shall be
37 considered eligible positions 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
43 targeted industry with fewer than 100 employees, as determined at
44 the time of application.

45 "State college" means a State college or university established
46 pursuant to chapter 64 of Title 18A of the New Jersey Statutes.

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, non-retail food and
8 beverage businesses including food innovation, and other
9 innovative industries that disrupt current technologies or business
10 models.

11 "Technology startup company" means a for-profit business that
12 has been in operation fewer than seven years at the time that it
13 initially occupies or expands in a qualified business facility and is
14 developing or possesses a proprietary technology or business
15 method of a high technology or life science-related product,
16 process, or service, which proprietary technology or business
17 method the business intends to move to commercialization. The
18 business shall be deemed to have begun operation on the date that
19 the business first hired at least one employee in a full-time position.

20 "Tourism destination project" means a qualified non-gaming
21 business facility that will be among the most visited privately
22 owned or operated tourism or recreation sites in the State, and
23 which is located within the incentive area and has been determined
24 by the authority to be in an area appropriate for development and in
25 need of economic development incentive assistance, including a
26 non-gaming business within an established tourism district with a
27 significant impact on the economic viability of that tourism district.

28 "Transit oriented development" means a qualified business
29 facility located within a 1/2-mile radius, or one-mile radius for
30 projects located in a Government-restricted municipality,
31 surrounding the mid-point of a New Jersey Transit Corporation,
32 Port Authority Transit Corporation, or Port Authority Trans-Hudson
33 Corporation rail, bus, or ferry station platform area, including all
34 light rail stations.

35 "Transit hub" means an urban transit hub, as defined in section 2
36 of P.L.2007, c.346 (C.34:1B-208), that is located within an eligible
37 municipality, as defined in section 2 of P.L.2007, c.346 (C.34:1B-
38 208), and that is also located within an incentive area.

39 "Transit hub municipality" means a Transit Village or a
40 municipality: a. which qualifies for State aid pursuant to P.L.1978,
41 c.14 (C.52:27D-178 et seq.), or which has continued to be a
42 qualified municipality thereunder pursuant to P.L.2007, c.111; and
43 b. in which 30 percent or more of the value of real property was
44 exempt from local property taxation during tax year 2006. The
45 percentage of exempt property shall be calculated by dividing the
46 total exempt value by the sum of the net valuation which is taxable
47 and that which is tax exempt.

1 "Transit Village" means a municipality that has been designated
2 as a transit village by the Commissioner of Transportation and the
3 Transit Village Task Force.
4 (cf: P.L.2020, c.156, s.69)

5
6 31. Section 71 of P.L.2020, c.156 (C.34:1B-339) is amended to
7 read as follows:

8 71. a. Beginning on the effective date of P.L.2020, c.156
9 (C.34:1B-269 et al.), but prior to March 1, 2027, to be eligible for
10 tax credits under the program, a business's chief executive officer,
11 or equivalent officer, shall demonstrate to the authority at the time
12 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 the State in an amount
18 equal to or greater than the applicable number set forth in
19 subsection c. of this section;

20 (3) the qualified business facility is located in a qualified
21 incentive area;

22 (4) the award of tax credits will be a material factor in the
23 business's decision to create or retain the number of new and
24 retained full-time jobs set forth in its application;

25 (5) the award of tax credits, the capital investment resultant
26 from the award of tax credits, and the resultant creation and
27 retention of new and retained full-time jobs will yield a net positive
28 benefit to the State equaling at least 400 percent of the requested
29 tax credit allocation amount, or for a phased project the requested
30 tax credit allocation amount for the initial phase, and on a
31 cumulative basis each phase thereafter, which determination shall
32 be calculated prior to considering the value of the requested tax
33 credit under the program and shall be based on the benefits
34 generated during the period of time from approval through the end
35 of the commitment period, or through the end of the longer period
36 of extended commitment that the business may elect for purposes of
37 receiving credit for benefits projected to occur after the expiration
38 of the commitment period, except that:

39 (a) an award of tax credits to a business for a qualified business
40 facility located in a distressed municipality or **【transit hub**
41 **municipality】** an enhanced area shall yield a net positive benefit to
42 the State, based on the benefits generated during the period of time
43 from approval through the end of the commitment period, that
44 equals at least 300 percent of the requested tax credit amount;

45 (b) an award of tax credits to a business for a qualified business
46 facility located in a government-restricted municipality, or for a
47 mega project, shall yield a net positive benefit to the State, based on
48 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
4 value basis with the requested tax credit allocation amount
5 discounted to present value at the same discount rate as the benefits
6 from capital investment resultant from the award of tax credits and
7 the resultant retention and creation of full-time jobs as provided in
8 subparagraph (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 beyond the commitment period for which time the
13 economic benefits shall be creditable to the determination of the net
14 economic benefit of the project, and a business electing a period of
15 extended commitment and failing to maintain the project through
16 the expiration of that extended commitment period shall be
17 obligated to repay a proportion of the incremental benefits received
18 on account of having extended the commitment period, taking into
19 consideration the number of years of extended commitment during
20 which the business maintained the 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 (f) If, during the term of the program, the methodology used by
36 the authority in projecting benefits of a project in making the
37 determination required pursuant to this paragraph is modified, the
38 respective percentages by which the benefits must exceed the
39 requested tax credit allocation amount set forth pursuant to this
40 paragraph (5) may be adjusted to ensure consistent application of
41 the respective thresholds in this paragraph (5) applied to each
42 application;

43 (6) the qualified business facility shall be in compliance with
44 minimum environmental and sustainability standards;

45 (7) the project shall comply with the authority's affirmative
46 action requirements, adopted pursuant to section 4 of P.L.1979,
47 c.303 (C.34:1B-5.4); and

1 (8) (a) each worker employed to perform construction work or
2 building services work at the qualified business facility shall be
3 paid not less than the prevailing wage rate for the worker's craft or
4 trade, as determined by the Commissioner of Labor and Workforce
5 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.)
6 and P.L.2005, c.379 (C.34:11-56.58 et seq.), unless:

7 (i) the work performed under the contract is performed at a
8 qualified business facility owned by a landlord that is not a business
9 receiving authority assistance;

10 (ii) the landlord is a party to the construction contract, building
11 services contract, or both; and

12 (iii) the qualified business facility constitutes a lease of less than
13 35 percent of the **qualified business** entire facility at the time of
14 contract and under any agreement to subsequently lease the
15 qualified business facility.

16 (b) In accordance with section 1 of P.L.1979, c.303 (C.34:1B-
17 5.1), nothing in this paragraph shall be construed as requiring the
18 payment of prevailing wage for construction commencing more
19 than two years after **a business has executed with the authority a**
20 **commitment letter regarding authority financial assistance and the**
21 **first payment or other provision of the assistance is received** the
22 authority has issued the first certificate of compliance pursuant to
23 paragraph (2) of subsection a. of section 77 of P.L.2020, c.156
24 (C.34:1B-345).

25 b. (1) The minimum capital investment required to be eligible
26 under the program shall be as follows:

27 (a) for the rehabilitation, improvement, fit-out, or retrofit of an
28 existing industrial, warehousing, logistics, or research and
29 development portion of the premises for continued similar use by
30 the business, a minimum investment of \$20 per square foot of gross
31 leasable area;

32 (b) for the new construction of an industrial, warehousing,
33 logistics, or research and development portion of the premises for
34 use by the business, a minimum investment of \$60 per square foot
35 of gross leasable area;

36 (c) for the rehabilitation, improvement, fit-out, or retrofit of
37 existing portion of the premises that does not qualify pursuant to
38 subparagraph (a) or (b) of this paragraph, a minimum investment of
39 \$40 per square foot of gross leasable area;

40 (d) for the new construction of a portion of the premises that
41 does not qualify pursuant to subparagraph (a) or (b) of this
42 paragraph, a minimum investment of \$120 per square foot of gross
43 leasable area; and

44 (e) for a small business, no new minimum capital investment
45 shall be required, provided the applicant has demonstrated evidence
46 satisfactory to the authority of its intent to remain in the State for
47 the commitment period.

1 (2) In the event the business invests less than that amount set
2 forth in paragraph (1) of this subsection in the qualified business
3 facility, the business shall donate the uninvested balance to the
4 infrastructure fund established pursuant to section 79 of P.L.2020,
5 c.156 (C.52:27D-520).

6 (3) Notwithstanding the provisions of paragraphs (1) and (2) of
7 this subsection, the authority may adopt, pursuant to the provisions
8 of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
9 1 et seq.), rules and regulations adjusting the minimum capital
10 investment amounts required under the program when necessary to
11 respond to the prevailing economic conditions in the State.

12 c. (1) The minimum number of new or retained full-time jobs
13 required to be eligible under the program shall be as follows:

14 (a) for a small business, 25 percent growth of its workforce with
15 new full-time jobs within the eligibility period in accordance with
16 subsection e. of section 76 of P.L.2020, c.156 (C.34:1B-344);

17 (b) for a business engaged primarily in a targeted industry which
18 does not qualify as a small business, 25 new full-time jobs;

19 (c) for any other business, a minimum of 35 new full-time jobs;

20 (d) for a business eligible for new full-time jobs under
21 subparagraphs (b) or (c) of this paragraph, the business shall also be
22 eligible for retained full-time jobs in addition to the new full-time
23 jobs if the business will retain 150 retained full-time jobs when
24 locating in a government-restricted municipality, 250 retained full-
25 time jobs when locating in a qualified incentive tract or enhanced
26 area municipality, or 500 retained full-time jobs when locating
27 anywhere else in the State;

28 (e) for a business **【located】** not eligible under subparagraphs
29 (b), (c), or (d) of this paragraph and locating in a qualified incentive
30 tract, enhanced area, or government-restricted municipality that will
31 retain 500 or more retained full-time jobs, a minimum of the
32 business's retained full-time jobs at the time of application 【and
33 new construction or rehabilitation, improvement, fit-out, or retrofit
34 of an existing portion of the premises equal in size to the space
35 occupied by the business's retained full-time jobs at the time of
36 application】;

37 **【(e)】** (f) for a business not eligible under subparagraphs (b), (c),
38 (d), or (e) of this paragraph and located in the State that will retain
39 1,000 or more retained full-time jobs, a minimum of the business's
40 retained full-time jobs at the time of application 【and new
41 construction or rehabilitation, improvement, fit-out, or retrofit of an
42 existing portion of the premises equal in size to the space occupied
43 by the business's retained full-time jobs at the time of application】.

44 (2) Notwithstanding the provisions of paragraph (1) of this
45 subsection, the authority may adopt, pursuant to the provisions of
46 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
47 seq.), rules and regulations adjusting the minimum number of new

1 or retained full-time jobs required under the program when
2 necessary to respond to the prevailing economic conditions in the
3 State.

4 d. A business **【shall provide and adhere】** that provides and
5 adheres to a plan that demonstrates that the qualified business
6 facility is capable of accommodating more than half of the
7 business's new **【or】** and retained full-time employees as approved
8 and **【shall certify】** that certifies, under the penalty of perjury, that
9 not less than 80 percent of the withholdings of new **【or】** and
10 retained full-time jobs are subject to the "New Jersey Gross Income
11 Tax Act," N.J.S.54A:1-1 et seq. shall be eligible. The requirements
12 set forth in this subsection may be modified by the authority to
13 respond to an emergency, disaster, or other factors that result in
14 employees of an eligible business having to work from a location
15 other than the qualified business facility.

16 e. The **【owner】** chief executive officer of the business, or an
17 **【authorized agent of the owner】** equivalent officer, shall certify that
18 all factual representations made by the business to the authority
19 pursuant to subsection a. of this section are true under the penalty of
20 perjury.

21 f. A business eligible pursuant to this section may submit an
22 application to the authority in accordance with the provisions of
23 section 72 of P.L.2020, c.156 (C.34:1B-340) on or after the
24 effective date of P.L.2020, c.156 (C.34:1B-269 et al.) but prior to
25 March 1, 2027.

26 (cf: P.L.2020, c.156, s.71)

27

28 32. Section 72 of P.L.2020, c.156 (C.34:1B-340) is amended to
29 read as follows:

30 72. a. A business that meets the eligibility criteria in section 71
31 of P.L.2020, c.156 (C.34:1B-339) and is seeking a grant of tax
32 credits for a project under the program shall submit an application
33 for approval of the project to the authority in a form and manner
34 prescribed in regulations adopted by the authority pursuant to the
35 provisions of the "Administrative Procedure Act," P.L.1968, c.410
36 (C.52:14B-1 et seq.).

37 b. (1) Before the board may consider an eligible business's
38 application for tax credits, the authority shall confirm with 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 eligible business is in **【compliance】** substantial good
43 standing with the respective department, or, if necessary, has
44 entered into an agreement with the respective department that
45 includes a practical corrective action plan for the eligible business.
46 The business entity shall certify that contractors or subcontractors
47 that will perform work at the qualified business facility: (1) are

1 registered as required by “The Public Works Contractor
2 Registration Act,” P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have
3 not been debarred by Department of Labor and Workforce
4 Development from engaging in or bidding on Public Works
5 Contracts in the State; and (3) possess a tax clearance certificate
6 issued by the Division of Taxation in the Department of the
7 Treasury. The authority may also contract with an independent
8 third party to perform a background check on the eligible business.
9 Provided that the eligible business is in substantial good standing,
10 or has entered into such an agreement, and each contractor and
11 subcontractor is in compliance with this paragraph, before the board
12 may approve an eligible business's application for tax credits, the
13 eligible business shall execute a non-binding letter of intent with
14 the chief executive officer of the authority, specifying the amount
15 and terms and conditions of tax credits that the authority is prepared
16 to propose for board approval and that are intended to be a material
17 factor in the decision by the eligible business to create or retain the
18 proposed number of new and retained full-time jobs, and in which
19 the eligible business certifies such tax credits are a material factor
20 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
29 the eligible business's **【current】** proposed in-State locations; and all
30 lease 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
42 in 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.2020, c.156 (C.34:1B-338 et
48 al.). The **【owner】** chief executive officer of the eligible business,

1 or an **【authorized agent of the owner】** equivalent officer, shall
2 certify that all factual representations made by the business to the
3 authority pursuant to this paragraph are true under the penalty of
4 perjury.

5 c. An eligible business shall pay to the authority the full
6 amount of the direct costs of an analysis concerning the eligible
7 business's application for a tax credit, which a third party retained
8 by the authority performs, if the authority deems such retention to
9 be necessary. The authority shall have the discretion to waive all or
10 a portion of the costs of application for a small business.

11 d. If at any time during the eligibility period the authority
12 determines that the eligible business made a material
13 misrepresentation on the eligible business's application, the eligible
14 business shall forfeit all tax credits awarded under the program,
15 which shall be in addition to any other criminal or civil penalties to
16 which the business and the officer may be subject.

17 e. If circumstances require an eligible business to amend its
18 application to the authority, then the **【owner】** chief executive
19 officer of the eligible business, or an **【authorized agent of the**
20 **owner】** equivalent officer, shall certify to the authority that the
21 information provided in its amended application is true under the
22 penalty of perjury.

23 f. Nothing shall preclude a business from applying for tax
24 credits under the program for more than one project pursuant to one
25 or more applications.

26 (cf: P.L.2020, c.156, s.72)

27

28 33. Section 73 of P.L.2020, c.156 (C.34:1B-341) is amended to
29 read as follows:

30 73. a. Following approval by the board, but before the issuance
31 of tax credits, the authority shall require an eligible business to
32 enter into a project agreement. The terms of the project agreement
33 shall be consistent with the eligibility requirements of section 71 of
34 P.L.2020, c.156 (C.34:1B-339), as applicable, and shall include, but
35 shall not be limited to, the following:

36 (1) (a) a detailed description of the proposed project which will
37 result in job creation or retention, and the number of new and
38 retained full-time jobs that are approved for tax credits;

39 (b) for a phased project, **【an incentive】** a project phase
40 agreement for which each phase identifies a description of the
41 phase, the expected capital investment and number of new full-time
42 jobs, and the time following acceptance of the **【incentive】** project
43 agreement when each phase is to begin and be completed, with the
44 awarding of tax credits under the **【incentive】** project agreement to
45 be predicated on the number of full-time jobs created through the
46 fulfillment of each **【incentive】** project phase agreement;

- 1 (2) the eligibility period of the tax credits or, for a phased
2 project, the eligibility period of the tax credits for each phase;
- 3 (3) personnel information that will enable the authority to
4 administer the program;
- 5 (4) a requirement that the eligible business maintain the project
6 at a location in New Jersey for the commitment period, with at least
7 the minimum number of full-time jobs as required by this program,
8 and a provision to permit the authority to recapture all or part of any
9 tax credits awarded, at its discretion, if the eligible business does
10 not remain in compliance with this provision for the required term
11 or significantly reduces the number of full-time employees, or the
12 salaries thereof, to which the eligible business certified at the
13 commencement of the eligibility period;
- 14 (5) a method for the eligible business to certify that it has met
15 the capital investment and employment requirements of the program
16 set forth in subsections b. and c. of section 71 of P.L.2020, c.156
17 (C.34:1B-339) and to report annually to the authority the number of
18 new and retained full-time employees, and the salaries thereof, for
19 which the tax credits are to be allowed;
- 20 (6) representations that the eligible business is in substantial
21 good standing with the Department of Environmental Protection,
22 the Department of Labor and Workforce Development, and the
23 Department of the Treasury or **【meets the agreement requirements**
24 **described in paragraph (1) of subsection b. of section 71 of**
25 **P.L.2020, c.156 (C.34:1B-339)】** has entered into an agreement with
26 the departments that includes a practical corrective action plan, and
27 the project complies with all applicable laws, and specifically, that
28 the project does not violate any environmental law;
- 29 (7) a provision permitting an audit of the payroll records of the
30 business from time to time, as the authority deems necessary;
- 31 (8) a provision that the chief executive officer of the authority
32 receives annual reports from the eligible business and that allows
33 the authority to confirm that the eligible business is in substantial
34 good standing with the Department of Environmental Protection,
35 the Department of Labor and Workforce Development, and the
36 Department of the Treasury **【demonstrating that the eligible**
37 **business and each contractor and subcontractor performing work at**
38 **the qualified business facility is in compliance with the respective**
39 **department】** , or has entered into an agreement with the respective
40 department that includes a practical corrective action plan **【**, and a
41 provision providing that if the eligible business is not in compliance
42 with its legal obligations of rules administered by these departments
43 and has been given formal notice thereof,**】** . As part of the annual
44 reports required by this paragraph, the eligible business shall
45 confirm that each contractor or subcontractor performing work at
46 the qualified business facility: (1) is registered as required by “The
47 Public Works Contractor Registration Act,” P.L.1999, c.238

1 (C.34:11-56.48 et seq.); (2) has not been debarred by Department of
2 Labor and Workforce Development from engaging in or bidding on
3 Public Works Contracts in the State; and (3) possesses a tax
4 clearance certificate issued by the Division of Taxation in the
5 Department of the Treasury. If the eligible business does not
6 submit the report required under this paragraph, if the Department
7 of Environmental Protection, the Department of Labor and
8 Workforce Development, and the Department of the Treasury
9 advises that the eligible business is neither in substantial good
10 standing nor has entered into a practical corrective action plan, or if
11 the eligible business fails to confirm that each contractor or
12 subcontractor is in compliance with this paragraph, then the
13 **【authority】** eligible business may 【suspend】 forfeit the issuance of
14 tax credits, pending resolution of the 【dispute】 underlying
15 violations or other issues;

16 (9) a requirement for the eligible business to engage in on-site
17 consultations with the Division of Workplace Safety and Health in
18 the Department of Health;

19 (10) a provision permitting the authority to amend the
20 agreement;

21 and

22 (11) a provision establishing the conditions under which the
23 authority, the eligible business, or both, may terminate the
24 agreement.

25 b. (1) For a project whose total project cost equals or exceeds
26 \$10 million, in addition to the project agreement, an eligible
27 business shall enter into a community benefits agreement with the
28 authority and the county or municipality in which the qualified
29 business facility is located. The agreement may include, but shall
30 not be limited to, requirements for training, employment, and youth
31 development and free services to underserved communities in and
32 around the community in which the qualified business facility is
33 located. Prior to entering a community benefits agreement, the
34 governing body of the county or municipality in which the qualified
35 business facility is located shall hold at least one public hearing at
36 which the governing body shall hear testimony from residents,
37 community groups, and other stakeholders on the needs of the
38 community that the agreement should address.

39 (2) The community benefits agreement shall provide for the
40 creation of a community advisory committee to oversee the
41 implementation of the agreement, monitor successes, ensure
42 compliance with the terms of the agreement, and produce an annual
43 public report. The community advisory committee created pursuant
44 to this paragraph shall be comprised of representatives from
45 community groups and residents of the county or municipality in
46 which the qualified business facility is located.

47 (3) At the time the eligible business submits the annual report
48 required pursuant to section 77 of P.L.2020, c.156 (C.34:1B-345) to

1 the authority, the eligible business shall certify, under the penalty of
2 perjury, that it is in compliance with the terms of the community
3 benefits agreement. If the eligible business fails to provide the
4 certification required pursuant to this paragraph or the authority
5 determines that the eligible business is not in compliance with the
6 terms of the community benefits agreement based on the reports
7 submitted by the community advisory committee pursuant to
8 paragraph (2) of this subsection, then the authority may rescind the
9 award or recapture all or part of any tax credits awarded.

10 (4) An eligible business shall not be required to enter into a
11 community benefits agreement pursuant to this subsection if the
12 eligible business submits to the authority a copy of the either
13 eligible business's [project agreement that] approval letter from the
14 authority or a redevelopment agreement applicable to the qualified
15 business facility, provided that the approval letter or redevelopment
16 agreement is certified by the municipality in which the project is
17 located and includes provisions that meet or exceed the standards
18 required for a community benefits agreement in this subsection, as
19 determined by the chief executive officer pursuant to rules adopted
20 by the authority.

21 (cf: P.L.2020, c.156, s.73)

22

23 34. Section 74 of P.L.2020, c.156 (C.34:1B-342) is amended to
24 read as follows:

25 74. a. **[Commencing with the date six months following the**
26 **date]** Following board approval within a time established by the
27 authority and prior to the authority and an eligible business
28 **[execute]** executing a project agreement, the eligible business shall
29 demonstrate that it has obtained site plan approval and has
30 committed financing for, and site control of, the qualified business
31 facility. If the eligible business obtained site control of the
32 qualified business facility prior to the execution of the letter of
33 intent pursuant to section 72 of P.L.2020, c.156 (C.34:1B-340), then
34 the authority may rescind approval of the award of tax credits,
35 unless the eligible business disclosed the fact that the eligible
36 business had obtained the site prior to executing the letter of intent
37 and the authority determines that the award of tax credits was still a
38 material factor in the eligible business's decision to create or retain
39 the minimum number of new and retained full-time jobs for
40 eligibility under the program. The eligible business shall provide
41 an estimated date of completion and shall submit periodic progress
42 reports. The authority may rescind an award of tax credits if an
43 eligible business fails to provide the information required under this
44 section within the period indicated in the approval of the tax credits
45 by the board. The authority may rescind an award of tax credits
46 under the program if a project fails to advance in accordance with
47 the project agreement.

1 b. Upon completion of the capital investment and employment
2 requirements of the program, an eligible business shall submit to
3 the 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
10 two six-month extensions of the deadline; provided that the date of
11 **[completion]** certification shall not occur later than four years
12 following the date of approval of the application by the authority;
13 provided further that the authority may grant one additional
14 extension not to exceed one year upon a finding by the authority
15 that: (1) the project is delayed due to unforeseeable acts related to
16 the project beyond the eligible business's control and without its
17 fault or negligence; (2) the eligible business is using best efforts,
18 with all due diligence, to proceed with the completion of the project
19 and the submission of the certification; and (3) the eligible business
20 has made, and continues to make, all reasonable efforts to prevent,
21 avoid, mitigate, and overcome the delay. To qualify for the one-
22 year extension, the eligible business shall provide timely notice to
23 the authority of the delay within 30 days after the eligible business
24 has actual or constructive knowledge of the delay, and shall provide
25 periodic reports, not less than every 30 days, of the status of the
26 delay and the steps the eligible business is taking to mitigate or
27 overcome the delay.

28 c. If the Governor declares an emergency, then the chief
29 executive officer of the authority shall have the discretion to grant
30 an extension for the duration of the emergency and the board of the
31 authority, upon recommendation of the chief executive officer, may
32 grant two additional six-month extensions; provided, however, that:
33 (i) the extensions are due to the economic disruption caused by the
34 emergency; (ii) the project is delayed due to unforeseeable acts
35 related to the project beyond the eligible business's control and
36 without its fault or negligence; (iii) the eligible business is using
37 best efforts, with all due diligence, to proceed with the completion
38 of the project and the submission of the certification; and (iv) the
39 eligible business has made, and continues to make, all reasonable
40 efforts to prevent, avoid, mitigate, and overcome the delay.

41 d. The **[owner]** chief executive officer of the eligible business,
42 or an **[authorized agent of the owner]** equivalent officer, shall
43 certify that the information provided pursuant to this section is true
44 under the penalty of perjury.

45 (cf: P.L.2020, c.156, s.74)

46

47 35. Section 75 of P.L.2020, c.156 (C.34:1B-343) is amended to
48 read as follows:

- 1 75. a. The total amount of the tax credit for an eligible business
2 for each new or retained full-time job shall be as set forth in
3 subsections b. through g. of this section. The total tax credit
4 amount shall be calculated and credited to the business annually for
5 each year of the eligibility period, notwithstanding any other
6 provisions of P.L.2020, c.156 (C.34:1B-269 et al.) to the contrary.
- 7 b. The base amount of the tax credit for each new or retained
8 full-time job for an eligible business shall be as follows:
- 9 (1) for **an eligible** a qualified business facility located within
10 a government-restricted municipality, or which is a mega project,
11 \$4,000 per year;
- 12 (2) for a qualified business facility located within an enhanced
13 area, \$3,500 per year;
- 14 (3) for a qualified business facility located within a distressed
15 municipality, \$3,000 per year;
- 16 (4) for a project in a qualified opportunity zone or an
17 employment and investment corridor, \$2,500 per year; and
- 18 (5) for a project in other eligible areas, \$500 per year.
- 19 c. (1) In addition to the base amount of the tax credit, the
20 amount of the tax credit to be awarded for each new or retained full-
21 time job shall be increased with the following bonuses:
- 22 (a) for an eligible business with a qualified business facility
23 located in a municipality with a Municipal Revitalization Index
24 distress score greater than 50, an increase of \$1,000 per year;
- 25 (b) for an eligible business with a qualified business facility at
26 which the capital investment in industrial or research and
27 development premises for industrial or research and development
28 use by the business is in excess of the minimum capital investment
29 required for eligibility pursuant to subsection b. of section 71 of
30 P.L.2020, c.156 (C.34:1B-339), an increase of **[\$1,000]** \$500 per
31 year for each additional amount of investment that exceeds the
32 minimum amount required for eligibility by 40 percent, with a
33 maximum increase of **[\$3,000]** \$1,500 per year, unless the project
34 qualifies as a mega project or the qualified business facility is
35 located in a government-restricted municipality, in which case the
36 maximum increase is \$5,000 per year;
- 37 (c) for an eligible business with large numbers of new full-time
38 jobs during the **commitment** eligibility period, the increases shall
39 be in accordance with the following schedule:
- 40 (i) if the number of new full-time jobs is between 251 and 400,
41 \$500 per year;
- 42 (ii) if the number of new full-time jobs is between 401 and 600,
43 \$750 per year;
- 44 (iii) if the number of new full-time jobs is between 601 and 800,
45 **[\$1000]** \$1,000 per year;
- 46 (iv) if the number of new full-time jobs is between 801 and
47 1,000, \$1,250 per year;

- 1 (v) if the number of new full-time jobs is in excess of 1,000,
2 \$1,500 per year;
- 3 (d) for an eligible business that annually funds an industry-
4 specific training program, which has the capacity to enroll 10
5 percent or more of the eligible business's full-time workforce, or
6 pays a State educational institution to provide to the public an
7 industry-specific training program, an increase of \$500 per year;
8 provided, however, that if the training program is provided by a
9 State educational institution that is within 10 miles of the qualified
10 business facility, then the increase shall be \$1,000 per year;
- 11 (e) for an eligible business that qualifies as a small business, an
12 increase of \$500 per year;
- 13 (f) for an eligible business with new full-time jobs and retained
14 full-time jobs at the qualified business facility with a median salary
15 in excess of the existing median salary for the county in which the
16 project is located, or, in the case of a project in a government-
17 restricted municipality, a business **【that employs】** with employees
18 in full-time positions at the project with a median salary in excess
19 of the median salary for the government-restricted municipality, an
20 increase of **【\$250】** \$200 per year during the eligibility period for
21 each 35 percent by which the project's median salary levels exceeds
22 the county or government-restricted municipality median salary,
23 with a maximum increase of **【\$1,500】** \$1,000 per year;
- 24 (g) **【for an eligible business with a qualified business facility**
25 **located in a qualified incentive tract, an increase of \$500 per year】**
26 (Deleted by amendment, P.L. , c.) (pending before the
27 Legislature as this bill);
- 28 (h) for an eligible business engaged primarily in a targeted
29 industry, an increase of \$500 per year;
- 30 (i) for an eligible business with a qualified business facility
31 located in a qualified incubator facility, an increase of \$500 per
32 year;
- 33 (j) for an eligible business that enters into a labor harmony
34 agreement in accordance with section 69 of P.L.2020, c.156
35 (C.34:1B-337), an increase of \$2,000 per year for the portion of the
36 project subject to that labor harmony agreement; provided further
37 that an eligible business receiving a bonus under this subparagraph
38 may exceed the limitation applicable to the eligible business
39 pursuant to subsection d. of this section by an amount not to exceed
40 \$1,000;
- 41 (k) for an eligible business that provides its employees access to
42 child care either through an on-site quality child care facility free of
43 charge to its employees or through reimbursements paid by the
44 eligible business to its employees for the cost of child care in
45 accordance with standards adopted by the authority, an increase of
46 \$1,000 per year;

- 1 (l) for an eligible business that enters, or has previously
2 entered, into **[a]** an active partnership with a **[prisoner]** re-entry
3 program for the purpose of identifying and promoting employment
4 opportunities at the eligible business for former inmates and current
5 inmates leaving the corrections system, and that hires at least one
6 active participant in the re-entry program as a full-time employee,
7 an increase of \$500 per year.
- 8 (m) for an eligible business with a qualified business facility that
9 exceeds the Leadership in Energy and Environmental Design's
10 "Silver" rating standards but does not exceed "Gold" rating
11 standards or completes substantial environmental remediation, an
12 additional increase of \$250 per year, or for an eligible business with
13 a qualified business facility that exceeds the Leadership in Energy
14 and Environmental Design's "Gold" rating standards, an additional
15 increase of \$500 per year;
- 16 (n) for an eligible business in a targeted industry with a
17 qualified business facility that is used by the eligible business to
18 conduct a full time collaborative relationship with a college or
19 university, including, but not limited to, a doctoral university, an
20 increase of \$1,000 per year;
- 21 (o) for an eligible business with a project that generates solar ,
22 geo-thermal, wind, or any other renewable or distributed energy on
23 site for use within the qualified business facility of an amount that
24 equals at least 50 percent of the qualified business facility electric
25 supply service needs, an increase of \$500 per year;
- 26 (p) for an eligible business with a marine terminal project in a
27 municipality located outside a government-restricted municipality,
28 but within the geographical boundaries of the South Jersey Port
29 District, an increase of \$1,500 per year;
- 30 (q) for an eligible business with a qualified business facility
31 located in a qualified opportunity zone, an increase of \$1,000 per
32 year; and
- 33 (r) for an eligible business if one-third or more of the members
34 of the eligible business's governing board or other governing body
35 self-identify as members of an underrepresented community, which
36 may include Black, African American, Hispanic, Latino, Asian,
37 Pacific Islander, Native American, Native Hawaiian, Alaska Native
38 or gay, lesbian, bisexual or transgender, an increase of \$2,000 per
39 year for each new or retained full-time job. The authority shall work
40 with the Chief Diversity Officer or other State entities to ensure that
41 the bonus provided under this subparagraph is implemented
42 faithfully and in compliance with law.
- 43 (2) The authority shall not award a bonus to an eligible business
44 with full-time jobs at the qualified business facility that pay less
45 than \$15 per hour or 120 percent of the minimum wage fixed under
46 subsection a. of section 5 of P.L.1966, c.113 (C.34:11-56a4),
47 whichever is higher.

1 (3) The authority may adopt, pursuant to the provisions of the
2 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
3 seq.), criteria in addition to, or in place of, the criteria set forth in
4 paragraph (1) of this subsection in response to the prevailing
5 economic conditions in the State.

6 d. The gross amount of the tax credit available to an eligible
7 business for each new or retained full-time job shall be the sum of
8 the base amount set forth in subsection b. of this section and the
9 various additional bonus amounts for which the business is eligible
10 pursuant to subsection c. of this section, subject to the following
11 limitations:

12 (1) for a mega project or a project in a government-restricted
13 municipality, the gross amount for each new or retained full-time
14 job shall not exceed \$8,000 per year;

15 (2) for a qualified business facility located within an enhanced
16 area, the gross amount for each new or retained full-time job shall
17 not exceed \$6,000 per year;

18 (3) for a qualified business facility within a distressed
19 municipality, the gross amount for each new or retained full-time
20 job shall not exceed \$5,000 per year;

21 (4) for a qualified business facility in a qualified opportunity
22 zone or an employment and investment corridor, the gross amount
23 for each new or retained full-time job shall not exceed \$4,000 per
24 year; and

25 (5) for a qualified business facility in other eligible areas, the
26 gross amount for each new or retained full-time job shall not exceed
27 \$3,000 per year.

28 e. The authority shall reduce the gross amount of tax credits
29 per full-time job: (1) if the median salary of new full-time jobs and
30 retained full-time jobs [at the qualified business facility] subject to
31 the project agreement is less than the existing median salary for the
32 county in which the qualified business facility is located; or (2) for
33 a project located in a government-restricted municipality, if the
34 median salary of new full-time jobs and retained full-time jobs
35 subject to the project agreement is less than the existing median
36 salary for the municipality in which the qualified business facility is
37 located. The authority shall reduce the gross amount of tax credits
38 per full-time job by an amount, in percentage points, equal to the
39 percentage the median salary of new full-time jobs and retained
40 full-time jobs [at the qualified business facility] subject to the
41 project agreement is below the existing median salary for the
42 county or government-restricted municipality in which the qualified
43 business facility is located. The authority shall not award a tax
44 credit to an eligible business if the median salary of new full-time
45 jobs and retained full-time jobs [at the qualified business facility]
46 that would otherwise be subject to the project agreement is 30
47 percent or more below the relevant existing median salary for the

1 county or government-restricted municipality in which the qualified
2 business facility is located.

3 f. After the determination by the authority of the gross amount
4 of tax credits for which an eligible business is eligible pursuant to
5 subsection d. of this section, the final total tax credit amount shall
6 be calculated as follows: (1) for each new full-time job, the eligible
7 business shall be allowed tax credits equaling **【the lesser of】** 100
8 percent of the gross amount of tax credits for each new full-time
9 job; and (2) for each retained full-time job, the eligible business
10 shall be allowed tax credits equaling 50 percent of the gross amount
11 of tax credits for each retained full-time job.

12 g. Notwithstanding the provisions of subsections a. through f.
13 of this section to the contrary, for each application approved by the
14 board, the amount of tax credits available to be applied by the
15 business annually shall not exceed an amount determined by the
16 authority to be necessary to induce the project to be sited in New
17 Jersey as determined by the board. The authority shall determine
18 the amount necessary to complete the project through staff analysis
19 of all locations under consideration by the eligible business and all
20 lease agreements, ownership documents, or substantially similar
21 documentation for the eligible business's **【current】** proposed in-
22 State locations and potential out-of-State location alternatives,
23 competitive proposals from other states, the prevailing economic
24 conditions, and any other information that the authority deems
25 relevant.

26 (cf: P.L.2020, c.156, s.75)

27

28 36. Section 76 of P.L.2020, c.156 (C.34:1B-344) is amended to
29 read as follows:

30 76. a. (1) If, in any tax period, an eligible business reduces the
31 total number of full-time employees in its Statewide workforce by
32 more than 20 percent from the number of full-time employees in its
33 Statewide workforce in the last tax period prior to the credit amount
34 approval under the program, then the eligible business shall forfeit
35 its credit amount for that tax period and each subsequent tax period,
36 until the first tax period for which documentation demonstrating the
37 restoration of the eligible business's Statewide workforce to the
38 threshold levels required by this subsection has been reviewed and
39 approved by the authority, for which tax period and each
40 subsequent tax period the full amount of the credit shall be allowed.

41 (2) If the annual report filed by an eligible business pursuant to
42 section 77 of P.L.2020, c.156 (C.34:1B-345) provides that the
43 number of new full-time employees employed by the eligible
44 business **【at the qualified business facility】** subject to the project
45 agreement, or the salaries thereof, was reduced by more than 10
46 percent of the number of new full-time employees, or salaries
47 thereof, in the annual report of the prior year, or the project
48 agreement if the annual report is the first such report filed, then the

1 authority may reevaluate the net positive economic benefit of the
2 project and reduce the size of the award accordingly. This reduction
3 shall not affect any recapture under subsection f. of this section.

4 b. If, in any tax period, the number of full-time employees
5 employed by the eligible business **【at the qualified business**
6 **facility】** subject to the project agreement, or the salaries thereof,
7 drops below 80 percent of the number of new and retained full-time
8 jobs, and the salaries thereof, specified in the project agreement or
9 the **【incentive】** project phase agreement, then the eligible business
10 shall forfeit its tax credit amount for that tax period and each
11 subsequent tax period, until the first tax period for which
12 documentation demonstrating the restoration of the number of full-
13 time employees employed by the eligible business **【at the qualified**
14 **business facility】** subject to the project agreement to 80 percent of
15 the number of jobs specified in the project agreement or **【incentive】**
16 project phase agreement or the restoration of 80 percent of the
17 salaries specified in the project agreement is reviewed and approved
18 by the authority.

19 c. Except for an eligible business that is a small business
20 engaged primarily in a targeted industry **【with less than 50**
21 **employees at application】**:

22 (1) If the qualified business facility is sold in whole or in part
23 during the eligibility period, the new owner shall not acquire the
24 capital investment of the seller, provided, however, that any tax
25 credits of tenants shall remain unaffected. The seller shall forfeit
26 all tax credits for the tax period in which the sale occurs and all
27 subsequent tax periods, provided, however, that an eligible business
28 may change the location of the qualified business facility if **【**:

29 (a)**】**the new facility:

30 **【(i)】** (a) meets all applicable location qualifying criteria and has
31 gross leasable area not less than the gross leasable area of the
32 qualified business facility initially approved by the authority and
33 the alternate qualified business facility meets the minimum capital
34 investment and sustainability requirements of the program; or

35 **【(ii)】** (b) does not meet all applicable location qualifying
36 criteria or has less gross leasable area than the gross leasable area of
37 the qualified business facility initially approved by the authority, if
38 the alternate qualified business facility meets the minimum capital
39 investment and sustainability requirements of the program, provided
40 that the authority shall require a **【new cost benefit analysis】** cost
41 comparison of the originally approved location and the alternate
42 qualified business facility illustrating the respective economics of
43 the project which reflect occupancy at the alternate proposed
44 qualified business facility location for the remaining duration of the
45 commitment period and shall re-calculate the net economic benefit
46 of the project to reflect the economics of occupancy at the alternate
47 proposed location for the remaining duration of the net benefit test

1 period in lieu of the economics of continuing occupancy at the
2 qualified business facility proposed to be vacated, and provided
3 further that the award of tax credits shall be reduced consistent with
4 the variations in qualifying criteria for the alternate qualified
5 business facility location as well as in a manner consistent with the
6 revised net economic benefit calculation.

7 **[(b) in]** In the event that the modified project economics
8 materially deviate from the economics of the initial approval in a
9 manner that undermines the recommendation of approval made by
10 the staff of the authority at the time of the initial approval, then the
11 business requesting to re-locate a qualified business facility shall be
12 required to obtain the approval of the members of the authority.

13 (2) If a tenant subleases its tenancy in whole or in part during
14 the eligibility period, the new tenant shall not acquire the tax credits
15 of the sublessor, and the sublessor shall forfeit all tax credits for
16 any tax period of its sublease in which the sublessor, in continued
17 occupation of a portion of the qualified business facility, fails to
18 maintain the number of jobs required for the sublessor to earn tax
19 credits for the tax period or fails to independently satisfy the
20 minimum capital investment or sustainability requirements for the
21 program as set forth in section 71 of P.L.2020, c.156 (C.34:1B-
22 339). Provided, however, if the capital investment of the sublessor
23 in the occupied portion of the qualified business facility is below
24 the project minimum capital investment as set forth in section 71 of
25 P.L.2020, c.156 (C.34:1B-339), the sublessor may include capital
26 investment made by or on behalf of the new tenant in the subleased
27 portion of the qualified business facility, so long as that capital
28 investment is not the subject of an independent application under an
29 incentive program with the authority.

30 d. A small business may move its qualified business facility
31 provided that the business remains in New Jersey during the
32 commitment period.

33 e. The authority may require a small business to submit a
34 growth plan, which specifies the number of new full-time
35 employees **[(at the qualified business facility)]** in the State that the
36 eligible business will hire each year of the eligibility period;
37 provided that by the end of the eligibility period, the eligible
38 business shall have a minimum of 25 percent growth of its
39 workforce with new full-time jobs. If the eligible business meets
40 the number of new full-time employees specified in the growth plan
41 each year of the eligibility period, then the eligible business shall be
42 entitled to an increased credit amount for that tax period, and each
43 subsequent tax period, for each additional full-time employee added
44 above the number of full-time employees certified, until the full-
45 time employees number the maximum number projected for the
46 final year of the eligibility period. Failure to meet the projections
47 in any year shall not constitute a default but shall cause the

1 authority to reduce the award in accordance with a schedule
2 attached to the project agreement.

3 f. (1) The authority may recapture all or part of a tax credit
4 awarded if an eligible business does not remain in compliance with
5 the requirements of a project agreement for the duration of the
6 commitment period. A recapture pursuant to this subsection may
7 include interest on the recapture amount, at a rate equal to the
8 statutory rate for corporate business or insurance premiums tax
9 deficiencies, plus any statutory penalties, and all costs incurred by
10 the authority and the Division of Taxation in the Department of the
11 Treasury in connection with the pursuit of the recapture, including,
12 but not limited to, counsel fees, court costs, and other costs of
13 collection. Failure of the eligible business to meet any program
14 criteria shall constitute a default and shall result in the recapture of
15 all or part of the tax credit awarded.

16 (2) If all or part of a tax credit sold or assigned pursuant to
17 section 78 of P.L.2020, c.156 (C.34:1B-346) is subject to recapture,
18 then the authority shall pursue recapture from the eligible business
19 and not from the purchaser or assignee of the tax credit transfer
20 certificate. The purchaser or assignee of a tax credit transfer
21 certificate shall be subject to any limitations and conditions that
22 apply to the use of the tax credits by the eligible business.

23 (3) Any funds, net of costs incurred by the authority, recaptured
24 pursuant to this subsection, including penalties and interest, shall be
25 deposited into the General Fund of the State.

26 g. A business may include an affiliate for any period, provided
27 that the business provides a valid tax clearance certificate for the
28 affiliate and a verification of the nature of the affiliate relationship
29 during the relevant period, and provided further that the affiliate
30 provides acceptable responses to the authority's legal disclosures
31 inquiries, as determined by the authority. A formal modification of
32 the authority's approval of the **【incentive】** project agreement shall
33 not be necessary to add or remove an affiliate after approval or
34 execution of the **【incentive】** project agreement.

35 h. A business may change its name filed with the authority by
36 providing a copy of the filed amendment to the certificate of
37 incorporation or formation, as the case may be, of the business and
38 a valid tax clearance certificate with the business's new name. A
39 formal modification of the authority's approval shall not be
40 necessary to change a business's name after approval or execution
41 of the **【incentive】** project agreement.

42 (cf: P.L.2020, c.156, s.76)

43

44 37. Section 77 of P.L.2020, c.156 (C.34:1B-345) is amended to
45 read as follows:

46 77. a. (1) An eligible business which is awarded tax credits
47 under the program shall submit annually, no later than the date
48 indicated in the project agreement, commencing in the year in

1 which the grant of tax credits is issued and for the remainder of the
2 commitment period, a report that indicates that the eligible business
3 continues to maintain the number of new and retained full-time
4 jobs, and the salaries thereof, specified in the project agreement.
5 As part of the annual report required pursuant to this subsection, an
6 eligible business shall provide to the authority a copy of its
7 applicable New Jersey tax return showing business income and
8 withholdings as a condition of its continuation in the program, and
9 the quarterly wage report required under R.S.43:21-14 submitted to
10 the Department of Labor and Workforce Development together with
11 an annual payroll report showing: (a) the new full-time jobs which
12 were created in accordance with the project agreement, and (b) the
13 new full-time jobs created during each subsequent year of the
14 commitment period. The failure of an eligible business to submit to
15 the authority a copy of its annual payroll report or submit the
16 quarterly wage report in accordance with the provisions of this
17 subsection during the eligibility period shall result in the forfeiture
18 of the award for that year. An eligible business shall explain, in the
19 reports required by this subsection, the reason for any discrepancies
20 between the annual payroll report submitted by the eligible business
21 and the quarterly wage report. The **owner** chief executive officer
22 of the eligible business, or an **authorized agent of the owner**
23 equivalent officer, shall certify that the information provided
24 pursuant to this paragraph is true under the penalty of perjury.
25 Claims, records, or statements submitted by an eligible business to
26 the authority in order to receive tax credits shall not be considered
27 claims, records, or statements made in connection with State tax
28 laws.

29 (2) Upon receipt and review of each report submitted during the
30 eligibility period, the authority shall provide to the eligible business
31 and the director a certificate of compliance indicating the amount of
32 tax credits that the eligible business may apply against its tax
33 liability. The authority shall pro rate the tax credit for the first and
34 last years of the eligibility period based on the number of full
35 months the project was certified in the year the eligible business
36 first certifies.

37 b. (1) In conducting its annual review, the authority may
38 require a business to submit any information determined by the
39 authority to be necessary and relevant to its review.

40 (2) An eligible business shall forfeit the credit amount for any
41 tax period for which the eligible business's documentation remains
42 uncertified as of the date for certification indicated in the project
43 agreement, although credit amounts for the remainder of the years
44 of the eligibility period shall remain available to the eligible
45 business.

46 c. Full-time employment for an accounting or privilege period
47 shall be determined as the average of the monthly full-time
48 employment for the period.

1 d. (1) Upon receipt by the director of the certificate of
2 compliance, the director shall allow the eligible business a tax
3 credit. The eligible business may apply the credit allowed by the
4 director against the eligible business's tax liability for the tax period
5 in which the director allowed the tax credit or may carry forward
6 the credit for use by the eligible business in any of the next seven
7 successive tax periods, which credit shall expire thereafter.

8 (2) (a) The amount of credit allowed may be applied against the
9 tax liability otherwise due pursuant to section 5 of P.L.1945, c.162
10 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and
11 C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or
12 N.J.S.17B:23-5.

13 (b) Credits granted to a partnership shall be passed through to
14 the partners, members, or owners, respectively, pro-rata, or
15 pursuant to an executed agreement among the partners, members, or
16 owners documenting an alternate distribution method provided to
17 the director accompanied by any additional information as the
18 director may prescribe. With respect to credits passed through to a
19 person subject to tax liability due pursuant to section 2 or 3 of
20 P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), the person shall be
21 allowed to apply credits against the person's tax liability without the
22 provision of a tax credit certificate to the Division of Taxation in
23 the Department of the Treasury for the tax period accompanying the
24 person's tax return and the person shall be considered the tax
25 certificate holder and be subject to subparagraph (c) of this
26 paragraph. The authority may recapture all or part of any tax
27 credits claimed by a person pursuant to subparagraph (b) of this
28 paragraph with penalties and interest from the person or the
29 business in the event the Division of Taxation in the Department of
30 the Treasury does not issue a tax credit certificate in an amount at
31 least equal to the tax credit amount claimed on the person's tax
32 return for the applicable tax period.

33 (3) The director shall prescribe the order of priority of the
34 application of the credit allowed under this section and any other
35 credits allowed by law against the tax imposed under section 5 of
36 P.L.1945, c.162 (C.54:10A-5). The amount of a credit applied
37 under this section against the tax imposed pursuant to section 5 of
38 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with
39 any other credits allowed by law, shall not reduce the tax liability to
40 an amount less than the statutory minimum provided in subsection
41 (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

42 (4) In lieu of applying any credit certificate or credit transfer
43 certificate against tax liability otherwise due pursuant to section 5
44 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945,
45 c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231
46 (C.17:32-15), or N.J.S.17B:23-5, the credit certificate or credit
47 transfer certificate may be surrendered to the Division of Taxation
48 in the Department of the Treasury for a cash payment equal to 90

1 percent of the amount of tax credits evidenced by the certificate,
2 provided that the issuance date of the credit certificate or credit
3 transfer certificate to the taxpayer surrendering such certificate
4 occurred at least two years prior to the date of surrender and the
5 credit certificate or credit transfer certificate has not been sold or
6 assigned previously.

7 (cf: P.L.2020, c.156, s.77)

8

9 38. Section 79 of P.L.2020, c.156 (C.52:27D-520) is amended to
10 read as follows:

11 79. a. The authority shall establish a dedicated fund to be
12 known as the "Recovery Infrastructure Fund." Money in the fund
13 shall be dedicated to the purpose of funding local infrastructure,
14 which shall include:

15 (1) buildings and structures, such as schools, fire houses, police
16 stations, recreation centers, public works garages, and water and
17 sewer treatment and pumping facilities;

18 (2) sidewalks, streets, roads, ramps, and jug handles;

19 (3) open space with improvements such as athletic fields,
20 playgrounds, and planned parks;

21 (4) open space without improvements;

22 (5) public transportation facilities such as train stations and
23 public parking facilities; and

24 (6) the purchase of equipment considered vital to public safety.

25 b. The fund shall be credited with money remitted by eligible
26 businesses pursuant to paragraph (2) of subsection b. of section 71
27 of P.L.2020, c.156 (C.34:1B-339).

28 c. Money remitted to the fund by an eligible business pursuant
29 to paragraph (2) of subsection b. of section 71 of P.L.2020, c.156
30 (C.34:1B-339) shall be earmarked for use on local infrastructure
31 projects in the municipality in which the eligible business's project
32 is located.

33 d. A municipality shall apply to the authority, in a form and
34 manner prescribed by the authority, for disbursements from the
35 Recovery Infrastructure Fund. The authority, in consultation with
36 the Department of Community Affairs, shall review and approve
37 applications for disbursements of money from the fund pursuant to
38 the provisions of this section and the rules and regulations
39 promulgated by the authority pursuant to paragraph (1) of
40 subsection f. of this section.

41 e. The Department of Community Affairs shall coordinate with
42 the authority and other boards, commissions, institutions,
43 departments, agencies, State officers, and employees to carry out
44 the local infrastructure projects funded through the Recovery
45 Infrastructure Fund.

46 f. (1) **【The】** 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

1 **【shall】** may adopt, immediately upon filing with the Office of
2 Administrative Law, rules and regulations that the chief executive
3 officer deems necessary to effectuate the purposes of subsections a.
4 through d. of this section, which rules and regulations shall be
5 effective for a period not to exceed 360 days from the date of the
6 filing. The chief executive officer shall thereafter amend, adopt, or
7 readopt the rules and regulations 【pursuant to the "Administrative
8 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate
9 the purposes of subsections a. through d. of this section】 in
10 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
11 et seq.).

12 (2) **【The】** 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 Commissioner of the Department of
15 Community Affairs 【shall】 may adopt, immediately upon filing
16 with the Office of Administrative Law, rules and regulations that
17 the commissioner deems necessary to effectuate the purposes of
18 subsection e. of this section, which rules and regulations shall be
19 effective for a period not to exceed 360 days from the date of the
20 filing. The commissioner shall thereafter amend, adopt, or readopt
21 the rules and regulations 【pursuant to the "Administrative
22 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate
23 the purposes of subsection e. of this section】 in accordance with the
24 requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

25 (cf: P.L.2020, c.156, s.79)

26

27 39. Section 83 of P.L.2020, c.156 (C.34:1B-350) is amended to
28 read as follows:

29 83. As used in sections 82 through 88 of P.L.2020, c.156
30 (C.34:1B-349 et al.):

31 "Authority" means the New Jersey Economic Development
32 Authority established by section 4 of P.L.1974, c.80 (C.34:1B-4).

33 "Board" means the Board of the New Jersey Economic
34 Development Authority, established by section 4 of P.L.1974, c.80
35 (C.34:1B-4).

36 "Eligible microbusiness" means a business enterprise located in
37 the State that produces goods or provides services and has fewer
38 than 10 full-time **【equivalent】** employees and annual gross revenue
39 of less than **【\$1,000,000】** \$1,500,000 at the time of application for
40 a loan under the program.

41 "Eligible small business" means any business that satisfies the
42 criteria set forth in subsection b. of section 85 of P.L.2020, c.156
43 (C.34:1B-352) at the time of application for a grant under the
44 program.

45 "Program" means the Main Street Recovery Finance Program
46 established pursuant to section 84 of P.L.2020, c.156 (C.34:1B-
47 351).

1 "Small business" means a business engaged in the conduct of a
2 trade or business in this State that qualifies as a "small business
3 concern" within the meaning of the federal "Small Business Act,"
4 Pub.L.85-536 (15 U.S.C. § 631 et seq.) for the purpose of the small
5 business's eligibility assistance from the United States Small
6 Business Administration.
7 (cf: P.L.2020, c.156, s.83)
8

9 40. Section 84 of P.L.2020, c.156 (C.34:1B-351) is amended to
10 read as follows:

11 84. The Main Street Recovery Finance Program is hereby
12 established as a program under the jurisdiction of the New Jersey
13 Economic Development Authority. The authority shall administer
14 the program for the purpose of providing grants, loans, and loan
15 guarantees to eligible small businesses in accordance with the
16 provisions of sections 82 through 88 of P.L.2020, c.156 (C.34:1B-
17 349 et al.). A business seeking a grant, loan, or loan guarantee
18 under the program shall submit an application to the authority. The
19 authority shall adopt eligibility criteria for the program and may
20 consider a business's benefit to the community in which it is
21 situated and the degree to which the business enhances [and
22 promotes job creation and] economic development in communities
23 that have been severely impacted by the COVID-19 pandemic when
24 making awards under the program.
25 (cf: P.L.2020, c.156, s.84)
26

27 41. Section 85 of P.L.2020, c.156 (C.34:1B-352) is amended to
28 read as follows:

29 85. a. As part of the Main Street Recovery Finance Program,
30 the authority shall provide grants to eligible small businesses from
31 the Main Street Recovery Fund, subject to appropriation or the
32 availability of federal funds, provided that [not less than 40 percent
33 of such funds shall be made available to eligible microbusinesses
34 certified by the State as a "minority business" or a "women's
35 business" pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.)] the
36 authority shall undertake a disparity study of the relative
37 availability of capital and related banking resources for small
38 businesses and microbusiness that are women- and minority-owned
39 business enterprises in this State and the authority's historic support
40 of such businesses, and, as recommended by the study, shall
41 establish policies, practices, protocols, and, if appropriate,
42 minimum percentages of the fund to be set aside for eligible small
43 businesses and microbusinesses that are minority-owned business
44 enterprises or women-owned business enterprises. Grants awarded
45 pursuant to the program may be used by an eligible small business
46 for capital improvements or to cover operating expenses. The
47 authority may dedicate up to 10 percent of [any] the amount

1 appropriated for the purposes of this section to provide technical
2 assistance grants to for-profit or non-profit entities that are
3 experienced in providing technical assistance services or to eligible
4 microbusinesses to help such eligible microbusinesses in applying
5 for the grants authorized under this section.

6 b. (1) A small business shall be eligible to receive a grant
7 pursuant to this section if the small business demonstrates to the
8 authority that:

9 (a) the small business has complied with all requirements for
10 filing tax and information returns and for paying or remitting
11 required State taxes and fees by submitting, as a part of the
12 application, a tax clearance certificate, as described in section 1 of
13 P.L.2007, c.101 (C.54:50-39); and

14 (b) each worker employed by the small business shall be paid
15 not less than \$15 per hour or 120 percent of the minimum wage
16 fixed under subsection a. of section 5 of P.L.1966, c.113 (C.34:11-
17 56a4), whichever is higher, except an employee who customarily
18 and regularly receives gratuities or tips shall be paid not less than
19 120 percent of the minimum wage.

20 (2) In addition to the requirements of paragraph (1) of this
21 subsection, a small business shall be eligible to receive a grant
22 pursuant to this subsection for capital improvements only if the
23 small business demonstrates to the authority at the time of
24 application that:

25 (a) any capital improvement in excess of \$50,000 and
26 undertaken with grant funds shall comply with standards established
27 by the authority in accordance with the green building manual
28 prepared by the Commissioner of Community Affairs pursuant to
29 section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding the use of
30 renewable energy, energy-efficient technology, and non-renewable
31 resources to reduce environmental degradation and encourage long-
32 term cost reduction; and

33 (b) each worker employed to perform construction work in
34 connection with a capital improvement undertaken with grant funds
35 in excess of \$50,000 shall be paid not less than the prevailing wage
36 rate for the worker's craft or trade, as determined by the
37 Commissioner of Labor and Workforce Development pursuant to
38 P.L.1963, c.150 (C.34:11-56.25 et seq.).

39 c. **【Prior to March 1, 2025, an】** An eligible small business
40 seeking a grant pursuant to this section shall submit an application
41 for approval to the authority in the form and manner prescribed in
42 regulations adopted by the authority pursuant to the provisions of
43 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
44 seq.). Before the board may consider an eligible small business's
45 application for grants, the authority shall confirm with the
46 Department of Labor and Workforce Development, the Department
47 of Environmental Protection, and the Department of the Treasury
48 **【shall each report to the chief executive officer of the authority】**

1 whether the eligible small business is in substantial good standing
2 with the respective department, or has entered into an agreement
3 with the respective department that includes a practical corrective
4 action plan for the eligible small business. The authority may also
5 contract with an independent third party to perform a background
6 check on the eligible small business. The eligible small business, or
7 an authorized agent thereof, shall certify under the penalty of
8 perjury that any information provided in the application required
9 pursuant to this subsection is true.

10 d. Following approval **【by the board】** of an application, but
11 before the disbursement of grant funds, the authority shall require
12 an eligible small business to enter into a grant agreement. The
13 grant agreement shall specify the amount of the grant to be awarded
14 the eligible small business and the frequency of payments. If the
15 authority determines that an eligible small business made a material
16 misrepresentation on the eligible small business's grant application
17 or the eligible small business has **【filed】** failed to comply with any
18 requirement set forth in **【paragraphs (1) through (4) of】** subsection
19 b. of this section, then the small business shall return to the
20 authority any grant awarded pursuant to this section.

21 (cf: P.L.2020, c.156, s.85)

22

23 42. Section 86 of P.L.2020, c.156 (C.34:1B-353) is amended to
24 read as follows:

25 86. a. As part of the Main Street Recovery Finance Program,
26 the authority shall make loans and grants available from the Main
27 Street Recovery Fund, subject to annual appropriation and the
28 availability of funds, to eligible community development finance
29 institutions, minority depository institutions, and other eligible
30 lenders pursuant to subsection b. of this section and to eligible
31 microbusinesses pursuant to subsection c. of this section, provided
32 that **【not less than 40 percent of such】** funds shall be made
33 available to eligible microbusinesses certified by the State as a
34 "minority business" or a "women's business" pursuant to P.L.1986,
35 c.195 (C.52:27H-21.17 et seq.) in a manner consistent with
36 authority requirements within paragraph a. of section 85 of
37 P.L.2020, c.156 (C.34:1B-352). The authority may dedicate up to
38 10 percent of **【any】** the amount appropriated for the purposes of
39 this section to provide technical assistance grants to for-profit or
40 non-profit entities that are experienced in providing technical
41 assistance services or to eligible microbusinesses to help such
42 eligible microbusinesses in applying for loan packaging services
43 under the programs authorized to receive grants and loans pursuant
44 to this section.

45 b. The authority shall provide loans and grants to eligible
46 community development finance institutions, minority depository
47 institutions, and other eligible lenders in accordance with this

1 subsection. Loans and grants made available to eligible community
2 development finance institutions, minority depository institutions,
3 and other eligible lenders pursuant to this paragraph shall be used to
4 strengthen capital structures, leverage additional debt capital, and
5 increase lending and investing in economically disadvantaged
6 communities. The authority shall require an eligible community
7 development finance institution, minority depository institution, or
8 other eligible lender that receives a grant or loan pursuant to this
9 subsection to enter into an agreement with the authority.

10 As used in this section, "other eligible lender" means a zone
11 development corporation as defined in section 3 of P.L.1983, c.303
12 (C.52:27H-62) that is located in a municipality with a population
13 greater than 100,000 or another nonprofit lender with at least 10
14 years experience lending to microbusinesses.

15 c. The authority shall provide loans to eligible microbusinesses
16 in accordance with this subsection. Loans made available to
17 eligible microbusinesses pursuant to this subsection may be used for
18 capital improvements, employee training, salaries for new positions,
19 and to pay for day-to-day operating expenditures, including payroll,
20 rent, utilities, insurance, and purchases of goods and services. The
21 authority shall require an eligible microbusiness to enter into a loan
22 agreement. Loans made pursuant to this subsection shall have a
23 term and an interest rate determined by the authority based on
24 conditions currently prevailing in the market. The authority may
25 forgive loans provided to eligible microbusinesses pursuant to this
26 subsection at the authority's discretion. The authority may, through
27 the terms of the loan agreement, establish terms governing the
28 incidence of default by an eligible microbusiness.

29 d. Prior to March 1, 2025, an eligible community development
30 finance institution, minority depository institution, or other eligible
31 lender seeking a loan or a grant pursuant to subsection b. of this
32 section or an eligible microbusiness seeking a loan pursuant to
33 subsection c. of this section shall submit an application for approval
34 to the authority in the form and manner prescribed in regulations
35 adopted by the authority pursuant to the provisions of the
36 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
37 seq.). Before the authority may **【consider】** approve an application,
38 the authority shall confirm with 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 the applicant is
42 in substantial good standing with the respective department, or has
43 entered into an agreement with the respective department that
44 includes a practical corrective action plan for the applicant. The
45 authority may also contract with an independent third party to
46 perform a background check on the applicant. The applicant, or an
47 authorized agent thereof, shall certify under the penalty of perjury

1 that any information provided in the application required pursuant
2 to this subsection is true.

3 (cf: P.L.2020, c.156, s.86)

4

5 43. Section 87 of P.L.2020, c.156 (C.52:18A-262) is amended to
6 read as follows:

7 87. a. To aid in the economic recovery of those communities
8 most impacted by the COVID-19 pandemic and to better ensure
9 their long-term economic growth, there is created the "Main Street
10 Recovery Fund" to be held by the State Treasurer and administered
11 by the authority. All moneys deposited in the fund shall be held
12 and disbursed in the amounts necessary to fulfill the purposes of
13 providing grants and loans related to an identified program that is
14 administered by the authority pursuant to sections 85 and 86 of
15 P.L.2020, c.156 (C.34:1B-352 and C.34:1B-353) **【and】** ,for the
16 purposes enumerated in subsection b. of this section, and for
17 reasonable administrative costs of implementing sections 82
18 through 88 of P.L.2020, c.156 (C.34:1B-349 et al.). The fund may
19 be credited with pay backs; bonuses; entitlements; money received
20 from the federal government; transfers; grants; gifts; bequests;
21 moneys appropriated by the Legislature; or any other money made
22 available from any source. The State Treasurer, in consultation
23 with the authority, may invest and reinvest any moneys in the fund
24 in the State Treasurer's discretion. Any income from, interest on, or
25 increment to moneys so invested or reinvested shall be included in
26 the fund.

27 b. Upon application to the **【State Treasurer, and in consultation**
28 **with the】** Chief Executive Officer of the New Jersey Economic
29 Development Authority, the **【State Treasurer shall】** the authority
30 may make loan guarantees from the fund to leverage private and
31 public lending to help finance small businesses, real estate
32 developments, and manufacturers that are creditworthy but not
33 receiving the financing needed to expand and create jobs. In
34 making loan guarantees under this section, the **【State Treasurer】**
35 chief executive officer of the authority shall give due consideration
36 to small businesses and real estate developments in underserved
37 communities throughout the State that have been deeply impacted
38 by the COVID-19 pandemic.

39 c. (1) The **【State Treasurer】** chief executive officer of the
40 authority shall monitor the activities of the beneficiaries of the loan
41 guarantees issued pursuant to this section on an annual basis to
42 ensure compliance with the terms and conditions imposed on the
43 recipient by the chief executive officer.

44 (2) An entity receiving a loan guarantee and the beneficiaries of
45 such loan guarantee under this section shall provide the **【State**
46 **Treasurer】** authority with an annual accounting of how the benefit it
47 received from the fund was applied.

1 (3) The authority, at the time the annual accounting required
2 under paragraph (2) of this [section] subsection is provided, shall
3 [include certifications by] confirm with the Department of Labor
4 and Workforce Development, the Department of Environmental
5 Protection, and the Department of the Treasury that the entity and
6 the beneficiaries are in substantial good standing with the respective
7 departments, or have entered into an agreement with the respective
8 department that includes a practical corrective action plan.

9 (4) The entity and beneficiary, or an authorized agent thereof,
10 shall certify under the penalty of perjury that the information
11 provided pursuant to this subsection is true.

12 (cf: P.L.2020, c.156, s.87)

13
14 44. Section 90 of P.L.2020, c.156 (C.34:1B-355) is amended to
15 read as follows:

16 90. a. There is established in the New Jersey Economic
17 Development Authority a Working Group on Entrepreneur Zones
18 for the purpose of making recommendations for the establishment
19 of entrepreneur zones throughout the State. The working group
20 shall consider whether the establishment of entrepreneur zones in
21 which the State provides the tax incentives, regulation relief, and
22 financial support to local entrepreneurs is the most effective way to
23 create jobs in the State. The working group shall identify census
24 tracts within the State that are suitable for designation as an
25 entrepreneur zone.

26 b. The working group shall consist of ~~seven~~ 14 members
27 appointed by the chief executive officer of the New Jersey
28 Economic Development Authority.

29 c. Appointments to the working group shall be made within 30
30 days after the effective date of ~~this act~~ P.L. ____, c. ____ (pending
31 before the Legislature as this bill). Vacancies in the membership of
32 the working group shall be filled in the same manner as the original
33 appointments were made.

34 d. Members of the working group shall serve without
35 compensation, but the authority shall reimburse such members for
36 actual expenses necessarily incurred in the discharge of their duties.

37 e. Members of the working group shall be subject to the
38 provisions of subsection l. of section 4 of P.L.1974, c.80 (C.34:1B-
39 4).

40 (cf: P.L.2020, c.156, s.90)

41
42 45. Section 93 of P.L.2020, c.156 (C.34:1B-357) is amended to
43 read as follows:

44 93. As used in sections 92 through 97 of P.L.2020, c.156
45 (C.34:1B-356 through C.34:1B-361):

46 "Authority" means the New Jersey Economic Development
47 Authority established pursuant to section 4 of P.L.1974, c.80
48 (C.34:1B-4).

1 "Authority commitment period" means the period for which the
2 authority commits to provide a start-up rent grant for the payment
3 of rent in a collaborative workspace.

4 "Collaborative workspace" means a business facility certified
5 pursuant to section 95 of P.L.2020, c.156 (C.34:1B-359), located in
6 this State, developed to provide flexible workspaces for early stage
7 innovation economy businesses, and designed to encourage
8 community and collaboration within an inter-connected
9 environment in which multiple start-up businesses have access to
10 shared community events and shared workplace accommodations
11 including, but not limited to, kitchens and makerspaces.

12 "Collaborative workspace commitment period" means a period of
13 months equal to one-half the number of months of the authority
14 commitment period.

15 "Community event" means an event hosted by a collaborative
16 workspace and accessible to start-up tenant or member businesses,
17 without charge or with nominal charge, organized to support an
18 innovation ecosystem, as defined in section 21 of P.L.2020, c.156
19 (C.34:1B-289), at the collaborative workspace, including, but not
20 limited to, events such as meet-ups, speaker series, and office hours
21 for lawyers, accountants, consultants, or investors.

22 "Early stage innovation economy business" means a business
23 that operates within a targeted industry with at least one full-time
24 employee, who is assigned to the collaborative workspace, and
25 fewer than 10 employees overall and with less than \$1,000,000 in
26 gross sales over the 12-month period immediately prior to
27 submitting an application for tenancy at a collaborative workspace.
28 To be considered an "early stage innovation economy business" the
29 earliest date of formation for the business must have been not more
30 than **[three]** seven years prior to utilizing or renting space in, or
31 access to, the collaborative workspace under the program, and the
32 business shall not have previously utilized or rented space in, or
33 access to, another collaborative workspace in the State.

34 "Full time employee" means a person who is: employed by the
35 start-up tenant or member business for at least 35 hours a week;
36 working as an independent contractor providing critical capabilities
37 to the start-up tenant or member business for at least 35 hours a
38 week; or an owner or partner of the start-up tenant or member
39 business who works for at start-up tenant or member business for at
40 least 35 hours a week.

41 "Grant agreement" means an agreement between the authority
42 and the owner and operator of a collaborative workspace which
43 memorializes the terms and conditions of the collaborative
44 workspace's participation in the program.

45 "Program" means the New Jersey Ignite Program established
46 pursuant to section 94 of P.L.2020, c.156 (C.34:1B-358).

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,
5 professional services, film and digital media, non-retail food and
6 beverage businesses including food innovation, and other
7 innovative industries that disrupt current technologies or business
8 models.

9 "Start-up rent grant" means a grant provided by the authority to a
10 collaborative workspace for the rent that would otherwise be due to
11 the collaborative workspace from a start-up tenant or member
12 business for the period of the authority commitment period.

13 "Start-up tenant or member business" means an early stage
14 innovation economy business that is registered to do business in
15 New Jersey, rents space in, or access to, a collaborative workspace
16 under the program, and enters into an agreement with the owner and
17 operator of the collaborative workspace to rent space in, or access
18 to, the collaborative workspace for an agreed upon period, which
19 shall include the authority commitment period, collaborative
20 workspace commitment period, and start-up tenant or member
21 business commitment period.

22 "Start-up tenant or member business commitment period" means
23 a period of months equal to the sum of the authority commitment
24 period and the collaborative workspace commitment period.

25 (cf: P.L.2020, c.156, s.93)

26

27 46. Section 96 of P.L.2020, c.156 (C.34:1B-360) is amended to
28 read as follows:

29 96. a. Up to the limits established in this subsection and in
30 accordance with the grant agreement, the authority shall provide
31 start-up rent grants to the owner and operator of a collaborative
32 workspace through a series of scheduled payments as set forth in
33 the grant agreement. The owner and operator of the collaborative
34 workspace shall utilize the grant funding to provide rent-free space
35 to a start-up tenant or member business that agrees to continue
36 renting space in, or access to, the collaborative workspace for the
37 start-up tenant or member business commitment period. The
38 maximum start-up rent grant that the authority may provide to a
39 collaborative workspace for the tenancy of a single start-up tenant
40 or member business shall not exceed \$25,000, including bonus
41 months. The maximum aggregate amount of start-up rent grants
42 that the authority may provide to an approved collaborative
43 workspace in a calendar year shall not exceed \$100,000.

44 b. The authority may provide a start-up rent grant for the
45 payment of rent for space in, or access to, a collaborative workspace
46 for up to six months; provided, however, if a collaborative
47 workspace or start-up tenant or member business satisfies any of the
48 bonuses set forth in paragraphs (1) through (5) of this subsection,

1 then the authority may provide an additional month of rent for each
2 bonus satisfied by the collaborative workspace or start-up tenant or
3 member business. Additional months of rent provided by the
4 authority for bonus criteria satisfied by a collaborative workspace
5 or start-up tenant or member business shall first be applied to the
6 start-up tenant or member business commitment period, followed by
7 the collaborative workspace commitment period. Any bonus
8 months provided in excess of the combined commitment periods
9 shall be forfeited. The authority may award a bonus **【to the owner**
10 **and operator of a collaborative workspace】** month if:

11 (1) the collaborative workspace is located in a qualified
12 opportunity zone designated pursuant to 26 U.S.C. s.1400Z-1;

13 (2) the collaborative workspace is affiliated with a hospital
14 system or a New Jersey university;

15 (3) the collaborative workspace has been open less than 90 days
16 from the date on which the owner and operator of the collaborative
17 workspace applied to the authority to participate in the program and
18 the collaborative workspace is not in the same location as an
19 existing facility;

20 (4) the start-up tenant or member business for which the start-up
21 rent grant is paid is certified by the State as a "minority business" or
22 a "women's business" pursuant to P.L.1986, c.195 (C.52:27H-21.17
23 et seq.); or

24 (5) the start-up tenant or member business for which the start-up
25 rent grant is paid is the first presence of a foreign company entering
26 into the United States.

27 c. (1) The owner and operator of a collaborative workspace shall
28 annually certify to the authority, under the penalty of perjury, that it
29 is in compliance with the grant agreement.

30 (2) In addition to the certification required pursuant to
31 paragraph (1) of this subsection, the authority shall conduct an
32 annual inspection and review of the collaborative workspace and
33 may request documentation evidencing that the collaborative
34 workspace utilized the start-up rent grant it received from the
35 authority in accordance with the requirements of the program and
36 the grant agreement.

37 d. (1) If a start-up tenant or member business stops occupying
38 or accessing a collaborative workspace before the end of the start-
39 up tenant or member business commitment period, then the
40 collaborative workspace shall refund to the authority that portion of
41 the start-up rent grant covering any period in which the start-up
42 tenant or member business did not have space in, or access to, the
43 collaborative workspace.

44 (2) If the authority determines that a collaborative workspace is
45 not in compliance with the requirements of the program or of the
46 grant agreement, then the authority **【shall】** may rescind the
47 business facility's certification as a collaborative workspace and bar

1 the business facility from further participation in the program.
2 (cf: P.L.2020, c.156, s.96)

3
4 47. Section 98 of P.L.2020, c.156 (C.34:1B-362) is amended to
5 read as follows:

6 98. a. The combined value of all tax credits awarded under the
7 "Historic Property Reinvestment Act," sections 1 through 8 of
8 P.L.2020, c.156 (C.34:1B-269 through C.34:1B-276), the
9 "Brownfield Redevelopment Incentive Program Act," sections 9
10 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287),
11 the "New Jersey Innovation Evergreen Act," sections 20 through 34
12 of P.L.2020, c.156 (C.34:1B-288 through C.34:1B-302), the "Food
13 Desert Relief Act," sections 35 through 42 of P.L.2020, c.156
14 (C.34:1B-303 through C.34:1B-310), the "New Jersey Community-
15 Anchored Development Act," sections 43 through 53 of P.L.2020,
16 c.156 (C.34:1B-311 through C.34:1B-321); the "New Jersey Aspire
17 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
18 322 through C.34:1B-335); **【and】** the "Emerge Program Act,"
19 sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.); and
20 section 6 of P.L.2010, c.57 (C.34:1B-209.4) shall not exceed an
21 overall cap of \$11.5 billion over a seven-year period, subject to the
22 conditions and limitations set forth in this section. Of this \$11.5
23 billion, \$2.5 billion shall be reserved for transformative projects
24 approved under the Aspire Program **【or the Emerge Program】**.

25 b. (1) The total value of tax credits awarded under any
26 constituent program of the "New Jersey Economic Recovery Act of
27 2020," P.L.2020, c.156 (C.34:1B-269 et al.) shall be subject to the
28 following annual limitations, except as otherwise provided in
29 subsection c. of this section:

30 (a) for tax credits awarded under the "Historic Property
31 Reinvestment Act," sections 1 through 8 of P.L.2020, c.156
32 (C.34:1B-269 through C.34:1B-276), the total value of tax credits
33 annually awarded during each of the first six years of the seven-year
34 period shall not exceed \$50 million;

35 (b) for tax credits awarded under the "Brownfield
36 Redevelopment Incentive Program Act," sections 9 through 19 of
37 P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287), the total
38 value of tax credits annually awarded during each of the first six
39 years of the seven-year period shall not exceed \$50 million;

40 (c) for tax credits awarded under the "New Jersey Innovation
41 Evergreen Act," sections 20 through 34 of P.L.2020, c.156
42 (C.34:1B-288 through C.34:1B-302), the total value of tax credits
43 annually awarded during each of the first six years of the seven-year
44 period shall not exceed \$60 million and the total value of tax credits
45 awarded over the entirety of the seven-year program shall not
46 exceed \$300,000,000;

47 (d) for tax credits awarded under the "Food Desert Relief Act,"
48 sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through

1 C.34:1B-310), the total value of tax credits annually awarded during
2 each of the first six years of the seven-year period shall not exceed
3 \$40 million;

4 (e) for tax credits awarded under the "New Jersey Community-
5 Anchored Development Act," sections 43 through 53 of P.L.2020,
6 c.156 (C.34:1B-311 through C.34:1B-321), the total value of tax
7 credits annually awarded during each of the first six years of the
8 seven-year period shall not exceed \$200 million, except that during
9 each of the first six years of the seven-year period, the authority
10 shall annually award tax credits valuing no greater than \$130
11 million for projects located in the 13 northern counties of the State,
12 and the authority shall annually award tax credits valuing no greater
13 than \$70 million for projects located in the eight southern counties
14 of the State. If during any of the first six years of the seven-year
15 period, the authority awards tax credits in an amount less than the
16 annual limitation for projects located in northern counties or
17 southern counties, as applicable, the uncommitted portion of the
18 annual limitation shall be available to be deployed by the authority
19 in a subsequent year, provided that the uncommitted portion of tax
20 credits shall be awarded for projects located in the applicable
21 geographic area, except that (i) after the completion of the third
22 year of the seven-year period, the authority may deploy 50 percent
23 of the uncommitted portion of tax credits from any previous year
24 without consideration to the county in which a project is located;
25 and (ii) after the completion of the sixth year of the seven-year
26 period, the authority may deploy all available tax credits, including
27 the uncommitted portion of the annual limitation for any previous
28 year, without consideration to the county in which a project is
29 located;

30 (f) for tax credits awarded under the "New Jersey Aspire
31 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
32 322 through C.34:1B-335), and the "Emerge Program Act," sections
33 68 through 81 of P.L.2020, c.156 **[(C.34:1B-34:1B-336 et al.)]**
34 (C.34:1B-336 et al.), not including tax credits awarded for
35 transformative projects, the total value of tax credits annually
36 awarded during each of the first six years of the seven-year period
37 shall not exceed \$1.1 billion **[, except that during]** . If the authority
38 awards tax credits in an amount less than the annual limitation, then
39 the uncommitted portion of the annual limitation shall be made
40 available for qualified offshore wind projects awarded under section
41 6 of P.L.2010, c.57 (C.34:1B-209.4), pursuant to subparagraph (h)
42 of this paragraph, or New Jersey studio partners awarded under
43 sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-
44 12b), pursuant to subparagraph (i) of this paragraph. During each
45 of the first six years of the seven-year period, the authority shall
46 annually award tax credits valuing no greater than \$715 million for
47 projects located in the northern counties of the State, and the
48 authority shall annually award tax credits valuing no greater than

1 \$385 million for projects located in the southern counties of the
2 State under the "New Jersey Aspire Program Act," sections 54
3 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335),
4 and the "Emerge Program Act," sections 68 through 81 of P.L.2020,
5 c.156 (C.34:1B-336 et al.). If during any of the first six years of the
6 seven-year period, the authority awards tax credits under the "New
7 Jersey Aspire Program Act," sections 54 through 67 of P.L.2020,
8 c.156 (C.34:1B-322 through C.34:1B-335), and the "Emerge
9 Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-
10 336 et al.), in an amount less than the annual limitation for projects
11 located in northern counties or southern counties, as applicable, the
12 uncommitted portion of the annual limitation shall be available to
13 be deployed by the authority in a subsequent year, provided that the
14 uncommitted portion of tax credits shall be awarded for projects
15 located in the applicable geographic area, except that (i) after the
16 completion of the third year of the seven-year period, the authority
17 may deploy 50 percent of the uncommitted portion of tax credits for
18 any previous year without consideration to the county in which a
19 project is located; and (ii) after the completion of the sixth year of
20 the seven-year period, the authority may deploy all available tax
21 credits, including the uncommitted portion of the annual limitation
22 for any previous year, without consideration to the county in which
23 a project is located; **[and]**

24 (g) for tax credits awarded for transformative projects under the
25 "New Jersey Aspire Program Act," sections 54 through 67 of
26 P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335) **],** and the
27 "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156
28 (C.34:1B-336 et al.)**],** the total value of tax credits awarded during
29 the seven-year period shall not exceed \$2.5 billion. The total value
30 of tax credits awarded for transformative projects in a given year
31 shall not be subject to an annual limitation, except that **[no more**
32 **than 10 transformative projects shall be awarded tax credits during**
33 **the seven-year period, and]** the total value of tax credits awarded to
34 any transformative project shall not exceed **[\$250] \$350 million;**

35 (h) from the tax credits made available, pursuant to
36 subparagraph (f) of this paragraph, to the "New Jersey Aspire
37 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
38 322 through C.34:1B-335), and the "Emerge Program Act," sections
39 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not
40 including tax credits awarded for transformative projects, an
41 amount not to exceed \$350,000,000 shall be made available for
42 qualified offshore wind projects awarded a credit pursuant to
43 section 6 of P.L.2010, c.57 (C.34:1B-209.4) during the first three
44 years of the seven-year period; and

45 (i) beginning in fiscal year 2025, from the tax credits made
46 available, pursuant to subparagraph (f) of this paragraph, to the
47 "New Jersey Aspire Program Act," sections 54 through 67 of

1 P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the
2 "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156
3 (C.34:1B-336 et al.), not including tax credits awarded for
4 transformative projects, additional amounts shall be made available
5 for New Jersey studio partners pursuant to sections 1 and 2 of
6 P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b).

7 (2) The authority may in any given year determine that it is in
8 the State's interest to approve an amount of tax credits in excess of
9 the annual limitations set forth in paragraph (1) of this subsection,
10 but in no event more than \$200,000,000 in excess of the annual
11 limitation, upon a determination by the authority board that such
12 increase is warranted based on specific criteria that may include:

13 (i) the increased demand for opportunities to create or retain
14 employment and investment in the State as indicated by the volume
15 of project applications and the amount of tax credits being sought
16 by those applications;

17 (ii) the need to protect the State's economic position in the event
18 of an economic downturn;

19 (iii) the quality of project applications and the net economic
20 benefit to the State and municipalities associated with those
21 applications;

22 (iv) opportunities for project applications to strengthen or protect
23 the competitiveness of the state under the prevailing market
24 conditions;

25 (v) enhanced access to employment and investment for
26 underserved populations in distressed municipalities and qualified
27 incentives tracts;

28 (vi) increased investment and employment in high-growth
29 technology sectors and in projects that entail collaboration with
30 education institutions in the State;

31 (vii) increased development proximate to mass transit facilities;

32 (viii) any other factor deemed relevant by the authority.

33 c. In the event that the authority in any year approves projects
34 for tax credits in an amount less than the annual limitations set forth
35 in paragraph (1) of subsection b. of this section, then the
36 uncommitted portion of the annual limitation shall be available to
37 be deployed by the authority in future years for projects under the
38 same program; provided however, that in no event shall the
39 aggregate amount of tax credits approved be in excess of the overall
40 cap of \$11.5 billion, and in no event shall the uncommitted portion
41 of the annual limitation for any previous year be deployed after the
42 conclusion of the seven-year period.

43 (cf: P.L.2020, c.156, s.98)

44

45 48. Section 101 of P.L.2020, c.156 (C.34:1B-365) is amended to
46 read as follows:

47 101. a. The New Jersey Economic Development Authority shall
48 employ a Chief Compliance Officer, who shall be appointed by the

1 Chief Executive Officer of the authority **【**to manage the Division of
2 Portfolio Management and Compliance in the authority**】**.

3 b. The Chief Compliance Officer shall:

4 (1) create, maintain, monitor, and coordinate procedures to
5 ensure that all economic development incentive programs, authority
6 employees, and economic development incentive program
7 applicants and recipients comply fully with the requirements of the
8 corresponding economic development incentive program;

9 (2) **【**conduct,**】** on such periodic basis as determined by the
10 authority, arrange for systematic audits of economic development
11 incentive programs for compliance with the laws, regulations,
12 codes, orders, procedures, advisory opinions and rulings concerning
13 those programs;

14 (3) maintain a central database of information concerning the
15 management of all economic development incentive programs and
16 information on economic development incentive program applicants
17 and recipients to provide for the regular and ongoing reporting,
18 verification, and monitoring of the State's economic development
19 incentive programs;

20 (4) prior to the adoption of any rule or regulation by the
21 authority or the board related to the general administration of the
22 programs administered by the authority pursuant to section 6 of
23 P.L.2020, c.156 (C.34:1B-274), section 19 of P.L.2020, c.156
24 (C.34:1B-287), section 29 of P.L.2020, c.156 (C.34:1B-297),
25 section 34 of P.L.2020, c.156 (C.34:1B-302), section 41 of
26 P.L.2020, c.156 (C.34:1B-309), section 52 of P.L.2020, c.156
27 (C.34:1B-320), section 67 of P.L.2020, c.156 (C.34:1B-335),
28 section 79 of P.L.2020, c.156 (C.52:27D-520), section 88 of
29 P.L.2020, c.156 (C.34:1B-354), and section 97 of P.L.2020, c.156
30 (C.34:1B-361), or any other regulation specifically related to the
31 recapture of economic development incentive award values, review
32 and certify that the provisions of program rules or regulations
33 provide the authority with adequate procedures to pursue the
34 recapture of the value of an economic development incentive in the
35 case of substantial noncompliance, fraud, or abuse by the economic
36 development incentive recipient, and that program rules and
37 regulations are sufficient to ensure against economic development
38 incentive fraud, waste, and abuse; and

39 (5) refer, to the Economic Development Inspector General and
40 to the Attorney General, information on suspected fraud or abuse
41 identified by the Division of Portfolio Management and
42 Compliance.

43 c. The Chief Compliance Officer, in consultation with the
44 Department of Labor and Workforce Development and the
45 Department of the Treasury, shall:

46 Develop, adopt, and implement a corrective action plan **【**, within
47 one year of the effective date of sections 99 through 105 of

1 P.L.2020, c.156 (C.34:1B-363 through C.34:1B-369) and**】** within
2 six months of receiving notice of any program deficiency issued by
3 the Economic Development Inspector General, that is designed to
4 enable the authority to properly manage the economic development
5 incentive programs administered by the authority **【**, and adopt rules
6 and regulations concerning the administration and enforcement of
7 the Division of Portfolio Management and Compliance's duties in a
8 manner that is most compatible with ensuring against fraud and
9 abuse in the State's economic development incentive programs**】**.

10 d. To ensure against economic development incentive fraud,
11 waste, and abuse, the authority may recapture all or any portion of
12 the value of an economic development incentive awarded pursuant
13 to any of the authority's economic development incentive programs
14 in the case of substantial noncompliance, fraud, or abuse by the
15 economic development incentive recipient. The authority may
16 incorporate provisions in the regulations for each economic
17 development incentive program that the authority deems necessary
18 to implement this subsection.

19 (cf: P.L.2020, c.156, s.101)

20

21 49. Section 102 of P.L.2020, c.156 (C.34:1B-366) is amended to
22 read as follows:

23 102. a. There is established, in but not of the **【authority】**
24 Department of the Treasury, the Office of the Economic
25 Development Inspector General, which shall operate independent of
26 the oversight or management of the Chief Executive Officer **【of】**
27 and the authority. The Office of the Economic Development
28 Inspector General shall operate under the Economic Development
29 Inspector General, who shall be a retired member of the Judicial
30 Branch of the State, to be appointed by the Governor with the
31 advice and consent of the Senate for a term of four years. The
32 Economic Development Inspector General shall direct the work of
33 the Office of the Economic Development Inspector General and
34 have the following general functions, duties, powers, and
35 responsibilities:

36 (1) to appoint such deputies, directors, assistants, and other
37 officers and employees as may be needed for the Office of the
38 Economic Development Inspector General to meet its
39 responsibilities, and to prescribe their duties and fix their
40 compensation within the amounts appropriated therefor;

41 (2) to conduct and supervise State government activities relating
42 to State economic development incentive integrity, fraud, and
43 abuse;

44 (3) to call upon any department, office, division, or agency of
45 State government to provide such information, resources, or other
46 assistance as the Economic Development Inspector General deems
47 necessary to discharge the duties and functions and to fulfill the

1 responsibilities of the Economic Development Inspector General
2 under sections 99 through 105 of P.L.2020, c.156 (C.34:1B-363
3 through C.34:1B-369). Each department, office, division, and
4 agency of this State shall cooperate with the Economic
5 Development Inspector General and furnish the Office of the
6 Economic Development Inspector General with the assistance
7 necessary to accomplish the purposes of sections 99 through 105 of
8 P.L.2020, c.156 (C.34:1B-363 through C.34:1B-369);

9 (4) to coordinate activities to prevent, detect, and investigate
10 economic development incentive fraud and abuse among the
11 following: the authority, State and local government officials, and
12 all economic development incentive applicants and recipients;

13 (5) to recommend and implement policies relating to economic
14 development incentive integrity, fraud, and abuse, and monitor the
15 implementation of any recommendations made by the Office of the
16 Economic Development Inspector General to the authority for the
17 administration of economic development incentives;

18 (6) to perform any other functions that are necessary or
19 appropriate in furtherance of the mission of the Office of the
20 Economic Development Inspector General; and

21 (7) to direct an economic development incentive applicant or
22 recipient to cooperate with the Office of the Economic
23 Development Inspector General and provide such information or
24 assistance as shall be reasonably required by the Office of the
25 Economic Development Inspector General.

26 b. As it relates to ensuring compliance with applicable
27 economic development incentive standards and requirements,
28 identifying and reducing fraud and abuse, and improving the
29 efficiency and effectiveness of economic development incentives,
30 the functions, duties, powers, and responsibilities of the Economic
31 Development Inspector General shall include, but not be limited to,
32 the following:

33 (1) to establish, in consultation with the authority and the
34 Attorney General, guidelines under which the withholding of
35 payments or exclusion from economic development incentive
36 programs shall be imposed on an economic development incentive
37 applicant or recipient;

38 (2) to review the utilization of economic development incentives
39 to ensure that economic development incentive funds are
40 appropriately spent to meet the goals and purposes of an individual
41 economic development incentive program;

42 (3) to review and audit contracts, reports, documentation,
43 claims, and all awards of economic development incentives to
44 determine compliance with applicable laws, regulations, guidelines,
45 and standards, and enhance program integrity;

46 (4) to consult with the authority to optimize the economic
47 development incentive management information system in
48 furtherance of the mission of the Office of the Economic

1 Development Inspector General. The authority shall consult with
2 the Economic Development Inspector General on matters that
3 concern the operation, upgrade, and implementation of the
4 economic development incentive management information system;

5 (5) to coordinate the implementation of information technology
6 relating to economic development incentive integrity, fraud, and
7 abuse;

8 (6) to conduct educational programs for economic development
9 incentive for State and local government officials and economic
10 development incentive recipients designed to limit economic
11 development incentive fraud and abuse; and

12 (7) to provide notice to the Chief Compliance Officer, appointed
13 pursuant to section 101 of P.L.2020, c.156 (C.34:1B-365) if the
14 Economic Development Inspector General determines that a
15 program deficiency exists in an economic development incentive
16 program administered by the authority and to provide notice to the
17 Chief Executive Officer of the Authority of pending investigations
18 if the Economic Development Inspector General determines that
19 such disclosure is consistent with the public interest in maintaining
20 the integrity of an economic development incentive program
21 administered by the authority or to abate the continuation of fraud
22 or abuse.

23 c. As it relates to investigating allegations of economic
24 development incentive fraud and abuse and enforcing applicable
25 laws, rules, regulations, and standards, the functions, duties,
26 powers, and responsibilities of the Economic Development
27 Inspector General shall include, but not be limited to, the following:

28 (1) to conduct economic development investigations concerning
29 any acts of misconduct within economic development incentive
30 programs;

31 (2) to provide information concerning the economic
32 development investigations of the Office of the Economic
33 Development Inspector General to the Attorney General, law
34 enforcement authorities, and any prosecutor of competent
35 jurisdiction, and endeavor to develop these economic development
36 investigations in a manner that expedites and facilitates criminal
37 prosecutions and the recovery of improperly expended economic
38 development incentives, including the maintenance of detailed
39 records for cases processed by the Economic Development
40 Inspector General. The records shall include: information on the
41 total number of cases processed and, for each case, the agency and
42 division to which the case is referred for an economic development
43 investigation; the date on which the case is referred; and the nature
44 of the suspected fraud or abuse.

45 (3) to provide information and evidence relating to suspected
46 criminal acts that the Economic Development Inspector General
47 may obtain in carrying out its duties to law enforcement officials
48 when appropriate, and to provide such information to the Attorney

1 General and county prosecutors in order to facilitate criminal
2 economic development investigations and prosecutions;

3 (4) to refer complaints alleging criminal conduct to the Attorney
4 General or other appropriate prosecutorial authority. The Economic
5 Development Inspector General shall maintain a record of all
6 matters referred to the Attorney General and shall be authorized to
7 disclose information received, as appropriate and as may be
8 necessary to resolve the matter referred, to the extent consistent
9 with the public interest in disclosure, the need for protecting the
10 confidentiality of complainants and informants, and preserving the
11 confidentiality of ongoing criminal economic development
12 investigations. Notwithstanding any referral made pursuant to this
13 subsection, the Economic Development Inspector General may
14 pursue any administrative or civil remedy under the law. A referral
15 by the inspector general to the Attorney General or a prosecutorial
16 authority shall in no way preclude the inspector general from
17 performing its own separate, independent investigation; and

18 (5) in furtherance of an economic development investigation, to
19 compel at a specific time and place, by subpoena, the appearance
20 and sworn testimony of any person whom the Economic
21 Development Inspector General reasonably believes may be able to
22 give information relating to a matter subject to an economic
23 development investigation:

24 (a) for this purpose, the Economic Development Inspector
25 General is empowered to administer oaths and examine witnesses
26 under oath, and compel any person to produce at a specific time and
27 place, by subpoena, any documents, books, records, papers, objects,
28 or other evidence that the Economic Development Inspector
29 General reasonably believes may relate to a matter subject to an
30 economic development investigation; and

31 (b) if any person to whom a subpoena is issued fails to appear
32 or, having appeared, refuses to give testimony, or fails to produce
33 the books, papers, or other documents required, the Economic
34 Development Inspector General may apply to the Superior Court
35 and the court may order the person to appear and give testimony or
36 produce the books, papers, or other documents, as applicable. Any
37 person failing to obey that order may be held by the court in
38 contempt;

39 (6) subject to applicable State law, to have full and unrestricted
40 access to all records, reports, audits, reviews, documents, papers,
41 data, recommendations, tax information provided to the authority
42 pursuant to subsection r. of R.S.54:50-9, or other material available
43 to the authority and other State and local government agencies with
44 respect to which the Office of the Economic Development Inspector
45 General has responsibilities under sections 102 through 105 of
46 P.L.2020, c.156 (C.34:1B-366 through C.34:1B-369);

47 (7) to solicit, receive, and investigate complaints related to
48 economic development incentive integrity, fraud, and abuse; and

1 (8) to prepare cases, provide expert testimony, and support
2 administrative hearings and other legal proceedings.

3 d. As it relates to recovering improperly obtained economic
4 development incentives, imposing administrative sanctions,
5 damages, or penalties, and negotiating settlements to assure that all
6 governmental resources have been properly expended, the
7 functions, duties, powers, and responsibilities of the Economic
8 Development Inspector General shall include, but not be limited to,
9 the following:

10 (1) to pursue civil and administrative enforcement actions
11 against those who engage in fraud, abuse, or illegal acts perpetrated
12 under economic development incentive programs. These civil and
13 administrative enforcement actions shall include the imposition of
14 administrative sanctions, penalties, suspension of fraudulent or
15 illegal awards, and actions for civil recovery and seizure of property
16 or other assets connected with such economic incentive awards;

17 (2) to initiate civil suits consistent with the provisions of
18 sections 99 through 105 of P.L.2020, c.156 (C.34:1B-363 through
19 C.34:1B-369), maintain actions for civil recovery on behalf of the
20 State, and enter into civil settlements;

21 (3) to require that the authority withhold payments to an
22 economic development incentive applicant or recipient if the
23 applicant or recipient unreasonably fails to produce complete and
24 accurate records related to an economic development investigation
25 that is initiated by the Office of the Economic Development
26 Inspector General with reasonable cause; and

27 (4) to monitor and pursue the recoupment of economic
28 development incentive awards or portions thereof, damages,
29 penalties, and sanctions.

30 (cf: P.L.2020, c.156, s.102)

31

32 50. Section 106 of P.L.2020, c.156 (C.54:10A-5.47) is amended
33 to read as follows:

34 106. a. For privilege periods ending in 2020, 2021, and 2022, a
35 taxpayer, upon approval of an application to the authority, shall be
36 allowed a credit against the tax imposed pursuant to section 5 of
37 P.L.1945, c.162 (C.54:10A-5) in the amount of \$10,000 for each
38 qualifying **new hire** full-time job involved in the manufacture of
39 personal protective equipment in a qualified facility in which the
40 taxpayer made a capital investment during the privilege period.

41 b. The minimum capital investment in a qualified facility
42 required to be eligible for a credit under this section shall be as
43 follows:

44 (1) for the rehabilitation, improvement, fit-out, or retrofit of an
45 existing premises in Atlantic County, Burlington County, Cape May
46 County, Cumberland County, Gloucester County, Ocean County, or
47 Salem County, a minimum investment of \$10 per square foot of
48 gross leasable area;

1 (2) for the rehabilitation, improvement, fit-out, or retrofit of an
2 existing premises in counties in the State not listed in paragraph (1)
3 of this subsection, a minimum investment of \$20 per square foot of
4 gross leasable area;

5 (3) for the new construction of a premises in Atlantic County,
6 Burlington County, Cape May County, Cumberland County,
7 Gloucester County, Ocean County, or Salem County, a minimum
8 investment of \$100 per square foot of gross leasable area; or

9 (4) for the new construction of a premises in counties in the
10 State not listed in paragraph (3) of this subsection, a minimum
11 investment of \$120 per square foot of gross leasable area.

12 c. The minimum number of new or retained qualifying full-
13 time jobs required to be eligible for a credit under this section shall
14 be as follows:

15 (1) for a qualified facility in Atlantic County, Burlington
16 County, Cape May County, Cumberland County, Gloucester
17 County, Ocean County, or Salem County, a minimum of five new or
18 15 retained qualifying full-time jobs; or

19 (2) for a qualified facility in counties in the State not listed in
20 paragraph (1) of this subsection, a minimum of ten new or 25
21 retained qualifying full-time jobs.

22 d. In addition to the amount of credit allowed pursuant to
23 subsection a. of this section, a taxpayer shall be allowed the
24 following tax credits for privilege periods ending in 2020, 2021,
25 and 2022:

26 (1) \$1,000 per qualifying full-time job in the privilege period at
27 a qualified facility that is a building vacant for not less than seven
28 years in need of rehabilitation with a minimum of 250,000 square
29 feet;

30 (2) \$1,500 per qualifying full-time job in the privilege period at
31 a qualified facility in which the manufacturing of personal
32 protective equipment is part of a research collaboration between the
33 taxpayer and a college or university located within the State; and

34 (3) \$1,000 per qualifying full-time job in the privilege period at
35 a qualified facility in which the taxpayer has established an
36 apprenticeship program or pre-apprenticeship program with a
37 technical school or county college located within the State.

38 e. The total credit allowed to a taxpayer pursuant to this section
39 during the privilege period shall not exceed \$500,000. A taxpayer
40 shall not be eligible for a tax credit under this section for the same
41 qualifying **new hire** full-time job for which the taxpayer is
42 receiving a tax credit incentive award under the Emerge Program
43 established by sections 68 through 81 of P.L.2020, c.156 (C.34:1B-
44 336 et al.).

45 f. Notwithstanding the minimum tax schedule imposed
46 pursuant to subsection (e) of section 5 of P.L.1945, c.162
47 (C.54:10A-5), if the amount of the tax credit allowed exceeds the
48 amount of corporation business tax otherwise due pursuant to

1 section 5 of P.L.1945, c.162 (C.54:10A-5), the amount of excess
2 shall be treated as a refundable overpayment except that interest
3 shall not be paid pursuant to section 7 of P.L.1992, c.175 (C.54:49-
4 15.1) on the amount of overpayment attributable to this credit
5 amount. The director shall determine the order of priority of the
6 application of the credit allowed pursuant to this section and any
7 other credits allowed by law.

8 g. The combined value of all tax credits approved by the
9 authority and the director pursuant to this section and pursuant to
10 section 2 of P.L.2020, c.156 (C.34:1B-270) shall not exceed
11 \$10,000,000 in any State fiscal year to apply against the tax
12 imposed pursuant to the "New Jersey Gross Income Tax Act,"
13 N.J.S.54A:1-1 et seq., and the tax imposed pursuant to section 5 of
14 P.L.1945, c.162 (C.54:10A-5).

15 h. An application for the tax credit shall be submitted to the
16 authority in a form and manner prescribed by the chief executive
17 officer of the authority. As a condition of receiving tax credits
18 under this section, an applicant shall be required to commit to
19 **[employ]** employing qualifying **[new hires]** full-time jobs for
20 which tax credits are awarded under this section for a period of five
21 years.

22 i. Notwithstanding any provision of the "Administrative
23 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
24 contrary, the **[director]** chief executive officer of the authority is
25 authorized to adopt immediately upon filing with the Office of
26 Administrative Law such rules and regulations shall be effective for
27 a period not to exceed 360 days following the date of filing and may
28 thereafter be amended, adopted, or readopted by the chief executive
29 officer of the authority in accordance with the requirements of
30 P.L.1968, c.410 (C.52:14B-1 et seq.). The chief executive officer
31 of the authority shall consult with the Commissioner of Health
32 related to any specification requirements for what manufactured
33 products are to qualify as personal protective equipment pursuant to
34 this section.

35 j. As used in this section:

36 "Authority" means the New Jersey Economic Development
37 Authority established pursuant to section 4 of P.L.1974, c.80
38 (C.34:1B-4).

39 "Director" means Director of the Division of Taxation in the
40 Department of the Treasury;

41 "Personal protective equipment" means coveralls, face shields,
42 gloves, gowns, masks, respirators, safeguard equipment, and other
43 equipment designed to protect the wearer from the spread of
44 infection or illness as may be modified from time to time by the
45 board of the authority.

46 "Qualified facility" means a facility that is:

47 (1) located in a redevelopment area or rehabilitation area as
48 defined in section 3 of P.L.1992, c.79 (C.40A:12A-3);

1 (2) located in a Smart Growth Area as identified by the Office
2 of Planning Advocacy;

3 (3) a facility in which the manufacturing of personal protective
4 equipment is part of a research collaboration between the taxpayer
5 and a college or university located within the State;

6 (4) a facility in which the taxpayer has established an
7 apprenticeship program or pre-apprenticeship program with a
8 technical school or community located within the State; or

9 (5) a building vacant for not less than seven years in need of
10 rehabilitation with a minimum of 250,000 square feet.

11 "Qualifying full-time job" means a full-time position in a
12 business in this State which the business has filled with a full-time
13 employee for the manufacturing of personal protective equipment in
14 this State. The employee shall be employed for at least 35 hours a
15 week and shall be paid employee wages at a rate of not less than
16 \$15 per hour, or render any other standard of service generally
17 accepted by custom or practice as full-time employment, whose
18 wages are subject to withholding as provided in the "New Jersey
19 Gross Income Tax Act," N.J.S.54A:1-1 et seq. and is paid employee
20 wages at a rate of not less than \$15 per hour. **["Qualifying new
21 hire"]** "Qualifying full-time job" shall not include any person who
22 works as an independent contractor or on a consulting basis for the
23 business. **["Qualifying new or retained job"]** "Qualifying full-time
24 job" includes only a position for which the taxpayer provides
25 employee health benefits under a health benefits plan authorized
26 pursuant to State or federal law.

27 (cf: P.L.2020, c.156, s.106)

28

29 51. Section 6 of P.L.2010, c.57 (C.34:1B-209.4) is amended to
30 read as follows:

31 6. a. (1) A business, upon application to and approval from
32 the authority, shall be awarded a credit of 100 percent of its capital
33 investment, made after the effective date of P.L.2010, c.57 (C.48:3-
34 87.1 et al.) but prior to its submission of documentation pursuant to
35 subsection c. of this section, in a qualified wind energy facility
36 located in the State, pursuant to the restrictions and requirements of
37 this section. The award of a tax credit pursuant to this section shall
38 be structured so that the **[authority]** award shall **[make]** consist of
39 up to [four awards] five compliance years, each equaling **[25]** 20
40 percent of the total value of the tax credit, to a qualified business
41 over four privilege periods or taxable years in which the business
42 meets the requirements for the minimum number of new, full-time
43 employees. Otherwise eligible businesses with between 150 and
44 300 new, full-time jobs may receive an award based on a prorated
45 formula developed by the authority, provided that the prorated
46 minimum number of new, full-time jobs required in the fifth year
47 shall be the same as the fourth year. To be eligible for any tax

1 credits authorized under this section, a business shall demonstrate to
2 the authority, at the time of application, that the State's financial
3 support of the proposed capital investment in a qualified wind
4 energy facility will yield a net positive benefit to the State. The
5 value of all credits approved by the authority pursuant to this
6 section **】**may be up to \$100,000,000, except as may be increased by
7 the authority if the chief executive officer of the authority judges
8 certain qualified offshore wind projects to be meritorious **】** shall not
9 exceed the \$350,000,000 made available under section 98 of
10 P.L.2020, c.156 (C.34:1B-362). Credits provided pursuant to this
11 section shall not be applicable to the cap on the credits provided in
12 section 3 of P.L.2007, c.346 (C.34:1B-209).

13 (2) (a) A business, other than a tenant eligible pursuant to
14 subparagraph (b) of this paragraph, shall make or acquire capital
15 investments totaling not less than \$50,000,000 in a qualified wind
16 energy facility, at which the business, including tenants at the
17 qualified wind energy facility, shall employ the minimum number
18 of new, full-time employees, to be eligible for a credit under this
19 section. A business that acquires a qualified wind energy facility
20 after the effective date of P.L.2010, c.57 (C.48:3-87.1 et al.) shall
21 also be deemed to have acquired the capital investment made or
22 acquired by the seller.

23 (b) A business that is a tenant in the qualified wind energy
24 facility, the owner of which has made or acquired capital
25 investments in the facility totaling more than \$50,000,000, shall
26 occupy a leased area of the qualified wind energy facility that
27 represents at least \$17,500,000 of the capital investment in the
28 qualified wind energy facility at which the minimum number of
29 new, full-time employees in the aggregate are employed, to be
30 eligible for a credit under this section. The amount of capital
31 investment in a facility that a leased area represents shall be equal
32 to that percentage of the owner's total capital investment in the
33 facility that the percentage of net leasable area leased by the tenant
34 is of the total net leasable area of the qualified business facility.
35 Capital investments made by a tenant shall be deemed to be
36 included in the calculation of the capital investment made or
37 acquired by the owner, but only to the extent necessary to meet the
38 owner's minimum capital investment of \$50,000,000. Capital
39 investments made by a tenant and not allocated to meet the owner's
40 minimum capital investment threshold of \$50,000,000 shall be
41 added to the amount of capital investment represented by the
42 tenant's leased area in the qualified wind energy facility.

43 (c) The calculation of the number of new, full-time employees
44 required pursuant to subparagraphs (a) and (b) of this paragraph
45 may include the number of new, full-time positions resulting from
46 an equipment supply coordination agreement with equipment
47 manufacturers, suppliers, installers and operators associated with

1 the supply chain required to support the qualified wind energy
2 facility.

3 For the purposes of this paragraph, "full time employee" shall
4 not include an employee who is a resident of another state and
5 whose income is not subject to the "New Jersey Gross Income Tax
6 Act," N.J.S.54A:1-1 et seq., unless that state has entered into a
7 reciprocity agreement with the State of New Jersey.

8 (3) A business shall not be awarded a tax credit pursuant to this
9 section if the business receives a business employment incentive
10 grant pursuant to the "Business Employment Incentive Program
11 Act," P.L.1996, c.26 (C.34:1B-124 et al.), relating to the same
12 capital and employees that qualify the business for this credit, or if
13 the business receives assistance pursuant to the "Business Retention
14 and Relocation Assistance Act," P.L.1996, c.25 (C.34:1B-112 et
15 seq.). A business that is awarded a tax credit under this section
16 shall not be eligible for incentives authorized pursuant to the
17 "Municipal Rehabilitation and Economic Recovery Act," P.L.2002,
18 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, 2025, and a
23 business shall submit its documentation for approval of its credit
24 amount by July 1, 2028.

25 c. The credit awarded pursuant to this section shall be
26 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 awarded pursuant to this section
33 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 five-year period, at the rate of one-fifth of the total amount of the
37 business's credit for each tax accounting or privilege period of the
38 business, beginning with the privilege period or taxable year in
39 which the business is first approved by the authority as having met
40 the investment capital and employment qualifications, subject to
41 any disqualification as determined by annual review by the
42 authority. In conducting its annual review, the authority may
43 require a business to submit any information determined by the
44 authority to be necessary and relevant to its review. The credit
45 amount for any privilege period or taxable year ending after the date
46 18 years after the effective date of P.L.2007, c.346 (C.34:1B-207 et
47 seq.) during which the documentation of a business's credit amount
48 remains unapproved shall be forfeited, although credit amounts for

1 the remainder of the years of the five-year credit period shall
2 remain available. The amount of the credit awarded for a privilege
3 period or taxable year to a business that is a tenant in a qualified
4 wind energy facility shall not exceed the business's total lease
5 payments for occupancy of the qualified wind energy facility for the
6 privilege period or taxable year.

7 e. The authority shall adopt rules and regulations pursuant to
8 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
9 seq.) as are necessary to implement this section, including, but not
10 limited to: examples of and the determination of capital investment;
11 the nature of businesses and employment positions constituting and
12 participating in an equipment supply coordination agreement; a
13 determination of the types of businesses that may be eligible and
14 expenses that may constitute capital improvements; the
15 promulgation of procedures and forms necessary to apply for a
16 credit; and provisions for applicants to be charged an initial
17 application fee, and ongoing service fees, to cover the
18 administrative costs related to the credit.

19 The rules and regulations established by the authority pursuant to
20 this subsection shall be effective immediately upon filing with the
21 Office of Administrative Law and shall be effective for a period not
22 to exceed 12 months and may, thereafter, be amended, adopted or
23 readopted in accordance with the provisions of the "Administrative
24 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

25 f. As used in this section: the terms "authority," "business,"
26 and "capital investment" shall have the same meanings as defined in
27 section 2 of the "Urban Transit Hub Tax Credit Act," P.L.2007,
28 c.346 (C.34:1B-208), except that all references therein to "qualified
29 business facility" shall be deemed to refer to "qualified wind energy
30 facility" as defined in this subsection.

31 In addition, as used in this section:

32 "Equipment supply coordination agreement" means an agreement
33 between a business and equipment manufacturer, supplier, installer,
34 and operator that supports a qualified offshore wind project, or
35 other wind energy project as determined by the authority, and that
36 indicates the number of new, full-time jobs to be created by the
37 agreement participants towards the employment requirement as set
38 forth in paragraph (2) of subsection a. of this section.

39 "Minimum number of new, full-time employees" means:

40 (1) for the first **[award]** year, at least a cumulative 100 new,
41 full-time employees compared to the number of full-time employees
42 at the time of application;

43 (2) **[for the second award,]** for a privilege period or taxable
44 year following the first **[award]** year, at least a cumulative 150
45 new, full-time employees compared to the number of full-time
46 employees at the time of application;

1 (3) **【for the third award,】** for a privilege period or taxable year
2 following the second **【award】** year, at least a cumulative 200 new,
3 full-time employees compared to the number of full-time employees
4 at the time of application; and

5 (4) **【for the fourth award,】** for a privilege period or taxable year
6 following the third **【award】** year and fourth year, at least a
7 cumulative 300 new, full-time employees compared to the number
8 of full-time employees at the time of application.

9 "Qualified offshore wind project" shall have the same meaning
10 as 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.

18 (cf: P.L.2020, c.156, s.109)

19

20 52. Section 1 of P.L.1997, c.334 (C.34:1B-7.42a) is amended to
21 read as follows:

22 1. a. The New Jersey Economic Development Authority shall
23 establish within the New Jersey Emerging Technology and
24 Biotechnology Financial Assistance Program established pursuant
25 to P.L.1995, c.137 (C.34:1B-7.37 et seq.), a corporation business
26 tax benefit certificate transfer program to allow new or expanding
27 emerging technology and biotechnology companies in this State
28 with unused amounts of research and development tax credits
29 otherwise allowable which cannot be applied for the credit's tax
30 year due to the limitations of subsection b. of section 1 of P.L.1993,
31 c.175 (C.54:10A-5.24) and unused prior net operating loss
32 conversion carryover or net operating loss carryover pursuant to
33 section 4 of P.L.1945, c.162 (C.54:10A-4), to surrender those tax
34 benefits for use by other corporation business taxpayers in this
35 State, provided that the taxpayer receiving the surrendered tax
36 benefits is not affiliated with a corporation that is surrendering its
37 tax benefits under the program established under P.L.1997, c.334.
38 For the purposes of this section, the test of affiliation is whether the
39 same entity directly or indirectly owns or controls five percent or
40 more of the voting rights or five percent or more of the value of all
41 classes of stock of both the taxpayer receiving the benefits and a
42 corporation that is surrendering the benefits. The tax benefits may
43 be used on the corporation business tax returns to be filed by those
44 taxpayers in exchange for private financial assistance to be provided
45 by the corporation business taxpayer that is the recipient of the
46 corporation business tax benefit certificate to assist in the funding
47 of costs incurred by the new or expanding emerging technology and
48 biotechnology company. For purposes of this subsection, a member

1 of a combined group may sell prior net operating loss conversion
2 carryover to other members of the combined group, if otherwise
3 applicable and allowable under section 2 of P.L.1997, c.334
4 (C.54:10A-4.2) and this section; provided, however, such sale of
5 prior net operating loss conversion carryover shall be made at arm's
6 length price at the same rate as though the sale was to an unrelated
7 taxpayer.

8 b. The authority, in cooperation with the Division of Taxation
9 in the Department of the Treasury, shall review and approve
10 applications by new or expanding emerging technology and
11 biotechnology companies in this State with unused but otherwise
12 allowable carryover of research and development tax credits
13 pursuant to section 1 of P.L.1993, c.175 (C.54:10A-5.24), and
14 unused but otherwise allowable prior net operating loss conversion
15 carryover or net operating loss carryover pursuant to section 4 of
16 P.L.1945, c.162 (C.54:10A-4), to surrender those tax benefits in
17 exchange for private financial assistance to be made by the
18 corporation business taxpayer that is the recipient of the corporation
19 business tax benefit certificate in an amount equal to at least **[80%]**
20 80 percent of the amount of the surrendered tax benefit. Provided
21 that the amount of the surrendered tax benefit for a surrendered
22 research and development tax credit carryover is the amount of the
23 credit, and provided that the amount of the surrendered tax benefit
24 for a surrendered prior net operating loss conversion carryover or
25 net operating loss carryover is that amount for the tax year in which
26 the benefit is transferred and subsequently multiplied by the
27 corporation business tax rate provided pursuant to subsection (c) of
28 section 5 of P.L.1945, c.162 (C.54:10A-5). The authority shall be
29 authorized to approve the transfer of no more than \$75,000,000 of
30 tax benefits in a State fiscal year. If the total amount of transferable
31 tax benefits requested to be surrendered by approved applicants
32 exceeds \$75,000,000 for a State fiscal year, the authority, in
33 cooperation with the Division of Taxation in the Department of the
34 Treasury, shall not be authorized to approve the transfer of more
35 than \$75,000,000 for that State fiscal year and shall allocate the
36 transfer of tax benefits by approved companies using the following
37 method:

38 (1) an eligible applicant with \$250,000 or less of transferable
39 tax benefits shall be authorized to surrender the entire amount of its
40 transferable tax benefits;

41 (2) an eligible applicant with more than \$250,000 of transferable
42 tax benefits shall be authorized to surrender a minimum of
43 \$250,000 of its transferable tax benefits;

44 (3) (Deleted by amendment, P.L.2009, c.90.)

45 (4) an eligible applicant with more than \$250,000 shall also be
46 authorized to surrender additional transferable tax benefits
47 determined by multiplying the applicant's transferable tax benefits
48 less the minimum transferable tax benefits that company is

1 authorized to surrender under paragraph (2) of this subsection by a
2 fraction, the numerator of which is the total amount of transferable
3 tax benefits that the authority is authorized to approve less the total
4 amount of transferable tax benefits approved under paragraphs (1),
5 (2), and (5) of this subsection and the denominator of which is the
6 total amount of transferable tax benefits requested to be surrendered
7 by all eligible applicants less the total amount of transferable tax
8 benefits approved under paragraphs (1), (2), and (5) of this
9 subsection;

10 (5) The authority shall establish the boundaries for three
11 innovation zones to be geographically distributed in the northern,
12 central, and southern portions of this State. Of the \$75,000,000 of
13 transferable tax benefits authorized for each State fiscal year,
14 ~~[\$10,000,000]~~ \$15,000,000 shall be allocated for the surrender of
15 transferable tax benefits exclusively by new and expanding
16 emerging technology and biotechnology companies that operate
17 within the boundaries of the innovation zones or opportunity zones,
18 or for new and expanding emerging technology and biotechnology
19 companies that are certified as a woman- or minority-owned
20 business at the time of program application, except that any portion
21 of the ~~[\$10,000,000]~~ \$15,000,000 that is not so approved shall be
22 available for that State fiscal year for the surrender of transferable
23 tax benefits by new and expanding emerging technology and
24 biotechnology companies that do not operate within the boundaries
25 of an innovation zone or opportunity zone, or for a new and
26 expanding emerging technology and biotechnology company that is
27 certified as a woman- or minority-owned business at the time of
28 program application.

29 If the total amount of transferable tax benefits that would be
30 authorized using the above method exceeds \$75,000,000 for a State
31 fiscal year, then the authority, in cooperation with the Division of
32 Taxation in the Department of the Treasury, shall limit the total
33 amount of tax benefits authorized to be transferred to \$75,000,000
34 by applying the above method on an apportioned basis.

35 For purposes of this section transferable tax benefits include an
36 eligible applicant's unused but otherwise allowable prior net
37 operating loss conversion carryover or net operating loss carryover
38 determined pursuant to section 4 of P.L.1945, c.162 (C.54:10A-4)
39 for the tax year in which the benefit is transferred and subsequently
40 multiplied by the corporation business tax rate as provided in
41 subsection (c) of section 5 of P.L.1945, c.162 (C.54:10A-5) plus the
42 total amount of the applicant's unused but otherwise allowable
43 carryover of research and development tax credits. An eligible
44 applicant's transferable tax benefits shall be limited to net operating
45 losses and research and development tax credits that the applicant
46 requests to surrender in its application to the authority and shall not,
47 in total, exceed the maximum amount of tax benefits that the
48 applicant is eligible to surrender.

1 No application for a corporation business tax benefit transfer
2 certificate shall be approved in which the new or expanding
3 emerging technology or biotechnology company (1) has
4 demonstrated positive net operating income in any of the two
5 previous full years of ongoing operations as determined on its
6 financial statements issued according to generally accepted
7 accounting standards endorsed by the Financial Accounting
8 Standards Board; or (2) is directly or indirectly at least 50 percent
9 owned or controlled by another corporation that has demonstrated
10 positive net operating income in any of the two previous full years
11 of ongoing operations as determined on its financial statements
12 issued according to generally accepted accounting standards
13 endorsed by the Financial Accounting Standards Board or is part of
14 a consolidated group of affiliated corporations, as filed for federal
15 income tax purposes, that in the aggregate has demonstrated
16 positive net operating income in any of the two previous full years
17 of ongoing operations as determined on its combined financial
18 statements issued according to generally accepted accounting
19 standards endorsed by the Financial Accounting Standards Board.

20 For purposes of this subsection, a member of a combined group
21 may sell prior net operating loss conversion carryover to other
22 members of the combined group, if otherwise applicable and
23 allowable under section 2 of P.L.1997, c.334 (C.54:10A-4.2) and
24 this section; provided, however, such sale of prior net operating loss
25 conversion carryover shall be made at arm's length price at the same
26 rate as though the sale was to an unrelated taxpayer.

27 The maximum lifetime value of surrendered tax benefits that a
28 corporation shall be permitted to surrender pursuant to the program
29 is \$20,000,000. Applications must be received on or before June 30
30 of each State fiscal year.

31 The authority, in consultation with the Division of Taxation,
32 shall establish rules for the recapture of all, or a portion of, the
33 amount of a grant of a corporation business tax benefit certificate
34 from the new or expanding emerging technology and biotechnology
35 company having surrendered tax benefits pursuant to this section in
36 the event the taxpayer fails to use the private financial assistance
37 received for the surrender of tax benefits as required by this section
38 or fails to maintain a headquarters or a base of operation in this
39 State during the five years following receipt of the private financial
40 assistance; except if the failure to maintain a headquarters or a base
41 of operation in this State is due to the liquidation of the new or
42 expanding emerging technology and biotechnology company.

43 c. The authority, in cooperation with the Division of Taxation
44 in the Department of the Treasury, shall review and approve
45 applications by taxpayers under the Corporation Business Tax Act
46 (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), to acquire
47 surrendered tax benefits approved pursuant to subsection b. of this
48 section which shall be issued in the form of corporation business

1 tax benefit transfer certificates, in exchange for private financial
2 assistance to be made by the taxpayer in an amount equal to at least
3 **【80%】 80 percent** of the amount of the surrendered tax benefit of an
4 emerging technology or biotechnology company in the State. A
5 corporation business tax benefit transfer certificate shall not be
6 issued unless the applicant certifies that as of the date of the
7 exchange of the corporation business tax benefit certificate it is
8 operating as a new or expanding emerging technology or
9 biotechnology company and has no current intention to cease
10 operating as a new or expanding emerging technology or
11 biotechnology company.

12 The managerial member of a combined group shall be the
13 member that acquires a corporation business tax benefit certificate
14 on behalf of the combined group for use on the combined return.

15 The private financial assistance shall assist in funding expenses
16 incurred in connection with the operation of the new or expanding
17 emerging technology or biotechnology company in the State,
18 including but not limited to the expenses of fixed assets, such as the
19 construction and acquisition and development of real estate,
20 materials, start-up, tenant fit-out, working capital, salaries, research
21 and development expenditures and any other expenses determined
22 by the authority to be necessary to carry out the purposes of the
23 New Jersey Emerging Technology and Biotechnology Financial
24 Assistance Program.

25 The authority shall require a corporation business taxpayer that
26 acquires a corporation business tax benefit certificate to enter into a
27 written agreement with the new or expanding emerging technology
28 or biotechnology company concerning the terms and conditions of
29 the private financial assistance made in exchange for the certificate.
30 The written agreement may contain terms concerning the
31 maintenance by the new or expanding emerging technology or
32 biotechnology company of a headquarters or a base of operation in
33 this State.

34 d. (Deleted by amendment, P.L.2009, c.90.)
35 (cf: P.L.2020, c.156, s.113)

36
37 53. Section 1 of P.L.1999, c.140 (C.34:1B-7.42b) is amended to
38 read as follows:

39 1. As used in P.L.1997, c.334 (C.34:1B-7.42a et al.):

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 "Biotechnology" means the continually expanding body of
44 fundamental knowledge about the functioning of biological systems
45 from the macro level to the molecular and sub-atomic levels, as
46 well as novel products, services, technologies and sub-technologies
47 developed as a result of insights gained from research advances that
48 add to that body of fundamental knowledge. This definition may be

1 modified by regulation to conform to definitions in other programs
2 administered by the authority.

3 "Biotechnology company" means an emerging corporation that
4 has its headquarters or base of operations in this State; that owns,
5 has filed for, or has a valid license to use protected, proprietary
6 intellectual property; and that is engaged in the research,
7 development, production, or provision of biotechnology for the
8 purpose of developing or providing products or processes for
9 specific commercial or public purposes, including but not limited
10 to, medical, pharmaceutical, nutritional, and other health-related
11 purposes, agricultural purposes, and environmental purposes. This
12 definition may be modified by regulation to conform to definitions
13 in other programs administered by the authority.

14 "Full-time employee" means a person employed by a new or
15 expanding emerging technology or biotechnology company for
16 consideration for at least 35 hours a week, or who renders any other
17 standard of service generally accepted by custom or practice as full-
18 time employment and whose wages are subject to withholding as
19 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
20 et seq., or who is a partner of a new or expanding emerging
21 technology or biotechnology company who works for the
22 partnership for at least 35 hours a week, or who renders any other
23 standard of service generally accepted by custom or practice as full-
24 time employment, and whose distributive share of income, gain,
25 loss, or deduction, or whose guaranteed payments, or any
26 combination thereof, is subject to the payment of estimated taxes, as
27 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
28 et seq. To qualify as a "full-time employee," an employee shall also
29 receive from the new or expanding emerging technology or
30 biotechnology company health benefits under a health benefits plan
31 authorized pursuant to State or federal law. "Full-time employee"
32 shall not include any person who works as an independent
33 contractor or on a consulting basis for the new or expanding
34 emerging technology or biotechnology company.

35 "New or expanding" means a technology or biotechnology
36 company that (1) on June 30 of the year in which the company files
37 an application for surrender of unused but otherwise allowable tax
38 benefits under P.L.1997, c.334 (C.34:1B-7.42a et al.) and on the
39 date of the exchange of the corporation business tax benefit
40 certificate, has fewer than 225 employees in the United States of
41 America; (2) on June 30 of the year in which the company files
42 such an application, has at least one full-time employee working in
43 this State if the company has been incorporated for less than three
44 years, has at least five full-time employees working in this State if
45 the company has been incorporated for more than three years but
46 less than five years, and has at least 10 full-time employees working
47 in this State if the company has been incorporated for more than
48 five years; and (3) on the date of the exchange of the corporation

1 business tax benefit certificate, the company has the requisite
2 number of full-time employees in New Jersey that were required on
3 June 30 as set forth in part (2) of this definition.

4 “Opportunity zone” means a federal population census tract in
5 this State that was eligible to be designated as a qualified
6 opportunity zone pursuant to 26 U.S.C. s.1400Z-1.

7 "Technology company" means an emerging corporation that has
8 its headquarters or base of operations in this State; that owns, has
9 filed for, or has a valid license to use protected, proprietary
10 intellectual property; and that employs some combination of the
11 following: highly educated or trained managers and workers, or
12 both, employed in this State who use sophisticated scientific
13 research service or production equipment, processes or knowledge
14 to discover, develop, test, transfer or manufacture a product or
15 service. This definition may be modified by regulation to conform
16 to definitions in other programs administered by the authority.

17 (cf: P.L.2020, c.156, s.114)

18

19 54. Section 5 of P.L.2009, c.90 (C.52:27D-489e) is amended to
20 read as follows:

21 5. a. The New Jersey Economic Development Authority, in
22 consultation with the State Treasurer, shall establish an Economic
23 Redevelopment and Growth Grant program for the purpose of
24 encouraging redevelopment projects in qualifying economic
25 redevelopment and growth grant incentive areas that do not qualify
26 as such areas solely by virtue of being a transit village, through the
27 provision of incentive grants to reimburse developers for certain
28 project financing gap costs.

29 b. (1) A developer shall submit an application for a State
30 incentive grant prior to July 1, 2019, except: (a) a developer of a
31 qualified residential project or a mixed use parking project seeking
32 an award of credits toward the funding of its incentive grant for a
33 project restricted under category (viii) of subparagraph (b) of
34 paragraph (3) of subsection b. of section 6 of P.L.2009, c.90
35 (C.52:27D-489f) shall submit an incentive grant application prior to
36 December 31, 2021 **【and】** ; (b) a developer of a qualified
37 residential project seeking an award of credits toward the funding of
38 its incentive grant under **【subparagraphs (f) and】** subparagraph (g)
39 of paragraph (3) of subsection b. of section 6 of P.L.2009, c.90
40 (C.52:27D-489f) shall submit an incentive grant application prior to
41 December 31, 2021; and (c) a developer of a commercial project
42 seeking a State incentive grant under subparagraph (b) of paragraph
43 (1) of subsection b. of section 6 of P.L.2009, c.90 (C.52:27D-489f)
44 shall submit an incentive grant application prior to December 31,
45 2021. A developer that submits an application for a State incentive
46 grant shall indicate on the application whether it is also applying for
47 a local incentive grant. Tax credits awarded to developers who
48 apply after the effective date of P.L.2020, c.156 (C.34:1B-269 et

1 al.) under **【subparagraphs (f) and】** subparagraph (g) of paragraph
2 (3) of subsection b. of section 6 of P.L.2009, c.90 (C.52:27D-489f)
3 shall not exceed **【\$200,000,000** subject to the limitations of
4 **subparagraphs (f) and (g) of that paragraph】** \$125,000,000.
5 Incentive grants awarded to developers who apply after the
6 effective date of P.L.2020, c.156 under subparagraph (b) of
7 paragraph (1) of subsection b. of section 6 of P.L.2009, c.90
8 (C.52:27D-489f) shall not exceed \$75,000,000.

9 (2) When an applicant indicates it is also applying for a local
10 incentive grant, the authority shall forward a copy of the application
11 to the municipality wherein the redevelopment project is to be
12 located for approval by municipal ordinance.

13 c. An application for a State incentive grant shall be reviewed
14 and approved by the authority. The authority shall not approve an
15 application for a State incentive grant unless the application was
16 submitted prior to July 1, 2019, except: (1) the authority shall not
17 approve an application for a State incentive grant by a developer of
18 a qualified residential project or a mixed use parking project
19 seeking an award of credits toward the funding of its incentive grant
20 for a project restricted under category (viii) of subparagraph (b) of
21 paragraph (3) of subsection b. of section 6 of P.L.2009, c.90
22 (C.52:27D-489f) unless the application was submitted prior to
23 December 31, 2021 and (2) the authority shall not approve an
24 application for a State incentive grant by a developer under
25 **【subparagraphs (f) and】** subparagraph (g) of paragraph (3) and
26 subparagraph (b) of paragraph (1) of subsection b. of section 6 of
27 P.L.2009, c.90 (C.52:27D-489f) unless the application was
28 submitted prior to December 31, 2021.

29 d. A developer shall not be required to purchase pinelands
30 development credits under the "Pinelands Protection Act,"
31 P.L.1979, c.111 (C.13:18A-1 et seq.), the pinelands comprehensive
32 management plan, or any other rule or regulation adopted pursuant
33 to that act in connection with any approval or relief obtained related
34 to a redevelopment project located in an aviation district on or after
35 the effective date of P.L.2018, c.120, except if seeking to develop in
36 permanently protected open space pursuant to the Pinelands
37 Protection Act. The provisions of this subsection shall not apply to
38 a developer of a qualified residential project.

39 (cf: P.L.2020, c.156, s.122)

40

41 55. Section 6 of P.L.2009, c.90 (C.52:27D-489f) is amended to
42 read as follows:

43 6. a. Up to the limits established in subsection b. of this
44 section and in accordance with a redevelopment incentive grant
45 agreement, beginning upon the receipt of occupancy permits for any
46 portion of the redevelopment project, or upon any other event
47 evidencing project completion as set forth in the incentive grant
48 agreement, the State Treasurer shall pay to the developer

1 incremental State revenues directly realized from businesses
2 operating at the site of the redevelopment project from the
3 following taxes: the Corporation Business Tax Act (1945),
4 P.L.1945, c.162 (C.54:10A-1 et seq.), the tax imposed on marine
5 insurance companies pursuant to R.S.54:16-1 et seq., the tax
6 imposed on insurers generally, pursuant to P.L.1945, c.132
7 (C.54:18A-1 et seq.), the public utility franchise tax, public utilities
8 gross receipts tax and public utility excise tax imposed on sewerage
9 and water corporations pursuant to P.L.1940, c.5 (C.54:30A-49 et
10 seq.), those tariffs and charges imposed by electric, natural gas,
11 telecommunications, water and sewage utilities, and cable television
12 companies under the jurisdiction of the New Jersey Board of Public
13 Utilities, or comparable entity, except for those tariffs, fees, or taxes
14 related to societal benefits charges assessed pursuant to section 12
15 of P.L.1999, c.23 (C.48:3-60), any charges paid for compliance
16 with the "Global Warming Response Act," P.L.2007, c.112
17 (C.26:2C-37 et seq.), transitional energy facility assessment unit
18 taxes paid pursuant to section 67 of P.L.1997, c.162 (C.48:2-21.34),
19 and the sales and use taxes on public utility and cable television
20 services and commodities, the tax derived from net profits from
21 business, a distributive share of partnership income, or a pro rata
22 share of S corporation income under the "New Jersey Gross Income
23 Tax Act," N.J.S.54A:1-1 et seq., the tax derived from a business at
24 the site of a redevelopment project that is required to collect the tax
25 pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-
26 1 et seq.), the tax imposed pursuant to P.L.1966, c.30 (C.54:32B-1
27 et seq.) from the purchase of furniture, fixtures and equipment, or
28 materials for the remediation, the construction of new structures at
29 the site of a redevelopment project, the hotel and motel occupancy
30 fee imposed pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1),
31 or the portion of the fee imposed pursuant to section 3 of P.L.1968,
32 c.49 (C.46:15-7) derived from the sale of real property at the site of
33 the redevelopment project and paid to the State Treasurer for use by
34 the State, that is not credited to the "Shore Protection Fund" or the
35 "Neighborhood Preservation Nonlapsing Revolving Fund" ("New
36 Jersey Affordable Housing Trust Fund") pursuant to section 4 of
37 P.L.1968, c.49 (C.46:15-8). Any developer shall be allowed to
38 assign their ability to apply for the tax credit under this subsection
39 to a non-profit organization with a mission dedicated to attracting
40 investment and completing development and redevelopment
41 projects in a Garden State Growth Zone. The non-profit
42 organization may make an application on behalf of a developer
43 which meets the requirements for the tax credit, or a group of non-
44 qualifying developers, such that these will be considered a unified
45 project for the purposes of the incentives provided under this
46 section.

47 b. (1) (a) Up to an average of 75 percent of the projected
48 annual incremental revenues or 85 percent of the projected annual

1 incremental revenues in a Garden State Growth Zone may be
2 pledged towards the State portion of an incentive grant.

3 (b) State incentive grants not to exceed an aggregate total value
4 of \$75,000,000 shall be made available by the authority for
5 applications submitted after the effective date of P.L.2020, c.156,
6 but prior to December 31, 2021, for projects that are predominantly
7 commercial and contain 100,000 or more square feet of office and
8 retail space, or industrial space for purchase or lease, and may
9 include a parking component. The developer of a project seeking
10 an award of credits for a project restricted under this subparagraph
11 shall submit an incentive grant application prior to December 31,
12 2021, and if approved after the effective date of P.L.2020, c.156,
13 shall submit a temporary certificate of occupancy for the project no
14 later than December 31, 2024. In addition to the requirements for
15 an incentive award set forth in P.L.2009, c.90 (C.52:27D-489a et
16 al.), a developer shall be eligible to receive an award of credits for a
17 project restricted under this subparagraph only if the developer
18 demonstrates to the authority at that time of application that: (i) the
19 project shall comply with minimum environmental and
20 sustainability standards; (ii) the 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); (iii) each worker
23 employed by the developer, or subcontractor of a developer
24 working at the project, shall be paid not less than \$15 per hour or
25 120 percent of the minimum wage fixed under subsection a. of
26 section 5 of P.L.1966, c.113 (C.34:11-56a4), whichever is higher;
27 and (iv) during the eligibility period, each worker employed to
28 perform construction work or building services work at the project
29 shall be paid not less than the prevailing wage rate for the worker's
30 craft or trade, as determined by the Commissioner of Labor and
31 Workforce Development pursuant to P.L.1963, c.150 (C.34:11-
32 56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.).

33 (2) In the case of a qualified residential project or a project
34 involving university infrastructure, if the authority determines that
35 the estimated amount of incremental revenues pledged towards the
36 State portion of an incentive grant is inadequate to fully fund the
37 amount of the State portion of the incentive grant, then in lieu of an
38 incentive grant based on the incremental revenues, the developer
39 shall be awarded tax credits equal to the full amount of the
40 incentive grant.

41 (3) In the case of a mixed use parking project, if the authority
42 determines that the estimated amount of incremental revenues
43 pledged towards the State portion of an incentive grant is
44 inadequate to fully fund the amount of the State portion of the
45 incentive grant, then, in lieu of an incentive grant based on the
46 incremental revenues, the developer shall be awarded tax credits
47 equal to the full amount of the incentive grant.

1 The value of all credits approved by the authority pursuant to
2 paragraphs (2) and (3) of this subsection shall not exceed
3 **【\$1,043,000,000】** \$968,000,000, of which:

4 (a) \$250,000,000 shall be restricted to qualified residential
5 projects within Atlantic, Burlington, Camden, Cape May,
6 Cumberland, Gloucester, Ocean, and Salem counties, of which
7 \$175,000,000 of the credits shall be restricted to the following
8 categories of projects: (i) qualified residential projects located in a
9 Garden State Growth Zone located within the aforementioned
10 counties; and (ii) mixed use parking projects located in a Garden
11 State Growth Zone or urban transit hub located within the
12 aforementioned counties; (iii) and \$75,000,000 of the credits shall
13 be restricted to qualified residential projects in municipalities with a
14 2007 Municipal Revitalization Index of 400 or higher as of the date
15 of enactment of the "New Jersey Economic Opportunity Act of
16 2013," P.L.2013, c.161 (C.52:27D-489p et al.) and located within
17 the aforementioned counties;

18 (b) **【\$395,000,000】** \$415,000,000 shall be restricted to the
19 following categories of projects: (i) qualified residential projects
20 located in urban transit hubs that are commuter rail in nature that
21 otherwise do not qualify under subparagraph (a) of this paragraph;
22 (ii) qualified residential projects located in Garden State Growth
23 Zones that do not qualify under subparagraph (a) of this paragraph;
24 (iii) mixed use parking projects located in urban transit hubs or
25 Garden State Growth Zones that do not qualify under subparagraph
26 (a) of this paragraph, provided however, an urban transit hub shall
27 be allocated no more than \$25,000,000 for mixed use parking
28 projects; (iv) qualified residential projects which are disaster
29 recovery projects that otherwise do not qualify under subparagraph
30 (a) of this paragraph; (v) qualified residential projects in SDA
31 municipalities located in Hudson County that were awarded State
32 Aid in State Fiscal Year 2013 through the Transitional Aid to
33 Localities program and otherwise do not qualify under
34 subparagraph (a) of this paragraph; (vi) \$25,000,000 of credits shall
35 be restricted to mixed use parking projects in Garden State Growth
36 Zones which have a population in excess of 125,000 and do not
37 qualify under subparagraph (a) of this paragraph; (vii) \$40,000,000
38 of credits shall be restricted to qualified residential projects that
39 include a theater venue for the performing arts and do not qualify
40 under subparagraph (a) of this paragraph, which projects are located
41 in a municipality with a population of less than 100,000 according
42 to the latest federal decennial census, and within which
43 municipality is located an urban transit hub and a campus of a
44 public research university, as defined in section 1 of P.L.2009,
45 c.308 (C.18A:3B-46); and (viii) \$125,000,000 of credits shall be
46 restricted to qualified residential projects and mixed use parking
47 projects in Garden State Growth Zones having a population in

1 excess of 125,000 and do not qualify under subparagraph (a) of this
2 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
9 (b) of this paragraph, and which are used by an independent
10 institution of higher education, a school of medicine, a nonprofit
11 hospital system, or any combination thereof; provided, however,
12 that \$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
17 redevelopment and growth grant incentive area otherwise not
18 qualifying under 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-
23 Up-To-Market Project from the United States Department of
24 Housing and Urban Development, and for which an application for
25 the award of tax credits under this subsection was submitted prior to
26 January 1, 2016;

27 (e) \$25,000,000 shall be restricted to projects involving
28 university infrastructure; and

29 (f) **【\$150,000,000** shall be restricted to applications submitted
30 after the effective date of P.L.2020, c.156 (C.34:1B-269 et al.) for
31 projects which are predominantly commercial and contain 100,000
32 or more square feet of office and retail space, or industrial space for
33 purchase or lease and may include a parking component; **and】**
34 (Deleted by amendment, P.L. , c.) (pending before the
35 Legislature as this bill)

36 (g) **【\$50,000,000】** \$125,000,000 shall be restricted to
37 applications submitted after the effective date of P.L.2020, c.156
38 (C.34:1B-269 et al.) for residential projects in any county of the
39 State.

40 (h) For subparagraphs (a) through (d) of this paragraph, not
41 more than \$40,000,000 of credits shall be awarded to any qualified
42 residential project in a deep poverty pocket or distressed
43 municipality and not more than \$20,000,000 of credits shall be
44 awarded to any other qualified residential project. The developer of
45 a qualified residential project seeking an award of credits towards
46 the funding of its incentive grant shall submit an incentive grant
47 application prior to July 1, 2016 and if approved after September
48 18, 2013, the effective date of P.L.2013, c.161 (C.52:27D-489p et

1 al.) shall submit a temporary certificate of occupancy for the project
2 no later than December 31, 2023. The developer of a mixed use
3 parking project seeking an award of credits towards the funding of
4 its incentive grant pursuant to subparagraph (c) of this paragraph
5 and if approved after the effective date of P.L.2015, c.217, shall
6 submit a temporary certificate of occupancy for the project no later
7 than December 31, 2023. The developer of a qualified residential
8 project or a mixed use parking project seeking an award of credits
9 toward the funding of its incentive grant for a project restricted
10 under categories (vi) and (viii) of subparagraph (b) of this
11 paragraph shall submit an incentive grant application prior to July
12 1, 2019 or, in the case of a project restricted under category (viii) of
13 subparagraph (b) of this paragraph, December 31, 2021, and if
14 approved after the effective date of P.L.2017, c.59, shall submit a
15 temporary certificate of occupancy for the project no later than
16 December 31, 2023 provided that the municipality in which the
17 project is located shall have submitted to the chief executive officer
18 of the authority a letter of support identifying up to six projects
19 prior to July 1, 2018. The letter of support is to contain a project
20 scope for each of the projects and may be supplemented or amended
21 from time to time until July 1, 2019 or, in the case of a project
22 restricted under category (viii) of subparagraph (b) of this
23 paragraph, December 31, 2021. Applications for tax credits
24 pursuant to this subsection relating to an ancillary infrastructure
25 project or infrastructure improvement in the public right-of-way, or
26 both, shall be accompanied with a letter of support relating to the
27 project or improvement by the governing body or agency in which
28 the project is located. Credits awarded to a developer pursuant to
29 this subsection shall be subject to the same financial and related
30 analysis by the authority, the same term of the grant, and the same
31 mechanism for administering the credits, and shall be utilized or
32 transferred by the developer as if the credits had been awarded to
33 the developer pursuant to section 35 of P.L.2009, c.90 (C.34:1B-
34 209.3) for qualified residential projects thereunder. No portion of
35 the revenues pledged pursuant to the "New Jersey Economic
36 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.)
37 shall be subject to withholding or retainage for adjustment, in the
38 event the developer or taxpayer waives its rights to claim a refund
39 thereof.

40 (i) The developer of a project seeking an award of credits for a
41 project restricted under **【subparagraphs (f) and】** subparagraph (g)
42 of this paragraph shall submit an incentive grant application prior to
43 December 31, 2021, and if approved after the effective date of
44 P.L.2020, c.156 (C.34:1B-269 et al.), shall submit a temporary
45 certificate of occupancy for the project no later than December 31,
46 2024. In addition to the requirements for an award of credits set
47 forth in P.L.2009, c.90 (C.52:27D-489a et al.), a developer shall be
48 eligible to receive an award of credits for a project restricted under

1 **【subparagraphs (f) and】** subparagraph (g) of this paragraph only if
2 the developer demonstrates to the authority at that time of
3 application that: (i) the project shall comply with minimum
4 environmental and sustainability standards; (ii) the project shall
5 comply with the authority's affirmative action requirements,
6 adopted pursuant to section 4 of P.L.1979, c.303 (C.34:1B-5.4); (iii)
7 each worker employed by the developer or subcontractor of a
8 developer working at the project shall be paid not less than \$15 per
9 hour or 120 percent of the minimum wage fixed under subsection a.
10 of section 5 of P.L.1966, c.113 (C.34:11-56a4), whichever is
11 higher; and (iv) during the eligibility period, each worker employed
12 to perform construction work or building services work at the
13 project shall be paid not less than the prevailing wage rate for the
14 worker's craft or trade, as determined by the Commissioner of
15 Labor and Workforce Development pursuant to P.L.1963, c.150
16 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.).

17 Prior to the board considering an application submitted by a
18 developer for a project restricted under **【subparagraphs (f) and】**
19 subparagraph (g) of this paragraph, the authority shall confirm with
20 the Department of Labor and Workforce Development, the
21 Department of Environmental Protection, and the Department of the
22 Treasury **【shall each report to the chief executive officer of the**
23 **authority】** whether the developer is in substantial good standing
24 with the respective department, or has entered into an agreement
25 with the respective department that includes a practical corrective
26 action plan for the developer. The developer, or an authorized
27 agent of the developer, shall certify to the authority that all factual
28 assertions made in the developer's application are true under the
29 penalty of perjury. If at any time the authority determines that the
30 developer made a material misrepresentation on the developer's
31 application, the developer shall forfeit the award of credits and the
32 authority shall recapture any tax credits awarded to the developer.

33 (4) A developer may apply to the Director of the Division of
34 Taxation in the Department of the Treasury and the chief executive
35 officer of the authority for a tax credit transfer certificate, if the
36 developer is awarded a tax credit pursuant to paragraph (2) or
37 paragraph (3) of this subsection, covering one or more years, in lieu
38 of the developer being allowed any amount of the credit against the
39 tax liability of the developer. The tax credit transfer certificate,
40 upon receipt thereof by the developer from the director and the
41 chief executive officer of the authority, may be sold or assigned, in
42 full or in part, to any other person who may have a tax liability
43 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2
44 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1
45 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The certificate
46 provided to the developer shall include a statement waiving the
47 developer's right to claim that amount of the credit against the taxes
48 that the developer has elected to sell or assign. The sale or

1 assignment of any amount of a tax credit transfer certificate allowed
2 under this paragraph shall not be exchanged for consideration
3 received by the developer of less than 75 percent of the transferred
4 credit amount before considering any further discounting to present
5 value that may be permitted. Any amount of a tax credit transfer
6 certificate used by a purchaser or assignee against a tax liability
7 shall be subject to the same limitations and conditions that apply to
8 the use of the credit by the developer who originally applied for and
9 was allowed the credit.

10 c. All administrative costs associated with the incentive grant
11 shall be assessed to the applicant and be retained by the State
12 Treasurer from the annual incentive grant payments.

13 d. The incremental revenue for the revenues listed in
14 subsection a. of this section shall be calculated as the difference
15 between the amount collected in any fiscal year from any eligible
16 revenue source included in the State redevelopment incentive grant
17 agreement, less the revenue increment base for that eligible
18 revenue.

19 e. The municipality is authorized to collect any information
20 necessary to facilitate grants under this program and remit that
21 information in order to assist in the calculation of incremental
22 revenue.

23 (cf: P.L.2020, c.156, s.123)

24

25 56. Section 8 of P.L.2009, c.90 (C.52:27D-489h) is amended to
26 read as follows:

27 8. a. (1) The authority, in consultation with the State
28 Treasurer, shall promulgate an incentive grant application form and
29 procedure for the Economic Redevelopment and Growth Grant
30 program.

31 (2) (a) The Local Finance Board, in consultation with the
32 authority, shall develop a minimum standard incentive grant
33 application form for municipal Economic Redevelopment and
34 Growth Grant programs.

35 (b) Through regulation, the authority shall establish standards
36 for redevelopment projects seeking State or local incentive grants
37 based on the green building manual prepared by the Commissioner
38 of Community Affairs pursuant to section 1 of P.L.2007, c.132
39 (C.52:27D-130.6), regarding the use of renewable energy, energy-
40 efficient technology, and non-renewable resources in order to
41 reduce environmental degradation and encourage long-term cost
42 reduction.

43 b. Within each incentive grant application, a developer shall
44 certify information concerning:

45 (1) the status of control of the entire redevelopment project site;

46 (2) all required State and federal government permits that have
47 been issued for the redevelopment project, or will be issued pending
48 resolution of financing issues;

1 (3) local planning and zoning board approvals, as required, for
2 the redevelopment project;

3 (4) estimates of the revenue increment base, the eligible
4 revenues for the project, and the assumptions upon which those
5 estimates are made.

6 c. (1) With regard to State tax revenues proposed to be
7 pledged for an incentive grant the authority and the State Treasurer
8 shall review the project costs, evaluate and validate the project
9 financing gap estimated by the developer, and conduct a State fiscal
10 impact analysis to ensure that the overall public assistance provided
11 to the project, except with regards to a qualified residential project,
12 a mixed use parking project, or a project involving university
13 infrastructure, will result in net benefits to the State including,
14 without limitation, both direct and indirect economic benefits and
15 non-financial community revitalization objectives, including but not
16 limited to, the promotion of the use of public transportation in the
17 case of the ancillary infrastructure project portion of any transit
18 project.

19 (2) With regard to local incremental revenues proposed to be
20 pledged for an incentive grant the authority and the Local Finance
21 Board shall review the project costs, and except with respect to an
22 application by a municipal redeveloper, evaluate and validate the
23 project financing gap projected by the developer, and conduct a
24 local fiscal impact analysis to ensure that the overall public
25 assistance provided to the project, except with regards to a qualified
26 residential project, a mixed use parking project, or a project
27 involving university infrastructure, will result in net benefits to the
28 municipality wherein the redevelopment project is located
29 including, without limitation, both direct and indirect economic
30 benefits and non-financial community revitalization objectives,
31 including but not limited to, the promotion of the use of public
32 transportation in the case of the ancillary infrastructure project
33 portion of any transit project.

34 (3) The authority, State Treasurer, and Local Finance Board
35 may act cooperatively to administer and review applications, and
36 shall consult with the Office of State Planning on matters
37 concerning State, regional, and local development and planning
38 strategies.

39 (4) The costs of the aforementioned reviews shall be assessed to
40 the applicant as an application fee, except for applications
41 submitted on or after January 1, 2018, but before June 30, **[2018]**
42 2019, which are amended after the effective date of P.L.2020, c.156
43 (C.34:1B-269 et al.), the authority may waive fees.

44 (5) A developer who has already applied for an incentive grant
45 award prior to the effective date of the "New Jersey Economic
46 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.),
47 but who has not yet been approved for the grant, or has not
48 executed an agreement with the authority, may proceed under that

1 application or seek to amend the application or reapply for an
2 incentive grant award for the same project or any part thereof for
3 the purpose of availing himself or herself of any more favorable
4 provisions of the Economic Redevelopment and Growth Grant
5 program established pursuant to the "New Jersey Economic
6 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.),
7 except that projects with costs exceeding \$200,000,000 shall not be
8 eligible for revised percentage caps under subsection d. of section
9 19 of P.L.2013, c.161 (C.52:27D-489i).
10 (cf: P.L.2020, c.156, s.124)

11

12 57. Section 6 of P.L.2011, c.149 (C.34:1B-247) is amended to
13 read as follows:

14 6. a. (1) The combined value of all credits approved by the
15 authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) and
16 P.L.2011, c.149 (C.34:1B-242 et al.) prior to December 31, 2013
17 shall not exceed \$1,750,000,000, except as may be increased by the
18 authority as set forth in paragraph (5) of subsection a. of section 35
19 of P.L.2009, c.90 (C.34:1B-209.3). Following the enactment of the
20 "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161
21 (C.52:27D-489p et al.), there shall be no monetary cap on the value
22 of credits approved by the authority attributable to the program
23 pursuant to the "New Jersey Economic Opportunity Act of 2013,"
24 P.L.2013, c.161 (C.52:27D-489p et al.).

25 (2) (Deleted by amendment, P.L.2013, c.161)

26 (3) (Deleted by amendment, P.L.2013, c.161)

27 (4) (Deleted by amendment, P.L.2013, c.161)

28 (5) (Deleted by amendment, P.L.2013, c.161)

29 b. (1) A business shall submit an application for tax credits prior
30 to July 1, 2019. The authority shall not approve an application for
31 tax credits unless the application was submitted prior to July 1,
32 2019.

33 (2) (a) A business shall submit its documentation indicating
34 that it has met the capital investment and employment requirements
35 and all conditions of approvals specified in the incentive agreement
36 for certification of its tax credit amount, to the authority's
37 satisfaction, within three years following the date of approval of its
38 application by the authority. The authority shall have the discretion
39 to grant two six-month extensions of this deadline. If the authority
40 accepts the documentation, the authority shall request that the
41 Division of Taxation in the Department of the Treasury issue a tax
42 credit based on the approved documentation to be used by the
43 business during the eligibility period. Except as provided in
44 subparagraphs (b) and (c) of this paragraph, in no event shall the
45 incentive effective date occur later than four years following the
46 date of approval of an application by the authority.

47 (b) As of the effective date of P.L.2017, c.314, a business which
48 applied for the tax credit prior to July 1, 2014 under P.L.2011,

1 c.149 (C.34:1B-242 et al.), shall submit its documentation to the
2 authority no later than July 28, 2019, indicating that it has met the
3 capital investment and employment requirements specified in the
4 incentive agreement for certification of its tax credit amount.

5 (c) If the Governor declares an emergency, then the chief
6 executive officer of the authority shall have the discretion to grant
7 an extension for the duration of the emergency and the board of the
8 authority, upon recommendation of the chief executive officer, may
9 grant two additional six-month extensions; provided that (i) the
10 extensions are due to the economic disruption caused by the
11 emergency; (ii) the project is delayed due to unforeseeable acts
12 related to the project beyond the eligible business's control and
13 without its fault or negligence; (iii) the eligible business is using
14 best efforts, with all due diligence, to proceed with the completion
15 of the project and the submission of the certification; and (iv) the
16 eligible business has made, and continues to make, all reasonable
17 efforts to prevent, avoid, mitigate, and overcome the delay.

18 (3) Full-time employment for an accounting or privilege period
19 shall be determined as the average of the monthly full-time
20 employment for the period.

21 (4) A business seeking a credit for a mega project shall apply for
22 the credit within four years after the effective date of the "New
23 Jersey Economic Opportunity Act of 2013," P.L.2013, c.161
24 (C.52:27D-489p et al.).

25 c. (1) In conducting its annual review, the authority may
26 require a business to submit any information determined by the
27 authority to be necessary and relevant to its review.

28 The credit amount for any tax period for which the
29 documentation of a business's credit amount remains uncertified as
30 of a date three years after the closing date of that period shall be
31 forfeited, although credit amounts for the remainder of the years of
32 the eligibility period shall remain available to it.

33 The credit amount may be taken by the tax certificate holder for
34 the tax period for which it was issued or may be carried forward for
35 use by the tax certificate holder in any of the next 20 successive tax
36 periods, and shall expire thereafter. The tax certificate holder may
37 transfer the tax credit amount on or after the date of issuance or at
38 any time within three years of the date of issuance for use by the
39 transferee in the tax period for which it was issued or in any of the
40 next 20 successive tax periods. Notwithstanding the foregoing, no
41 more than the amount of tax credits equal to the total credit amount
42 divided by the duration of the eligibility period in years may be
43 taken in any tax period.

44 A business may elect to suspend its obligations for the 2020 tax
45 period and, if the public health emergency or state of emergency
46 declared due to the COVID-19 pandemic extends past March 2021,
47 the 2021 tax period, provided that the business shall make such
48 election in writing to the authority before the date the annual report

1 is due and such suspension shall extend the term of the eligibility
2 period by a corresponding amount of time. The authority shall
3 amend the incentive agreement, and the business shall execute the
4 amended incentive agreement within the time period provided by
5 the authority. The amended incentive agreement shall provide that
6 the failure to submit the annual report due to the suspension shall
7 not be a forfeiture or an uncertified tax period.

8 (2) Credits granted to a partnership shall be passed through to
9 the partners, members, or owners, respectively, pro-rata or pursuant
10 to an executed agreement among the partners, members, or owners
11 documenting an alternate distribution method provided to the
12 Director of the Division of Taxation in the Department of the
13 Treasury accompanied by any additional information as the director
14 may require.

15 (3) The amount of credit allowed may be applied against the tax
16 liability otherwise due pursuant to section 5 of P.L.1945, c.162
17 (C.54:10A-5), pursuant to sections 2 and 3 of P.L.1945, c.132
18 (C.54:18A-2 and C.54:18A-3), pursuant to section 1 of P.L.1950,
19 c.231 (C.17:32-15), or pursuant to N.J.S.17B:23-5.

20 (4) In order to respond to the profoundly negative impact of the
21 COVID-19 pandemic on the State's economy and finances, the
22 authority may request a tax certificate holder, at the tax certificate
23 holder's discretion, to defer the application of a credit amount
24 allowed pursuant to this section to a later tax period. Upon request,
25 the authority and the tax certificate holder shall negotiate the terms
26 of the deferral, which shall hold the certificate holder harmless,
27 which will be made in the incentive agreement or as an addendum
28 to the incentive agreement.

29 d. (1) If, in any tax period, the business reduces the total number
30 of full-time employees in its Statewide workforce by more than 20
31 percent from the number of full-time employees in its Statewide
32 workforce in the last tax period prior to the credit amount approval
33 under section 3 of P.L.2011, c.149 (C.34:1B-244), then the business
34 shall forfeit its credit amount for that tax period and each
35 subsequent tax period, until the first tax period for which
36 documentation demonstrating the restoration of the business's
37 Statewide workforce to the threshold levels required by the
38 incentive agreement has been reviewed and approved by the
39 authority, for which tax period and each subsequent tax period the
40 full amount of the credit shall be allowed.

41 (2) If, in any tax period, the number of full-time employees
42 employed by the business at the qualified business facility located
43 within a qualified incentive area drops below 80 percent of the
44 number of new and retained full-time jobs specified in the incentive
45 agreement, then the business shall forfeit its credit amount for that
46 tax period and each subsequent tax period, until the first tax period
47 for which documentation demonstrating the restoration of the
48 number of full-time employees employed by the business at the

1 qualified business facility to 80 percent of the number of jobs
2 specified in the incentive agreement.

3 (3) (a) If the qualified business facility is sold by the owner in
4 whole or in part during the eligibility period, the new owner shall
5 not acquire the capital investment of the seller and the seller shall
6 forfeit all credits for the tax period in which the sale occurs and all
7 subsequent tax periods, provided however that any credits of the
8 business shall remain unaffected.

9 (b) In connection with a regional distribution facility of
10 foodstuffs, the business entity or entities which own or lease the
11 facility shall qualify as a business regardless of: (i) the type of the
12 business entity or entities which own or lease the facility; (ii) the
13 ownership or leasing of the facility by more than one business
14 entity; or (iii) the ownership of the business entity or entities which
15 own or lease the facility. The ownership or leasing, whether by
16 members, shareholders, partners, or other owners of the business
17 entity or entities, shall be treated as ownership or leasing by
18 affiliates. The members, shareholders, partners, or other ownership
19 or leasing participants and others that are tenants in the facility shall
20 be treated as affiliates for the purpose of counting the full-time
21 employees and capital investments in the facility. The business
22 entity or entities may distribute credits to members, shareholders,
23 partners, or other ownership or leasing participants in accordance
24 with their respective interests. If the business entity or entities or
25 their members, shareholders, partners, or other ownership or leasing
26 participants lease space in the facility to members, shareholders,
27 partners, or other ownership or leasing participants or others as
28 tenants in the facility, the leases shall be treated as a lease to an
29 affiliate, and the business entity or entities shall not be subject to
30 forfeiture of the credits. For the purposes of this section, leasing
31 shall include subleasing and tenants shall include subtenants.

32 (4) (a) For a project located within a Garden State Growth Zone,
33 if, in any tax period, the number of full-time employees employed
34 by the business at the qualified business facility located within a
35 qualified incentive area increases above the number of full-time
36 employees specified in the incentive agreement, then the business
37 shall be entitled to an increased base credit amount for that tax
38 period and each subsequent tax period, for each additional full-time
39 employee added above the number of full-time employees specified
40 in the incentive agreement, until the first tax period for which
41 documentation demonstrating a reduction of the number of full-time
42 employees employed by the business at the qualified business
43 facility, at which time the tax credit amount will be adjusted
44 accordingly pursuant to this section.

45 (b) For a project located within a Garden State Growth Zone
46 which qualifies under the "Municipal Rehabilitation and Economic
47 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or which
48 contains a Tourism District as established pursuant to section 5 of

1 P.L.2011, c.18 (C.5:12-219) and regulated by the Casino
2 Reinvestment Development Authority, and which qualifies for a tax
3 credit pursuant to subsubparagraph (ii) of subparagraphs (a) through
4 (e) of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149
5 (C.34:1B-246), if, in any tax period the number of full-time
6 employees employed by the business at the qualified business
7 facility located within a qualified incentive area increases above the
8 number of full-time employees specified in the incentive agreement
9 such that the business shall then meet the minimum number of
10 employees required in subparagraph (b), (c), (d), or (e) of paragraph
11 (6) of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246),
12 then the authority shall recalculate the total tax credit amount per
13 full-time job by using the certified capital investment of the project
14 allowable under the applicable subsubparagraph and the number of
15 full-time jobs certified on the date of the recalculation and applying
16 those numbers to subparagraph (b), (c), (d), or (e) of paragraph (6)
17 of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246),
18 until the first tax period for which documentation demonstrating a
19 reduction of the number of full-time employees employed by the
20 business at the qualified business facility, at which time the tax
21 credit amount shall be adjusted accordingly pursuant to this section.

22 e. The authority shall not enter into an incentive agreement
23 with a business that has previously received incentives pursuant to
24 the "Business Retention and Relocation Assistance Act," P.L.1996,
25 c.25 (C.34:1B-112 et seq.), the "Business Employment Incentive
26 Program Act," P.L.1996, c.26 (C.34:1B-124 et al.), or any other
27 program administered by the authority unless:

28 (1) the business has satisfied all of its obligations underlying the
29 previous award of incentives or is compliant with section 4 of
30 P.L.2011, c.149 (C.34:1B-245); or

31 (2) the capital investment incurred and new or retained full-time
32 jobs pledged by the business in the new incentive agreement are
33 separate and apart from any capital investment or jobs underlying
34 the previous award of incentives.

35 f. A business which has already applied for a tax credit
36 incentive award prior to the effective date of the "New Jersey
37 Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-
38 489p et al.), but who has not yet been approved for the tax credits,
39 or has not executed an agreement with the authority, may proceed
40 under that application or seek to amend the application or reapply
41 for a tax credit incentive award for the same project or any part
42 thereof for the purpose of availing itself of any more favorable
43 provisions of the program.

44 g. A business that has entered into an incentive agreement may
45 request before December 31, 2022 to terminate the incentive
46 agreement due to the COVID-19 public health emergency; provided
47 that the business shall submit a certification from the business's
48 chief executive officer or equivalent officer stating that the

1 termination is due to the public health emergency and describing
2 the impact of the public health emergency on the business. All
3 credits for the tax period in which the termination occurs and all
4 subsequent tax periods shall be forfeited, provided however that any
5 credits of the business shall remain unaffected.

6 h. A business that has entered into an incentive agreement may
7 request, before December 31, 2021, to reduce the number of new or
8 retained full-time jobs specified in the incentive agreement based
9 on a certification of the business of the eligible positions at the
10 qualified business facility commencing with the 2020 tax period
11 and, at the discretion of the business, whether the reduction shall
12 continue for each subsequent tax period remaining in the eligibility
13 period, provided that the business maintains the minimum number
14 of new or retained full-time jobs required to be eligible pursuant to
15 subsection c. of section 3 of P.L.2011, c.149 (C.34:1B-244). The
16 reduction in employment shall first apply to the number of new full-
17 time employees, and then shall apply to the number of retained full-
18 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.156, s.108)

26
27 58. Section 1 of P.L.2018, c.56 (C.54:10A-5.39b) is amended to
28 read as follows:

29 1. a. (1) A taxpayer, upon approval of an application to the
30 authority and the director, shall be allowed a credit against the tax
31 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in
32 an amount equal to **【30】 35** percent of the qualified film production
33 expenses of the taxpayer during a privilege period commencing on
34 or after July 1, 2018 but before July 1, **【2028】 2034**, provided that:

35 (a) at least 60 percent of the total film production expenses,
36 exclusive of post-production costs, of the taxpayer are incurred for
37 services performed, and goods purchased through vendors
38 authorized to do business, in New Jersey, or the qualified film
39 production expenses of the taxpayer during the privilege period for
40 services performed, and goods purchased, through vendors
41 authorized to do business in New Jersey, exceed \$1,000,000 per
42 production;

43 (b) principal photography of the film commences within **【the**
44 **earlier of】** 180 days from the date of the original application for the
45 tax credit **【,** or 150 days from the date of approval of the application
46 for the tax credit**】**;

1 (c) the film includes, when determined to be appropriate by the
2 commission, at no cost to the State, marketing materials promoting
3 this State as a film and entertainment production destination, which
4 materials shall include placement of a "Filmed in New Jersey" or
5 "Produced in New Jersey" statement, or an approved logo approved
6 by the commission, in the end credits of the film;

7 (d) the taxpayer submits a tax credit verification report prepared
8 by an independent certified public accountant licensed in this State
9 in accordance with subsection f. of this section; and

10 (e) the taxpayer complies with the withholding requirements
11 provided for payments to loan out companies and independent
12 contractors in accordance with subsection g. of this section.

13 (2) Notwithstanding the provisions of paragraph (1) of
14 subsection a. of this section to the contrary, the tax credit allowed
15 pursuant to this subsection against the tax imposed pursuant to
16 section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount
17 equal to ~~【35】~~ 30 percent of the qualified film production expenses
18 of the taxpayer during a privilege period that are incurred for
19 services performed and tangible personal property purchased
20 **【through vendors whose primary place of business is located in**
21 **Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester,**
22 **Mercer or Salem County】** for use at a sound stage or other location
23 that is located in the State within a 30-mile radius of the
24 intersection of Eighth Avenue/Central Park West, Broadway, and
25 West 59th Street/Central Park South, New York, New York.

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
29 an amount equal to: 20 percent of the qualified digital media
30 content production expenses of the taxpayer during a privilege
31 period commencing on or after July 1, 2018 but before July 1,
32 **【2028】** 2034, 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
47 subsection b. of this section to the contrary, the tax credit allowed
48 pursuant to this subsection against the tax imposed pursuant to

1 section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount
2 equal to 25 percent of the qualified digital media content production
3 expenses of the taxpayer during a privilege period that are incurred
4 for services performed and tangible personal property purchased
5 through vendors whose primary place of business is located in
6 Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester,
7 Mercer, or Salem County.

8 c. No tax credit shall be allowed pursuant to this section for
9 any costs or expenses included in the calculation of any other tax
10 credit or exemption granted pursuant to a claim made on a tax
11 return filed with the director, or included in the calculation of an
12 award of business assistance or incentive, for a period of time that
13 coincides with the privilege period for which a tax credit authorized
14 pursuant to this section is allowed. The order of priority in which
15 the tax credit allowed pursuant to this section and any other tax
16 credits allowed by law may be taken shall be as prescribed by the
17 director. The amount of the tax credit applied under this section
18 against the tax imposed pursuant to section 5 of P.L.1945, c.162
19 (C.54:10A-5), for a privilege period, when taken together with any
20 other payments, credits, deductions, and adjustments allowed by
21 law shall not reduce the tax liability of the taxpayer to an amount
22 less than the statutory minimum provided in subsection (e) of
23 section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of the tax
24 credit otherwise allowable under this section which cannot be
25 applied for the privilege period due to the limitations of this
26 subsection or under other provisions of P.L.1945, c.162 (C.54:10A-
27 1 et seq.) may be carried forward, if necessary, to the seven
28 privilege periods following the privilege period for which the tax
29 credit was allowed.

30 d. 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 "Corporation
38 Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), or
39 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 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
44 to claim that amount of the tax credit against the tax imposed
45 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) that the
46 taxpayer has elected to sell or assign. The sale or assignment of any
47 amount of a tax credit transfer certificate allowed under this section
48 shall not be exchanged for consideration received by the taxpayer of

1 less than 75 percent of the transferred tax credit amount. Any
2 amount of a tax credit transfer certificate used by a purchaser or
3 assignee against a tax liability under P.L.1945, c.162 (C.54:10A-1
4 et seq.) shall be subject to the same limitations and conditions that
5 apply to the use of a tax credit pursuant to subsection c. of this
6 section. Any amount of a tax credit transfer certificate obtained by
7 a purchaser or assignee under subsection a. or subsection b. of this
8 section may be applied against the purchaser's or assignee's tax
9 liability under N.J.S.54A:1-1 et seq. and shall be subject to the
10 same limitations and conditions that apply to the use of a credit
11 pursuant to subsections c. and d. of section 2 of P.L.2018, c.56
12 (C.54A:4-12b).

13 e. (1) The value of tax credits, including tax credits allowed
14 through the granting of tax credit transfer certificates, approved by
15 the director and the authority pursuant to subsection a. of this
16 section and pursuant to subsection a. of section 2 of P.L.2018, c.56
17 (C.54A:4-12b) to taxpayers, other than New Jersey **【film】 studio**
18 partners and New Jersey film-lease partners, shall not exceed a
19 cumulative total of \$100,000,000 in fiscal year 2019 and in each
20 fiscal year thereafter prior to fiscal year **【2029】 2035** to apply
21 against the tax imposed pursuant to section 5 of P.L.1945, c.162
22 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey
23 Gross Income Tax Act," N.J.S.54A:1-1 et seq. In addition to the
24 \$100,000,000 limitation on the value of tax credits approved by the
25 director for New Jersey film-lease partners and the \$100,000,000
26 limitation on the value of tax credits approved by the director for
27 other taxpayers imposed by this paragraph, the value of tax credits,
28 including tax credits allowed through the granting of tax credit
29 transfer certificates, approved by the director and the authority
30 pursuant to subsection a. of this section and pursuant to subsection
31 a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey
32 **【film】 studio** partners shall not exceed a cumulative total of
33 \$100,000,000 in fiscal year 2021 and in each fiscal year thereafter
34 prior to fiscal year 2034 to apply against the tax imposed pursuant
35 to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed
36 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
37 et seq. Beginning in fiscal year 2025, in addition to the
38 \$100,000,000 made available for New Jersey studio partners
39 pursuant to this paragraph, up to an additional \$350,000,000 may be
40 made available annually, in the discretion of the authority, to New
41 Jersey studio partners for the award of tax credits, including tax
42 credits allowed through the granting of tax credit transfer
43 certificates, pursuant to subsection a. of this section and subsection
44 a. of section 2 of P.L.2018, c.56 (C.54A:4-12b), from the funds
45 made available pursuant to subparagraph (i) of paragraph (1) of
46 subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362). In
47 addition to the \$100,000,000 limitation on the value of tax credits
48 approved by the director for New Jersey **【film】 studio** partners and

1 the \$100,000,000 limitation on the value of tax credits approved by
2 the director for other taxpayers imposed by this paragraph, the
3 value of tax credits, including tax credits allowed through the
4 granting of tax credit transfer certificates, approved by the director
5 and the authority pursuant to subsection a. of this section and
6 pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-
7 12b) to New Jersey film-lease partners shall not exceed a
8 cumulative total of \$100,000,000 in fiscal year 2021 and in each
9 fiscal year thereafter prior to fiscal year 2034 to apply against the
10 tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5)
11 and the tax imposed pursuant to the "New Jersey Gross Income Tax
12 Act," N.J.S.54A:1-1 et seq. Approvals made to New Jersey studio
13 partners and New Jersey film-lease partners shall be subject to
14 award agreements with the authority detailing obligations of the
15 awardee and outcomes relating to events of default, including, but
16 not limited to, recapture, forfeiture, and termination. If in any
17 privilege period, beginning following a date determined by the
18 authority, a New Jersey film-lease partner's annual average of
19 qualified film production expenses falls below \$50,000,000, the
20 authority shall reduce by 20 percent any tax credit award for a film
21 for which final documentation pursuant to N.J.A.C.19:31-21.7(c)
22 has been submitted, until a privilege period when the annual
23 average of qualified film production expenses has been restored to
24 \$50,000,000. The authority shall establish a non-binding,
25 administrative pre-certification process for potentially eligible
26 projects.

27 If the cumulative total amount of tax credits, and tax credit
28 transfer certificates, allowed to taxpayers for privilege periods or
29 taxable years commencing during a single fiscal year under
30 subsection a. of this section and subsection a. of section 2 of
31 P.L.2018, c.56 (C.54A:4-12b) exceeds the amount of tax credits
32 available in that fiscal year, then taxpayers who have first applied
33 for and have not been allowed a tax credit or tax credit transfer
34 certificate amount for that reason shall be allowed, in the order in
35 which they have submitted an application, the amount of tax credit
36 or tax credit transfer certificate on the first day of the next
37 succeeding fiscal year in which tax credits and tax credit transfer
38 certificates under subsection a. of this section and subsection a. of
39 section 2 of P.L.2018, c.56 (C.54A:4-12b) are not in excess of the
40 amount of credits available.

41 Notwithstanding any provision of paragraph (1) of this
42 subsection to the contrary, for any fiscal year in which the amount
43 of tax credits approved pursuant to this paragraph is less than the
44 cumulative total amount of tax credits permitted to be approved in
45 that fiscal year, the authority shall certify the amount of the
46 remaining tax credits available for approval in that fiscal year, and
47 shall increase the cumulative total amount of tax credits permitted
48 to be approved for New Jersey studio partners 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
3 amount of tax credits that were previously approved, but that the
4 taxpayer is not able to redeem or transfer to another taxpayer under
5 this section, and shall increase the cumulative total amount of tax
6 credits permitted to be approved for New Jersey studio partners in
7 the subsequent fiscal year by the amount of tax credits previously
8 approved, but not subject to redemption or transfer.

9 (2) The value of tax credits, including tax credits allowed
10 through the granting of tax credit transfer certificates, approved by
11 the authority and the director pursuant to subsection b. of this
12 section and pursuant to subsection b. of section 2 of P.L.2018, c.56
13 (C.54A:4-12b) shall not exceed a cumulative total of \$10,000,000 in
14 fiscal year 2019 and in each fiscal year thereafter prior to fiscal year
15 **[2029]** 2035 to apply against the tax imposed pursuant to section 5
16 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to
17 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

18 If the total amount of tax credits and tax credit transfer
19 certificates allowed to taxpayers for privilege periods or taxable
20 years commencing during a single fiscal year under subsection b. of
21 this section and subsection b. of section 2 of P.L.2018, c.56
22 (C.54A:4-12.b) exceeds the amount of tax credits available in that
23 year, then taxpayers who have first applied for and have not been
24 allowed a tax credit or tax credit transfer certificate amount for that
25 reason shall be allowed, in the order in which they have submitted
26 an application, the amount of tax credit or tax credit transfer
27 certificate on the first day of the next succeeding fiscal year in
28 which tax credits and tax credit transfer certificates under
29 subsection b. of this section and subsection b. of section 2 of
30 P.L.2018, c.56 (C.54A:4-12.b) are not in excess of the amount of
31 credits available.

32 Notwithstanding any provision of this paragraph to the contrary,
33 for any fiscal year in which the amount of tax credits approved
34 pursuant to this paragraph is less than the cumulative total amount
35 of tax credits permitted to be approved in that fiscal year, the
36 authority shall certify the amount of the remaining tax credits
37 available for approval in that fiscal year, and shall increase the
38 cumulative total amount of tax credits permitted to be approved in
39 the subsequent fiscal year by the certified amount remaining from
40 the prior fiscal year. The authority shall also certify, for each fiscal
41 year, the amount of tax credits that were previously approved, but
42 that the taxpayer is not able to redeem or transfer to another
43 taxpayer under this section, and shall increase the cumulative total
44 amount of tax credits permitted to be approved in the subsequent
45 fiscal year by the amount of tax credits previously approved, but not
46 subject to redemption or transfer.

47 f. A taxpayer shall submit to the authority and the director a
48 report prepared by an independent certified public accountant

1 licensed in this State to verify the taxpayer's tax credit claim
2 following the completion of the production. The report shall be
3 prepared by the independent certified public accountant pursuant to
4 agreed upon procedures prescribed by the authority and the director,
5 and shall include such information and documentation as shall be
6 determined to be necessary by the authority and the director to
7 substantiate the qualified film production expenses or the qualified
8 digital media content production expenses of the taxpayer. A single
9 report with attachments deemed necessary by the authority shall be
10 submitted electronically. Upon receipt of the report, the authority
11 and the director shall review the findings of the independent
12 certified public accountant's report, and shall make a determination
13 as to the qualified film production expenses or the qualified digital
14 media content production expenses of the taxpayer. The authority's
15 and the director's review shall include, but shall not be limited to: a
16 review of all non-payroll qualified film production expense items
17 and non-payroll digital media content production expense items
18 over \$20,000; a review of 100 randomly selected non-payroll
19 qualified film production expense items and non-payroll digital
20 media content production expense items that are greater than
21 \$2,500, but less than \$20,000; a review of 100 randomly selected
22 non-payroll qualified film production expense items and non-
23 payroll digital media content production expense items that are less
24 than \$2,500; a review of the qualified wages for the 15 employees,
25 independent contractors, or loan-out companies with the highest
26 qualified wages; and a review of the qualified wages for 35
27 randomly selected employees, independent contractors, or loan-out
28 companies with qualified wages other than the 15 employees,
29 independent contractors, or loan-out companies with the highest
30 qualified wages. The taxpayer's qualified film production expenses
31 and digital media content production expenses shall be adjusted
32 based on any discrepancies identified for the reviewed non-payroll
33 qualified film production expense items, non-payroll digital media
34 content production expense items and qualified wages. The
35 taxpayer's qualified film production expenses and digital media
36 content production expenses also shall be adjusted based on the
37 projection of any discrepancies identified based on the review of
38 randomly selected expense items or wages pursuant to this
39 subsection to the extent that the discrepancies exceed one percent of
40 the total reviewed non-payroll qualified film production expense
41 items, non-payroll digital media content production expense items,
42 or qualified wages. The determination shall be provided in writing
43 to the taxpayer, and a copy of the written determination shall be
44 included in the filing of a return that includes a claim for a tax
45 credit allowed pursuant to this section.

46 g. A taxpayer shall withhold from each payment to a loan out
47 company or to an independent contractor an amount equal to 6.37
48 percent of the payment otherwise due. The amounts withheld shall

1 be deemed to be withholding of liability pursuant to the "New
2 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the
3 taxpayer shall be deemed to have the rights, duties, and
4 responsibilities of an employer pursuant to chapter 7 of Title 54A of
5 the New Jersey Statutes. The director shall allocate the amounts
6 withheld for a taxable year to the accounts of the individuals who
7 are employees of a loan out company in proportion to the
8 employee's payment by the loan out company in connection with a
9 trade, profession, or occupation carried on in this State or for the
10 rendition of personal services performed in this State during the
11 taxable year. A loan out company that reports its payments to
12 employees in connection with a trade, profession, or occupation
13 carried on in this State or for the rendition of personal services
14 performed in this State during a taxable year shall be relieved of its
15 duties and responsibilities as an employer pursuant to chapter 7 of
16 Title 54A of the New Jersey Statutes for the taxable year for any
17 payments relating to the payments on which the taxpayer withheld.

18 h. As used in this section:

19 "Authority" means the New Jersey Economic Development
20 Authority.

21 "Business assistance or incentive" means "business assistance or
22 incentive" as that term is defined pursuant to section 1 of P.L.2007,
23 c.101 (C.54:50-39).

24 "Commission" means the Motion Picture and Television
25 Development Commission.

26 "Digital media content" means any data or information that is
27 produced in digital form, including data or information created in
28 analog form but reformatted in digital form, text, graphics,
29 photographs, animation, sound, and video content. "Digital media
30 content" shall not mean content offerings generated by the end user
31 (including postings on electronic bulletin boards and chat rooms);
32 content offerings comprised primarily of local news, events,
33 weather, or local market reports; public service content; electronic
34 commerce platforms (such as retail and wholesale websites);
35 websites or content offerings that contain obscene material as
36 defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or
37 content that are produced or maintained primarily for private,
38 industrial, corporate, or institutional purposes; or digital media
39 content acquired or licensed by the taxpayer for distribution or
40 incorporation into the taxpayer's digital media content.

41 "Film" means a feature film, a television series, or a television
42 show of 22 minutes or more in length, intended for a national
43 audience, or a television series or a television show of 22 minutes
44 or more in length intended for a national or regional audience,
45 including, but not limited to, a game show, award show, or other
46 gala event filmed and produced at a nonprofit arts and cultural
47 venue receiving State funding. "Film" shall not include a
48 production featuring news, current events, weather, and market

1 reports or public programming, talk show, or sports event, a
2 production that solicits funds, a production containing obscene
3 material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-3, or a
4 production primarily for private, industrial, corporate, or
5 institutional purposes, or a reality show, except if the production
6 company of the reality show owns, leases, or otherwise occupies a
7 production facility of no less than 20,000 square feet of real
8 property for a minimum term of 24 months, and invests no less than
9 \$3,000,000 in such a facility within a designated enterprise zone
10 established pursuant to the "New Jersey Urban Enterprise Zones
11 Act," P.L.1983, c.303 (C.52:27H-60 et al.), or a UEZ-impacted
12 business district established pursuant to section 3 of P.L.2001,
13 c.347 (C.52:27H-66.2). "Film" shall not include an award show or
14 other gala event that is not filmed and produced at a nonprofit arts
15 and cultural venue receiving State funding.

16 "Full-time or full-time equivalent employee" means an individual
17 employed by the taxpayer for consideration for at least 35 hours a
18 week, or who renders any other standard of service generally
19 accepted by custom or practice as full-time or full-time equivalent
20 employment, whose wages are subject to withholding as provided in
21 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or
22 who is a partner of a taxpayer, who works for the partnership for at
23 least 35 hours a week, or who renders any other standard of service
24 generally accepted by custom or practice as full-time or full-time
25 equivalent employment, and whose distributive share of income,
26 gain, loss, or deduction, or whose guaranteed payments, or any
27 combination thereof, is subject to the payment of estimated taxes, as
28 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
29 et seq. "Full-time or full-time equivalent employee" shall not
30 include an individual who works as an independent contractor or on
31 a consulting basis for the taxpayer.

32 "Highly compensated individual" means an individual who
33 directly or indirectly receives compensation in excess of \$500,000
34 for the performance of services used directly in a production. An
35 individual receives compensation indirectly when the taxpayer pays
36 a loan out company that, in turn, pays the individual for the
37 performance of services.

38 "Incurred in New Jersey" means, for any application submitted
39 after the effective date of P.L.2018, c.56 (C.54:10A-5.39b et al.),
40 pursuant to which a tax credit has not been allowed prior to the
41 effective date of P.L. , c. (pending before the Legislature as this
42 bill), service performed within New Jersey and tangible personal
43 property used or consumed in New Jersey. A service is performed
44 in New Jersey to the extent that the individual performing the
45 service is physically located in New Jersey while performing the
46 service. Notwithstanding where the property is delivered or
47 acquired, rented tangible property is used or consumed in New
48 Jersey to the extent that the property is located in New Jersey

1 during its use or consumption and is rented from a vendor
2 authorized to do business in New Jersey or the film production
3 company provides to the authority the vendor's information in a
4 form and manner prescribed by the authority. Purchased tangible
5 property is not used and consumed in New Jersey unless it is
6 purchased from a vendor authorized to do business in New Jersey
7 and is delivered to or acquired within New Jersey; provided,
8 however, that if a production is also located in another jurisdiction,
9 the purchased tangible property is used and consumed in New
10 Jersey if the acquisition and delivery of purchased tangible property
11 is located in either New Jersey or another jurisdiction where the
12 production takes place.

13 "Independent contractor" means an individual treated as an
14 independent contractor for federal and State tax purposes who is
15 contracted with by the taxpayer for the performance of services
16 used directly in a production.

17 "Loan out company" means a personal service corporation or
18 other entity that is contracted with by the taxpayer to provide
19 specified individual personnel, such as artists, crew, actors,
20 producers, or directors for the performance of services used directly
21 in a production. "Loan out company" shall not include entities
22 contracted with by the taxpayer to provide goods or ancillary
23 contractor services such as catering, construction, trailers,
24 equipment, or transportation.

25 **["New Jersey film partner" means a film production company**
26 **that has made a commitment to produce films or commercial**
27 **audiovisual products in New Jersey and has developed, purchased,**
28 **or executed a 10-year contract to lease a production facility of**
29 **250,000 square feet or more as a "transformative project" pursuant**
30 **to section 65 of P.L.2020, c.156 (C.34:1B-333). No more than five**
31 **film production companies may be designated as a New Jersey film**
32 **partner.】**

33 "New Jersey film-lease partner" means a taxpayer, including any
34 taxpayer that is a member of a combined group under P.L.2018,
35 c.131 (C.54:10A-4.11), that has made a commitment to lease or
36 acquire a New Jersey production facility with an aggregate square
37 footage of at least 50,000 square feet, which includes a sound stage
38 and production support space such as production offices or a
39 backlot, for a period of five or more successive years and commits
40 to spend, on a separate-entity basis or in the aggregate with other
41 members of the taxpayer's combined group, an annual average of
42 \$50,000,000 of qualified film production expenses over the period
43 of at least five but not to exceed 10 years.

44 "New Jersey studio partner" means a film production company
45 that has made a commitment to produce films or commercial
46 audiovisual products in New Jersey and has developed, purchased,
47 or executed a 10-year contract to lease a production facility of
48 250,000 square feet or more as a "transformative project" pursuant

1 to section 65 of P.L.2020, c.156 (C.34:1B-333). No more than
2 three film production companies may be designated as a New Jersey
3 studio partner.

4 "Partnership" means an entity classified as a partnership for
5 federal income tax purposes.

6 "Post-production costs" means the costs of the phase of
7 production of a film that follows principal photography, in which
8 raw footage is cut and assembled into a finished film with sound
9 synchronization and visual effects.

10 "Pre-production costs" means the costs of the phase of
11 production of a film that precedes principal photography, in which a
12 detailed schedule and budget for the production is prepared, the
13 script and location is finalized, and contracts with vendors are
14 negotiated.

15 "Qualified digital media content production expenses" means an
16 expense incurred in New Jersey for the production of digital media
17 content. "Qualified digital media content production expenses"
18 shall include but not be limited to: wages and salaries of individuals
19 employed in the production of digital media content on which the
20 tax imposed by the "New Jersey Gross Income Tax Act,"
21 N.J.S.54A:1-1 et seq. has been paid or is due; and the costs of
22 computer software and hardware, data processing, visualization
23 technologies, sound synchronization, editing, and the rental of
24 facilities and equipment. Payment made to a loan out company or
25 to an independent contractor shall not be deemed a "qualified digital
26 media content production expense" unless the payment is made in
27 connection with a trade, profession, or occupation carried on in this
28 State or for the rendition of personal services performed in this
29 State and the taxpayer has made the withholding required pursuant
30 to subsection g. of this section. "Qualified digital media content
31 production expenses" shall not include expenses incurred in
32 marketing, promotion, or advertising digital media or other costs
33 not directly related to the production of digital media content.
34 Costs related to the acquisition or licensing of digital media content
35 by the taxpayer for distribution or incorporation into the taxpayer's
36 digital media content shall not be deemed "qualified digital media
37 content production expenses."

38 "Qualified film production expenses" means an expense incurred
39 in New Jersey for the production of a film including pre-production
40 costs and post-production costs incurred in New Jersey. "Qualified
41 film production expenses" shall include but not be limited to:
42 wages and salaries of individuals employed in the production of a
43 film on which the tax imposed by the "New Jersey Gross Income
44 Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; and the
45 costs for tangible personal property used, and services performed,
46 directly and exclusively in the production of a film, such as
47 expenditures for film production facilities, props, makeup,
48 wardrobe, film processing, camera, sound recording, set

1 construction, lighting, shooting, editing, and meals. Payment made
2 to a loan out company or to an independent contractor shall not be
3 deemed a "qualified film production expense" unless the payment is
4 made in connection with a trade, profession, or occupation carried
5 on in this State or for the rendition of personal services performed
6 in this State and the taxpayer has made the withholding required
7 pursuant to subsection g. of this section. "Qualified film production
8 expenses" shall not include: expenses incurred in marketing or
9 advertising a film; and payment in excess of \$500,000 to a highly
10 compensated individual for costs for a story, script, or scenario used
11 in the production of a film and wages or salaries or other
12 compensation for writers, directors, including music directors,
13 producers, and performers, other than background actors with no
14 scripted lines, except as follows:

15 (1) for a New Jersey **【film】** studio partner that incurs more than
16 \$15,000,000, but less than \$50,000,000, in qualified film production
17 expenses in the State, an amount, not to exceed \$15,000,000, of the
18 wages or salaries or other compensation for writers, directors,
19 including music directors, producers, and performers, other than
20 background actors with no scripted lines, shall constitute qualified
21 film production expenses;

22 (2) for a New Jersey **【film】** studio partner that incurs
23 \$50,000,000 or more, but less than \$100,000,000, in qualified film
24 production expenses in the State, an amount, not to exceed
25 \$25,000,000, of the wages or salaries or other compensation for
26 writers, directors, including music directors, producers, and
27 performers, other than background actors with no scripted lines,
28 shall constitute qualified film production expenses;

29 (3) for a New Jersey **【film】** studio partner that incurs
30 \$100,000,000 or more, but less than \$150,000,000, in qualified film
31 production expenses in the State, an amount, not to exceed
32 \$40,000,000, of the wages or salaries or other compensation for
33 writers, directors, including music directors, producers, and
34 performers, other than background actors with no scripted lines,
35 shall constitute qualified film production expenses; and

36 (4) for a New Jersey **【film】** studio partner that incurs
37 \$150,000,000 or more in qualified film production expenses in the
38 State, an amount, not to exceed \$60,000,000, of the wages or
39 salaries or other compensation for writers, directors, including
40 music directors, producers, and performers, other than background
41 actors with no scripted lines, shall constitute qualified film
42 production expenses.

43 "Total digital media content production expenses" means costs
44 for services performed and property used or consumed in the
45 production of digital media content.

46 "Total film production expenses" means costs for services
47 performed and tangible personal property used or consumed in the
48 production of a film.

1 i. A business that is not a "taxpayer" as defined and used in the
2 "Corporation Business Tax Act (1945)," P.L.1945, c.162
3 (C.54:10A-1 et seq.) and therefore is not directly allowed a credit
4 under this section, but is a business entity that is classified as a
5 partnership for federal income tax purposes and is ultimately owned
6 by a business entity that is a "corporation" as defined in subsection
7 (c) of section 4 of P.L.1945, c.162 (C.54:10A-4), or a limited
8 liability company formed under the "Revised Uniform Limited
9 Liability Company Act," P.L.2012, c.50 (C.42:2C-1 et seq.), or
10 qualified to do business in this State as a foreign limited liability
11 company, with one member, and is wholly owned by the business
12 entity that is a "corporation" as defined in subsection (c) of section
13 4 of P.L.1945, c.162 (C.54:10A-4), but otherwise meets all other
14 requirements of this section, shall be considered an eligible
15 applicant and "taxpayer" as that term is used in this section.
16 (cf: P.L.2020, c.156, s.110)

17

18 59. Section 2 of P.L.2018, c.56 (C.54A:4-12b) is amended to
19 read as follows:

20 2. a. (1) A taxpayer, upon approval of an application to the
21 authority and the director, shall be allowed a credit against the tax
22 otherwise due for the taxable year under the "New Jersey Gross
23 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to **[30]**
24 35 percent of the qualified film production expenses of the taxpayer
25 during a taxable year commencing on or after July 1, 2018 but
26 before July 1, **[2028]** 2034, provided that:

27 (a) at least 60 percent of the total film production expenses,
28 exclusive of post-production costs, of the taxpayer are incurred for
29 services performed, and goods purchased through vendors
30 authorized to do business, in New Jersey, or the qualified film
31 production expenses of the taxpayer during the taxable year for
32 services performed, and goods purchased, through vendors
33 authorized to do business in New Jersey, exceed \$1,000,000 per
34 production;

35 (b) principal photography of the film commences within **[the**
36 **earlier of]** 180 days from the date of the original application for the
37 tax credit **[, or 150 days from the date of approval of the application**
38 **for the tax credit]**;

39 (c) the film includes, when determined to be appropriate by the
40 commission, at no cost to the State, marketing materials promoting
41 this State as a film and entertainment production destination, which
42 materials shall include placement of a "Filmed in New Jersey" or
43 "Produced in New Jersey" statement, or an appropriate logo
44 approved by the commission, in the end credits of the film;

45 (d) the taxpayer submits a tax credit verification report prepared
46 by an independent certified public accountant licensed in this State
47 in accordance with subsection g. 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 h. 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 otherwise due for the
7 taxable year under the "New Jersey Gross Income Tax Act,"
8 N.J.S.54A:1-1 et seq., shall be in an amount equal to **[35]** 30
9 percent of the qualified film production expenses of the taxpayer
10 during a taxable year that are incurred for services performed and
11 tangible personal property purchased **[through vendors whose**
12 **primary place of business is located in Atlantic, Burlington,**
13 **Camden, Cape May, Cumberland, Gloucester, Mercer, or Salem**
14 **County]** for use at a sound stage or other location that is located in
15 the State within a 30-mile radius of the intersection of Eighth
16 Avenue/Central Park West, Broadway, and West 59th Street/Central
17 Park South, New York, New York.

18 b. (1) A taxpayer, upon approval of an application to the
19 authority and the director, shall be allowed a credit against the tax
20 otherwise due for the taxable year under the "New Jersey Gross
21 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to 20
22 percent of the qualified digital media content production expenses
23 of the taxpayer during a taxable year commencing on or after July
24 1, 2018 but before July 1, **[2028]** 2034, provided that:

25 (a) at least \$2,000,000 of the total digital media content
26 production expenses of the taxpayer are incurred for services
27 performed, and goods purchased through vendors authorized to do
28 business, in New Jersey;

29 (b) at least 50 percent of the qualified digital media content
30 production expenses of the taxpayer are for wages and salaries paid
31 to full-time or full-time equivalent employees in New Jersey;

32 (c) the taxpayer submits a tax credit verification report prepared
33 by an independent certified public accountant licensed in this State
34 in accordance with subsection g. of this section; and

35 (d) the taxpayer complies with the withholding requirements
36 provided for payments to loan out companies and independent
37 contractors in accordance with subsection h. of this section.

38 (2) Notwithstanding the provisions of paragraph (1) of
39 subsection b. of this section to the contrary, the tax credit allowed
40 pursuant to this subsection against the tax otherwise due for the
41 taxable year under the "New Jersey Gross Income Tax Act,"
42 N.J.S.54A:1-1 et seq., shall be in an amount equal to 25 percent for
43 the qualified digital media content production expenses of the
44 taxpayer during a taxable year that are incurred for services
45 performed and tangible personal property purchased through
46 vendors whose primary place of business is located in Atlantic,
47 Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer,
48 or Salem County.

1 c. No tax credit shall be allowed pursuant to this section for
2 any costs or expenses included in the calculation of any other tax
3 credit or exemption granted pursuant to a claim made on a tax
4 return filed with the director, or included in the calculation of an
5 award of business assistance or incentive, for a period of time that
6 coincides with the taxable year for which a tax credit authorized
7 pursuant to this section is allowed. The order of priority in which
8 the tax credit allowed pursuant to this section and any other tax
9 credits allowed by law may be taken shall be as prescribed by the
10 director. The amount of the tax credit applied under this section
11 against the tax otherwise due under the "New Jersey Gross Income
12 Tax Act," N.J.S.54A:1-1 et seq., for a taxable year, when taken
13 together with any other payments, credits, deductions, and
14 adjustments allowed by law shall not reduce the tax liability of the
15 taxpayer to an amount less than zero. The amount of the tax credit
16 otherwise allowable under this section which cannot be applied for
17 the taxable year due to the limitations of this subsection or under
18 other provisions of N.J.S.54A:1-1 et seq., may be carried forward, if
19 necessary, to the seven taxable years following the taxable year for
20 which the tax credit was allowed.

21 d. (1) A business entity that is classified as a partnership for
22 federal income tax purposes shall not be allowed a tax credit
23 pursuant to this section directly, but the amount of tax credit of a
24 taxpayer in respect of a distributive share of entity income, shall be
25 determined by allocating to the taxpayer that proportion of the tax
26 credit acquired by the entity that is equal to the taxpayer's share,
27 whether or not distributed, of the total distributive income or gain
28 of the entity for its taxable year ending within or with the taxpayer's
29 taxable year.

30 (2) A New Jersey S Corporation shall not be allowed a tax credit
31 pursuant to this section directly, but the amount of tax credit of a
32 taxpayer in respect of a pro rata share of S Corporation income,
33 shall be determined by allocating to the taxpayer that proportion of
34 the tax credit acquired by the New Jersey S Corporation that is
35 equal to the taxpayer's share, whether or not distributed, of the total
36 pro rata share of S Corporation income of the New Jersey S
37 Corporation for its privilege period ending within or with the
38 taxpayer's taxable year.

39 A business entity that is not a gross income "taxpayer" as defined
40 and used in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
41 et seq., and therefore is not directly allowed a credit under this
42 section, but otherwise meets all the other requirements of this
43 section, shall be considered an eligible applicant and "taxpayer" as
44 that term is used in this section, and the application of an otherwise
45 allowed credit amount shall be distributed to appropriate gross
46 income taxpayers pursuant to the other requirements of this
47 subsection.

1 e. A taxpayer, with an application for a tax credit provided for
2 in subsection a. or subsection b. of this section, may apply to the
3 authority and the director for a tax credit transfer certificate in lieu
4 of the taxpayer being allowed any amount of the tax credit against
5 the tax liability of the taxpayer. The tax credit transfer certificate,
6 upon receipt thereof by the taxpayer from the authority and the
7 director, may be sold or assigned, in full or in part, to any other
8 taxpayer that may have a tax liability under the "New Jersey Gross
9 Income Tax Act," N.J.S.54A:1-1 et seq., or the "Corporation
10 Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), in
11 exchange for private financial assistance to be provided by the
12 purchaser or assignee to the taxpayer that has applied for and been
13 granted the tax credit. The tax credit transfer certificate provided to
14 the taxpayer shall include a statement waiving the taxpayer's right
15 to claim that amount of the tax credit against the tax imposed
16 pursuant to N.J.S.54A:1-1 et seq. that the taxpayer has elected to
17 sell or assign. The sale or assignment of any amount of a tax credit
18 transfer certificate allowed under this section shall not be
19 exchanged for consideration received by the taxpayer of less than
20 75 percent of the transferred tax credit amount. Any amount of a
21 tax credit transfer certificate used by a purchaser or assignee against
22 a tax liability under N.J.S.54A:1-1 et seq. shall be subject to the
23 same limitations and conditions that apply to the use of a tax credit
24 pursuant to subsections c. and d. of this section. Any amount of a
25 tax credit transfer certificate obtained by a purchaser or assignee
26 under subsection e. of this section may be applied against the
27 purchaser's or assignee's tax liability under P.L.1945, c.162
28 (C.54:10A-1 et seq.) and shall be subject to the same limitations
29 and conditions that apply to the use of a credit pursuant to
30 subsection c. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b).

31 f. (1) The value of tax credits, including tax credits allowed
32 through the granting of tax credit transfer certificates, approved by
33 the director and the authority pursuant to subsection a. of this
34 section and pursuant to subsection a. of section 1 of P.L.2018, c.56
35 (C.54:10A-5.39b) to taxpayers, other than New Jersey **[film]** studio
36 partners and New Jersey film-lease partners, shall not exceed a
37 cumulative total of \$100,000,000 in fiscal year 2019 and in each
38 fiscal year thereafter prior to fiscal year **[2029]** 2035 to apply
39 against the tax imposed pursuant to the "New Jersey Gross Income
40 Tax Act," N.J.S.54A:1-1 et seq., and pursuant to section 5 of
41 P.L.1945, c.162 (C.54:10A-5). In addition to the \$100,000,000
42 limitation on the value of tax credits approved by the director for
43 New Jersey film-lease partners and the \$100,000,000 limitation on
44 the value of tax credits approved by the director for other taxpayers
45 imposed by this paragraph, the value of tax credits, including tax
46 credits allowed through the granting of tax credit transfer
47 certificates, approved by the director and the authority pursuant to
48 subsection a. of this section and pursuant to subsection a. of section

1 **[2]** 1 of P.L.2018, c.56 **[(C.54A:4-12b)]** (C.54:10A-5.39b) to New
2 Jersey **[film]** studio partners shall not exceed a cumulative total of
3 \$100,000,000 in fiscal year 2021 and in each fiscal year thereafter
4 prior to fiscal year 2034 to apply against the tax imposed pursuant
5 to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed
6 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
7 et seq. Beginning in fiscal year 2025, in addition to the
8 \$100,000,000 made available for New Jersey studio partners
9 pursuant to this paragraph, up to an additional \$350,000,000 may be
10 made available annually, in the discretion of the authority, to New
11 Jersey studio partners for the award of tax credits, including tax
12 credits allowed through the granting of tax credit transfer
13 certificates, pursuant to subsection a. of this section and subsection
14 a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b), from the funds
15 made available pursuant to subparagraph (i) of paragraph (1) of
16 subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362). In
17 addition to the \$100,000,000 limitation on the value of tax credits
18 approved by the director for New Jersey **[film]** studio partners and
19 the \$100,000,000 limitation on the value of tax credits approved by
20 the director for other taxpayers imposed by this paragraph, the
21 value of tax credits, including tax credits allowed through the
22 granting of tax credit transfer certificates, approved by the director
23 and the authority pursuant to subsection a. of this section and
24 pursuant to subsection a. of section 1 of P.L.2018, c.56 **[(C.54A:4-**
25 **12b)]** (C.54:10A-5.39b) to New Jersey film-lease partners shall not
26 exceed a cumulative total of \$100,000,000 in fiscal year 2021 and
27 in each fiscal year thereafter prior to fiscal year 2034 to apply
28 against the tax imposed pursuant to section 5 of P.L.1945, c.162
29 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey
30 Gross Income Tax Act," N.J.S.54A:1-1 et seq. Approvals made to
31 New Jersey studio partners and New Jersey film-lease partners shall
32 be subject to award agreements with the authority detailing
33 obligations of the awardee and outcomes relating to events of
34 default, including, but not limited to, recapture, forfeiture, and
35 termination. If in any taxable year, beginning following a date
36 determined by the authority, a New Jersey film-lease partner's
37 annual average of qualified film production expenses falls below
38 \$50,000,000, the authority shall reduce by 20 percent any tax credit
39 award for a film for which final documentation pursuant to
40 N.J.A.C.19:31-21.7(c) has been submitted, until a taxable year
41 when the annual average of qualified film production expenses has
42 been restored to \$50,000,000. The authority shall establish a non-
43 binding, administrative pre-certification process for potentially
44 eligible projects.

45 If the cumulative total amount of tax credits, and tax credit
46 transfer certificates, allowed to taxpayers for taxable years or
47 privilege periods commencing during a single fiscal year under

1 subsection a. of this section and subsection a. of section 1 of
2 P.L.2018, c.56 (C.54:10A-5.39b) exceeds the amount of tax credits
3 available in that fiscal year, then taxpayers who have first applied
4 for and have not been allowed a tax credit or tax credit transfer
5 certificate amount for that reason shall be allowed, in the order in
6 which they have submitted an application, the amount of tax credit
7 or tax credit transfer certificate on the first day of the next
8 succeeding fiscal year in which tax credits and tax credit transfer
9 certificates under subsection a. of this section and subsection a. of
10 section 1 of P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of
11 the amount of credits available.

12 Notwithstanding any provision of paragraph (1) of this
13 subsection to the contrary, for any fiscal year in which the amount
14 of tax credits approved pursuant to this paragraph is less than the
15 cumulative total amount of tax credits permitted to be approved in
16 that fiscal year, the authority shall certify the amount of the
17 remaining tax credits available for approval in that fiscal year, and
18 shall increase the cumulative total amount of tax credits permitted
19 to be approved for New Jersey studio partners in the subsequent
20 fiscal year by the certified amount remaining from the prior fiscal
21 year. The authority shall also certify, for each fiscal year, the
22 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 for New Jersey studio partners in
26 the subsequent fiscal year by the amount of tax credits previously
27 approved, but not subject to redemption or transfer.

28 (2) The value of tax credits, including tax credits allowed
29 through the granting of tax credit transfer certificates, approved by
30 the authority and the director pursuant to subsection b. of this
31 section and pursuant to subsection b. of section 1 of P.L.2018, c.56
32 (C.54:10A-5.39b) shall not exceed a cumulative total of
33 \$10,000,000 in fiscal year 2019 and in each fiscal year thereafter
34 prior to fiscal year **[2029]** 2035 to apply against the tax imposed
35 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
36 et seq. and the tax imposed pursuant to section 5 of P.L.1945, c.162
37 (C.54:10A-5).

38 If the total amount of tax credits and tax credit transfer
39 certificates allowed to taxpayers for taxable years or privilege
40 periods commencing during a single fiscal year under subsection b.
41 of this section and subsection b. of section 1 of P.L.2018, c.56
42 (C.54:10A-5.39b) exceeds the amount of tax credits available in
43 that year, then taxpayers who have first applied for and have not
44 been allowed a tax credit or tax credit transfer certificate amount for
45 that reason shall be allowed, in the order in which they have
46 submitted an application, the amount of tax credit or tax credit
47 transfer certificate on the first day of the next succeeding fiscal year
48 in which tax credits and tax credit transfer certificates under

1 subsection b. of this section and subsection b. of section 1 of
2 P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of the amount of
3 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
7 of tax credits permitted to be approved in that fiscal year, the
8 authority shall certify the amount of the remaining tax credits
9 available for approval in that fiscal year, and shall increase the
10 cumulative total amount of tax credits permitted to be approved in
11 the subsequent fiscal year by the certified amount remaining from
12 the prior fiscal year. The authority shall also certify, for each fiscal
13 year, the amount of tax credits that were previously approved, but
14 that the taxpayer is not able to redeem or transfer to another
15 taxpayer under this section, and shall increase the cumulative total
16 amount of tax credits permitted to be approved in the subsequent
17 fiscal year by the amount of tax credits previously approved, but not
18 subject to redemption or transfer.

19 g. 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
32 certified public accountant's report, and shall make a determination
33 as to the qualified film production expenses or the qualified digital
34 media content production expenses of the taxpayer. The authority's
35 and the director's review shall include, but shall not be limited to: a
36 review of all non-payroll qualified film production expense items
37 and non-payroll digital media content production expense items
38 over \$20,000; a review of 100 randomly selected non-payroll
39 qualified film production expense items and non-payroll digital
40 media content production expense items that are greater than
41 \$2,500, but less than \$20,000; a review of 100 randomly selected
42 non-payroll qualified film production expense items and non-
43 payroll digital media content production expense items that are less
44 than \$2,500; a review of the qualified wages for the 15 employees,
45 independent contractors, or loan-out companies with the highest
46 qualified wages; and a review of the qualified wages for 35
47 randomly selected employees, independent contractors, or loan-out
48 companies with qualified wages other than the 15 employees,

1 independent contractors, or loan-out companies with the highest
2 qualified wages. The taxpayer's qualified film production expenses
3 and digital media content production expenses shall be adjusted
4 based on any discrepancies identified for the reviewed non-payroll
5 qualified film production expense items, non-payroll digital media
6 content production expense items and qualified wages. The
7 taxpayer's qualified film production expenses and digital media
8 content production expenses also shall be adjusted based on the
9 projection of any discrepancies identified based on the review of
10 randomly selected expense items or wages pursuant to this
11 subsection to the extent that the discrepancies exceed one percent of
12 the total reviewed non-payroll qualified film production expense
13 items, non-payroll digital media content production expense items,
14 or qualified wages. The determination shall be provided in writing
15 to the taxpayer, and a copy of the written determination shall be
16 included in the filing of a return that includes a claim for a tax
17 credit allowed pursuant to this section.

18 h. A taxpayer shall withhold from each payment to a loan out
19 company or to an independent contractor an amount equal to 6.37
20 percent of the payment otherwise due. The amounts withheld shall
21 be deemed to be withholding of liability pursuant to the "New
22 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the
23 taxpayer shall be deemed to have the rights, duties, and
24 responsibilities of an employer pursuant to chapter 7 of Title 54A of
25 the New Jersey Statutes. The director shall allocate the amounts
26 withheld for a taxable year to the accounts of the individuals who
27 are employees of a loan out company in proportion to the
28 employee's payment by the loan out company in connection with a
29 trade, profession, or occupation carried on in this State or for the
30 rendition of personal services performed in this State during the
31 taxable year. A loan out company that reports its payments to
32 employees in connection with a trade, profession, or occupation
33 carried on in this State or for the rendition of personal services
34 performed in this State during a taxable year shall be relieved of its
35 duties and responsibilities as an employer pursuant to chapter 7 of
36 Title 54A of the New Jersey Statutes for the taxable year for any
37 payments relating to the payments on which the taxpayer withheld.

38 i. As used in this section:

39 "Authority" means the New Jersey Economic Development
40 Authority.

41 "Business assistance or incentive" means "business assistance or
42 incentive" as that term is defined pursuant to section 1 of P.L.2007,
43 c.101 (C.54:50-39).

44 "Commission" means the Motion Picture and Television
45 Development Commission.

46 "Digital media content" means any data or information that is
47 produced in digital form, including data or information created in
48 analog form but reformatted in digital form, text, graphics,

1 photographs, animation, sound, and video content. "Digital media
2 content" shall not mean content offerings generated by the end user
3 (including postings on electronic bulletin boards and chat rooms);
4 content offerings comprised primarily of local news, events,
5 weather or local market reports; public service content; electronic
6 commerce platforms (such as retail and wholesale websites);
7 websites or content offerings that contain obscene material as
8 defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or
9 content that are produced or maintained primarily for private,
10 industrial, corporate, or institutional purposes; or digital media
11 content acquired or licensed by the taxpayer for distribution or
12 incorporation into the taxpayer's digital media content.

13 "Film" means a feature film, a television series, or a television
14 show of 22 minutes or more in length, intended for a national
15 audience, or a television series or a television show of 22 minutes
16 or more in length intended for a national or regional audience,
17 including, but not limited to, a game show, award show, or other
18 gala event filmed and produced at a nonprofit arts and cultural
19 venue receiving State funding. "Film" shall not include a
20 production featuring news, current events, weather, and market
21 reports or public programming, talk show, sports event, or reality
22 show, a production that solicits funds, a production containing
23 obscene material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-
24 3, or a production primarily for private, industrial, corporate, or
25 institutional purposes. "Film" shall not include an award show or
26 other gala event that is not filmed and produced at a nonprofit arts
27 and cultural venue receiving State funding.

28 "Full-time or full-time equivalent employee" means an individual
29 employed by the taxpayer for consideration for at least 35 hours a
30 week, or who renders any other standard of service generally
31 accepted by custom or practice as full-time or full-time equivalent
32 employment, whose wages are subject to withholding as provided in
33 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or
34 who is a partner of a taxpayer, who works for the partnership for at
35 least 35 hours a week, or who renders any other standard of service
36 generally accepted by custom or practice as full-time or full-time
37 equivalent employment, and whose distributive share of income,
38 gain, loss, or deduction, or whose guaranteed payments, or any
39 combination thereof, is subject to the payment of estimated taxes, as
40 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
41 et seq. "Full-time or full-time equivalent employee" shall not
42 include an individual who works as an independent contractor or on
43 a consulting basis for the taxpayer.

44 "Highly compensated individual" means an individual who
45 directly or indirectly receives compensation in excess of \$500,000
46 for the performance of services used directly in a production. An
47 individual receives compensation indirectly when the taxpayer pays

1 a loan out company that, in turn, pays the individual for the
2 performance of services.

3 “Incurred in New Jersey” means, for any application submitted
4 after the effective date of P.L.2018, c.56 (C.54:10A-5.39b et al.),
5 pursuant to which a tax credit has not been allowed prior to the
6 effective date of P.L. , c. (pending before the Legislature as this
7 bill), service performed within New Jersey and tangible personal
8 property used or consumed in New Jersey. A service is performed
9 in New Jersey to the extent that the individual performing the
10 service is physically located in New Jersey while performing the
11 service. Notwithstanding where the property is delivered or
12 acquired, rented tangible property is used or consumed in New
13 Jersey to the extent that the property is located in New Jersey
14 during its use or consumption and is rented from a vendor
15 authorized to do business in New Jersey or the film production
16 company provides to the authority the vendor’s information in a
17 form and manner prescribed by the authority. Purchased tangible
18 property is not used and consumed in New Jersey unless it is
19 purchased from a vendor authorized to do business in New Jersey
20 and is delivered to or acquired within New Jersey; provided,
21 however, that if a production is also located in another jurisdiction,
22 the purchased tangible property is used and consumed in New
23 Jersey if the acquisition and delivery of purchased tangible property
24 is located in either New Jersey or another jurisdiction where the
25 production takes place.

26 "Independent contractor" means an individual treated as an
27 independent contractor for federal and State tax purposes who is
28 contracted with by the taxpayer for the performance of services
29 used directly in a production.

30 "Loan out company" means a personal service corporation or
31 other entity that is contracted with by the taxpayer to provide
32 specified individual personnel, such as artists, crew, actors,
33 producers, or directors for the performance of services used directly
34 in a production. "Loan out company" shall not include entities
35 contracted with by the taxpayer to provide goods or ancillary
36 contractor services such as catering, construction, trailers,
37 equipment, or transportation.

38 **【"New Jersey film partner" means a film production company**
39 **that has made a commitment to produce films or commercial**
40 **audiovisual products in New Jersey and has developed, purchased,**
41 **or executed a 10-year contract to lease a production facility of**
42 **250,000 square feet or more as a "transformative project" pursuant**
43 **to section 65 of P.L.2020, c.156 (C.34:1B-333). No more than five**
44 **film production companies may be designated as a New Jersey film**
45 **partner.】**

46 "New Jersey film-lease partner" means a taxpayer, including any
47 taxpayer that is a member of a combined group under P.L.2018,
48 c.131 (C:54:10A-4.11), that has made a commitment to lease or

1 acquire a New Jersey production facility with an aggregate square
2 footage of at least 50,000 square feet, which includes a sound stage
3 and production support space such as production offices or a
4 backlot, for a period of five or more successive years and commits
5 to spend, on a separate-entity basis or in the aggregate with other
6 members of the taxpayer's combined group, an annual average of
7 \$50,000,000 of qualified film production expenses over the period
8 of at least five but not to exceed 10 years.

9 "New Jersey studio partner" means a film production company
10 that has made a commitment to produce films or commercial
11 audiovisual products in New Jersey and has developed, purchased,
12 or executed a 10-year contract to lease a production facility of
13 250,000 square feet or more as a "transformative project" pursuant
14 to section 65 of P.L.2020, c.156 (C.34:1B-333). No more than
15 three film production companies may be designated as a New Jersey
16 studio partner.

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 h. 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 by
20 subsection h. of this section. "Qualified film production expenses"
21 shall not include: expenses incurred in marketing or advertising a
22 film; and payment in excess of \$500,000 to a highly compensated
23 individual for costs for a story, script, or scenario used in the
24 production of a film and wages or salaries or other compensation
25 for writers, directors, including music directors, producers, and
26 performers, other than background actors with no scripted lines,
27 except as follows:

28 (1) for a New Jersey **[film]** studio partner that incurs more than
29 \$15,000,000, but less than \$50,000,000, 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]** studio partner that incurs
36 \$50,000,000 or more, but less than \$100,000,000, in qualified film
37 production expenses in the State, an amount, not to exceed
38 \$25,000,000, of the wages or salaries or other compensation for
39 writers, directors, including music directors, producers, and
40 performers, other than background actors with no scripted lines,
41 shall constitute qualified film production expenses;

42 (3) for a New Jersey **[film]** studio partner that incurs
43 \$100,000,000 or more, but less than \$150,000,000, in qualified film
44 production expenses in the State, an amount, not to exceed
45 \$40,000,000, of the wages or salaries or other compensation for
46 writers, directors, including music directors, producers, and
47 performers, other than background actors with no scripted lines,
48 shall constitute qualified film production expenses; and

1 (4) for a New Jersey **【film】** studio partner that incurs
2 \$150,000,000 or more in qualified film production expenses in the
3 State, an amount, not to exceed \$60,000,000, of the wages or
4 salaries or other compensation for writers, directors, including
5 music directors, producers, and performers, other than background
6 actors with no scripted lines, shall constitute qualified film
7 production expenses.

8 "Total digital media content production expenses" means costs
9 for services performed and property used or consumed in the
10 production of digital media content.

11 "Total film production expenses" means costs for services
12 performed and tangible personal property used or consumed in the
13 production of a film.

14 (cf: P.L.2020, c.156, s.111)

15

16 60. Section 9 of P.L.1985, c.334 (C.58:11B-9) is amended to
17 read as follows:

18 9. a. (1) The trust may make and contract to make loans to
19 local government units, or to a local government unit on behalf of
20 another local government unit, in accordance with and subject to the
21 provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997,
22 c.224 (C.58:11B-10.1 et al.) to finance the cost of any wastewater
23 treatment system project or water supply project, which the local
24 government unit may lawfully undertake or acquire and for which
25 the local government unit is authorized by law to borrow money.

26 (2) The trust may make and contract to make loans to public
27 water utilities, or to any other person or local government unit on
28 behalf of a public water utility, in accordance with and subject to
29 the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997,
30 c.224 (C.58:11B-10.1 et al.) to finance the cost of any water supply
31 project, which the public water utility may lawfully undertake or
32 acquire.

33 (3) The trust may make and contract to make loans to private
34 persons other than local government units, or to any other person or
35 local government unit on behalf of a private person, in accordance
36 with and subject to the provisions of P.L.1985, c.334 (C.58:11B-1
37 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to finance the cost
38 of stormwater management systems.

39 (4) The trust may make and contract to make loans and provide
40 other assistance to a local government unit or consortia thereof to
41 finance the cost of transportation projects pursuant to sections 22
42 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through
43 C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-
44 22.4), and provided that the federally-funded subaccount is operated
45 in accordance with the provisions of the federal infrastructure bank
46 program.

47 The loans may be made subject to those terms and conditions as
48 the trust shall determine to be consistent with the purposes thereof.

1 Each loan by the trust and the terms and conditions thereof shall be
2 subject to approval by the State Treasurer, and the trust shall make
3 available to the State Treasurer all information, statistical data and
4 reports of independent consultants or experts as the State Treasurer
5 shall deem necessary in order to evaluate the loan. Each loan to a
6 local government unit, public water utility or any other person shall
7 be evidenced by notes, bonds or other obligations thereof issued to
8 the trust. In the case of each local government unit, notes and
9 bonds to be issued to the trust and, if applicable, the State, acting by
10 and through the Department of Environmental Protection, by the
11 local government unit (1) shall be authorized and issued as provided
12 by law for the issuance of notes and bonds by the local government
13 unit, (2) notwithstanding any provisions of the "Local Authorities
14 Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.) to the
15 contrary, shall be approved by the Director of the Division of Local
16 Government Services in the Department of Community Affairs, and
17 (3) notwithstanding the provisions of N.J.S.40A:2-27, N.J.S.40A:2-
18 28 and N.J.S.40A:2-29 or any other provisions of law to the
19 contrary, may be sold at private sale to the trust or the State, as the
20 case may be, at any price, whether or not less than par value, and
21 shall be subject to redemption prior to maturity at any times and at
22 any prices as the trust or the State, as the case may be, and local
23 government units may agree. Each loan to a local government unit,
24 public water utility or any other person and the notes, bonds or
25 other obligations thereby issued shall bear interest at a rate or rates
26 per annum as the trust or the State, as the case may be, and the local
27 government unit, public water utility or any other person, as the
28 case may be, may agree.

29 b. The trust is authorized to guarantee or contract to guarantee
30 the payment of all or any portion of the principal and interest on
31 bonds, notes or other obligations issued by a local government unit
32 to finance the cost of any wastewater treatment system project,
33 water supply project, **or** transportation project, or redevelopment
34 project that includes, as a portion thereof, any wastewater treatment
35 system project, water supply project, or transportation project,
36 which the local government unit may lawfully undertake or acquire
37 and for which the local government unit is authorized by law to
38 borrow money, and the guarantee shall constitute an obligation of
39 the trust, and shall be in furtherance of the corporate purposes of the
40 trust, for the purposes of P.L.1985, c.334 (C.58:11B-1 et seq.),
41 P.L.1997, c.224 (C.58:11B-10.1 et al.), or sections 22 and 34
42 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-
43 10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4). Each
44 guarantee by the trust and the terms and conditions thereof shall be
45 subject to approval by the State Treasurer, and the trust shall make
46 available to the State Treasurer all information, statistical data and
47 reports of independent consultants or experts as the State Treasurer
48 shall deem necessary in order to evaluate the guarantee.

1 c. The trust shall not make or contract to make any loans or
2 guarantees to local government units, public water utilities or any
3 other person, or otherwise incur any additional indebtedness, on or
4 after June 30, 2033.

5 d. Notwithstanding any provision of P.L.1985, c.334
6 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to
7 the contrary, the trust may receive funds from any source including,
8 without limitation, any funds drawn by the trust from a revolving
9 line of credit or other similar financial vehicle that may be procured
10 by the trust, either through a competitive or negotiated process,
11 pursuant to section 5 of P.L.1985, c.334 (C.58:11B-5), for deposit
12 into the Interim Environmental Financing Program Fund or the trust
13 may issue its bonds, notes or other obligations, including
14 commercial paper issued through a competitive or negotiated
15 process, in any principal amounts, in either case, as in the judgment
16 of the trust shall be necessary to provide sufficient funds to finance
17 or refinance short-term or temporary loans to local government
18 units, public water utilities or private persons for any wastewater
19 treatment system projects included on the Department of
20 Environmental Protection project priority list and eligible for
21 approval pursuant to section 20 of P.L.1985, c.334 (C.58:11B-20)
22 or water supply projects included on the Department of
23 Environmental Protection project priority list and eligible for
24 approval pursuant to section 24 of P.L.1997, c.224 (C.58:11B-20.1),
25 as applicable, without regard to any other provisions of P.L.1985,
26 c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et
27 al.), including, without limitation, any administrative or legislative
28 approvals.

29 The trust shall create and establish a special fund to be known as
30 the "Interim Environmental Financing Program Fund" for the short-
31 term or temporary loan financing or refinancing program to be
32 known as the "Interim Environmental Financing Program." The
33 monies in the fund shall be used for short-term or temporary loans
34 for clean water and drinking water projects pursuant to the New
35 Jersey Environmental Infrastructure Financing Program.

36 Except as provided in section 1 of P.L.2013, c.93 (C.58:11B-
37 9.5), any short-term or temporary loans made by the trust pursuant
38 to this subsection may only be made in advance of the anticipated
39 loans the trust may make and contract to make under the provisions
40 of subsection a. of this section from any source of funds anticipated
41 to be received by the trust. Any such short-term or temporary loan
42 made pursuant to the Interim Environmental Financing Program
43 shall mature no later than the last day of the third succeeding fiscal
44 year following the closing date on which the short-term or
45 temporary loan was made by the trust to the project sponsor; except
46 a planning, design, and construction loan shall mature no later than
47 the last day of the fifth succeeding fiscal year following the closing
48 date of the planning, design, and construction loan or the last day of

1 the third succeeding fiscal year following the date of construction
2 certification following the closing date of the planning, design, and
3 construction loan, whichever is sooner, provided that, in either case,
4 project planning or engineering design activities shall not exceed
5 two years from the closing date of the planning, design, and
6 construction loan; and except a short-term or temporary loan made
7 pursuant to this subsection for environmental planning and
8 engineering design costs associated with long-term control plans for
9 combined sewer overflow projects shall mature no later than the last
10 day of the 10th succeeding fiscal year following the closing date on
11 which the short-term or temporary loan was made by the trust to the
12 project sponsor. With respect to any short-term or temporary loan
13 or planning, design, and construction loan made by the trust
14 pursuant to this subsection, the trust may authorize one short-term
15 supplemental loan for residual project expenses thereof upon receipt
16 by the trust from the Department of Environmental Protection of a
17 certification that states that the time required by the project sponsor
18 to complete construction of the project exceeds the maximum
19 maturity date of the project sponsor's outstanding short-term or
20 temporary loan or planning, design, and construction loan. Any
21 such short-term supplemental loan shall not exceed in duration the
22 last day of the third succeeding fiscal year following the loan
23 closing of the supplemental loan. The trust may make short-term or
24 temporary loans pursuant to the Interim Environmental Financing
25 Program to any one or more of the project sponsors, for the
26 respective projects thereof, identified in the interim financing
27 project priority list to be known as the "Interim Environmental
28 Financing Program Project Priority List" in the form provided to the
29 Legislature by the Commissioner of Environmental Protection.

30 The Interim Environmental Financing Program Project Priority
31 List, including any revision thereof or supplement thereto, shall be
32 submitted to the Legislature pursuant to section 2 of P.L.1991,
33 c.164 (C.52:14-19.1) at least once in each fiscal year as provided in
34 section 20 of P.L.1985, c.334 (C.58:11B-20) and section 24 of
35 P.L.1997, c.224 (C.58:11B-20.1). The Secretary and the Clerk shall
36 cause the date of submission to be entered upon the Senate Journal
37 and the Minutes of the General Assembly, respectively. The trust
38 may revise or supplement the Interim Environmental Financing
39 Program Project Priority List no more than four times during the
40 fiscal year and shall submit the revised list to the Legislature when
41 the revisions are made. Any environmental infrastructure project or
42 the project sponsor thereof not identified in the Interim
43 Environmental Financing Program Project Priority List shall not be
44 eligible for a short-term or temporary loan from the Interim
45 Environmental Financing Program Fund. The trust may issue short-
46 term or temporary loans pursuant to this subsection only if a project
47 is listed on an Interim Environmental Financing Program Project
48 Priority List that has been submitted to the Legislature. No funds

1 may be disbursed pursuant to this section for project activities prior
2 to a determination and certification, in writing, from the
3 Department of Environmental Protection, that the project activities
4 satisfy the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.).

5 e. Notwithstanding any provisions of the "Local Bond Law"
6 (N.J.S.40A:2-1 et seq.), the "sewerage authorities law," P.L.1946,
7 c.138 (C.40:14A-1 et seq.), or the "municipal and county utilities
8 authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.) to the
9 contrary, short-term or temporary loans made by the trust pursuant
10 to section 9 of P.L.1985, c.334 (C.58:11B-9) or section 1 of
11 P.L.2013, c.93 (C.58:11B-9.5), and the obligations issued by project
12 sponsors to evidence such loans, may, at the discretion of the trust
13 and upon application by the project sponsor, bear interest at a
14 variable rate determined pursuant to a methodology as may be
15 established by the trust from time to time.

16 Further, notwithstanding any provisions of the "Local Bond
17 Law" (N.J.S.40A:2-1 et seq.), the "sewerage authorities law,"
18 P.L.1946, c.138 (C.40:14A-1 et seq.), or the "municipal and county
19 utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.) to
20 the contrary, any short-term or temporary loans made by the trust
21 pursuant to section 9 of P.L.1985, c.334 (C.58:11B-9) or section 1
22 of P.L.2013, c.93 (C.58:11B-9.5), and any notes or other
23 obligations issued by project sponsors to evidence such short-term
24 or temporary loans, as such loans, notes, or other obligations may
25 be refinanced or extended, as provided in subsections d. and g. of
26 this section and section 1 of P.L.2013, c.93 (C.58:11B-9.5), except
27 for loans for environmental planning and engineering design costs
28 associated with long-term control plans for combined sewer
29 overflow projects as provided in subsection d. of this section, shall
30 mature no later than the maturity date as established pursuant to
31 subsections d. and g. of this section and section 1 of P.L.2013, c.93
32 (C.58:11B-9.5), without payment by project sponsors of any portion
33 of the principal thereof prior to maturity.

34 f. Any balances remaining in the Emergency Loan Fund
35 established pursuant to section 4 of P.L.2007, c.138 (C.58:11B-9.1),
36 the Planning and Design Fund established pursuant to section 1 of
37 P.L.2009, c.59 (C.58:11B-9.2), the Onsite Wastewater Disposal
38 Loan Fund established pursuant to section 5 of P.L.2009, c.103
39 (C.58:11B-9.3), the Supplemental Loan Fund established pursuant
40 to section 2 of P.L.2011, c.94 (C.58:11B-9.4), and the Equipment
41 Loan Fund established pursuant to section 1 of P.L.2014, c.28
42 (C.58:11B-9.6) after the date of enactment of P.L.2016, c.30 shall
43 be transferred to the Interim Environmental Financing Program
44 Fund, and any loan repayments to the trust of principal and interest
45 or premium on loans made from those funds shall be credited to the
46 Interim Environmental Financing Program Fund.

47 g. The trust shall create and establish a special fund to be
48 known as the "Interim Transportation Financing Program Fund" for

1 the short-term or temporary loan financing or refinancing program
2 to be known as the "Interim Transportation Financing Program."

3 Notwithstanding any provision of P.L.1985, c.334 (C.58:11B-1
4 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to the contrary,
5 the trust may receive funds from any source including, without
6 limitation, any funds drawn by the trust from a revolving line of
7 credit or other similar financial vehicle that may be procured by the
8 trust, either through a competitive or negotiated process, pursuant to
9 section 5 of P.L.1985, c.334 (C.58:11B-5), for deposit into the
10 Interim Transportation Financing Program Fund or the trust may
11 issue its bonds, notes or other obligations in any principal amounts,
12 in either case, as in the judgment of the trust shall be necessary to
13 provide sufficient funds to finance or refinance short-term or
14 temporary loans to local government units or private persons for
15 any transportation project included on the Department of
16 Transportation Interim Transportation Financing Program Project
17 Priority List for the ensuing fiscal year and eligible for approval
18 pursuant to sections 22 and 34 through 38 of P.L.2016, c.56
19 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-
20 22.3, and C.58:11B-22.4), without regard to any other provisions of
21 P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-
22 10.1 et al.), or sections 22 and 34 through 38 of P.L.2016, c.56
23 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-
24 22.3, and C.58:11B-22.4), including, without limitation, any
25 administrative or legislative approvals.

26 Any short-term or temporary loans made by the trust pursuant to
27 this subsection may only be made in advance of the anticipated
28 loans the trust may make and contract to make under the provisions
29 of subsection a. of this section from any source of funds anticipated
30 to be received by the trust. Any such short-term or temporary loan
31 made pursuant to the Interim Transportation Financing Program
32 shall mature no later than the last day of the third succeeding fiscal
33 year following the closing date on which the short-term or
34 temporary loan was made by the trust to the project sponsor; except
35 a planning, design, and construction loan shall mature no later than
36 the last day of the fifth succeeding fiscal year following the closing
37 date of the planning, design, and construction loan or the last day of
38 the third succeeding fiscal year following the date of construction
39 certification following the closing date of the planning, design, and
40 construction loan, whichever is sooner, provided that, in either case,
41 project planning or engineering design activities shall not exceed
42 two years from the closing date of the planning, design, and
43 construction loan. With respect to any short-term or temporary loan
44 or planning, design, and construction loan made by the trust
45 pursuant to this subsection, the trust may authorize one short-term
46 supplemental loan for residual expenses thereof upon receipt by the
47 trust from the Department of Transportation of a certification that
48 states that the time required by the project sponsor to complete

1 construction of the project exceeds the maximum maturity date of
2 the short-term or temporary loan or planning, design, and
3 construction loan. Any such short-term supplemental loan shall not
4 exceed in duration the last day of the third succeeding fiscal year
5 following the loan closing of the short-term supplemental loan. The
6 trust may make short-term or temporary loans pursuant to the
7 Interim Transportation Financing Program to any one or more of the
8 project sponsors, for the respective projects thereof, only if a
9 project is identified in the Department of Transportation Interim
10 Transportation Financing Program Project Priority List to be known
11 as the "Interim Transportation Financing Program Project Priority
12 List" in the form provided to the Legislature by the Commissioner
13 of Transportation.

14 The Interim Transportation Financing Program Project Priority
15 List, including any revision thereof or supplement thereto, shall be
16 submitted to the Secretary of the Senate and the Clerk of the
17 General Assembly on or before July 1 of each year. The Interim
18 Transportation Financing Program Project Priority List shall be
19 submitted to the Legislature pursuant to section 2 of P.L.1991,
20 c.164 (C.52:14-19.1) at least once in each fiscal year. The
21 Secretary and the Clerk shall cause the date of submission to be
22 entered upon the Senate Journal and the Minutes of the General
23 Assembly, respectively. Any transportation infrastructure project or
24 the project sponsor thereof not identified in the Interim
25 Transportation Financing Program Project Priority List shall not be
26 eligible for a short-term or temporary loan from the Interim
27 Transportation Financing Program Fund. The trust may revise or
28 supplement the Interim Transportation Financing Program Project
29 Priority List no more than four times during the fiscal year, and
30 shall submit the revised list to the Legislature when the revisions
31 are made.

32 No funds may be disbursed pursuant to this subsection for
33 project activities prior to written notification of award concurrence
34 from the Department of Transportation and certification in writing,
35 from the trust, that the project activities satisfy the provisions of
36 P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-
37 10.1 et al.), or sections 22 and 34 through 38 of P.L.2016, c.56
38 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-
39 22.3, and C.58:11B-22.4).

40 (cf: P.L.2019, c.516, s.2)

41

42 61. Section 2 of P.L.2011, c.149 (C.34:1B-243) is amended to
43 read as follows:

44 2. As used in P.L.2011, c.149 (C.34:1B-242 et seq.):

45 "Affiliate" means an entity that directly or indirectly controls, is
46 under common control with, or is controlled by the business.
47 Control exists in all cases in which the entity is a member of a
48 controlled group of corporations as defined pursuant to section 1563

1 of the Internal Revenue Code of 1986 (26 U.S.C. s.1563) or the
2 entity is an organization in a group of organizations under common
3 control as defined pursuant to subsection (b) or (c) of section 414 of
4 the Internal Revenue Code of 1986 (26 U.S.C. s.414). A taxpayer
5 may establish by clear and convincing evidence, as determined by
6 the Director of the Division of Taxation in the Department of the
7 Treasury, that control exists in situations involving lesser
8 percentages of ownership than required by those statutes. An
9 affiliate of a business may contribute to meeting either the qualified
10 investment or full-time employee requirements of a business that
11 applies for a credit under section 3 of P.L.2007, c.346 (C.34:1B-
12 209).

13 "Authority" means the New Jersey Economic Development
14 Authority established by section 4 of P.L.1974, c.80 (C.34:1B-4).

15 "Aviation district" means all areas within the boundaries of the
16 "Atlantic City International Airport," established pursuant to section
17 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation
18 Administration William J. Hughes Technical Center and the area
19 within a one-mile radius of the outermost boundary of the "Atlantic
20 City International Airport" and the Federal Aviation Administration
21 William J. Hughes Technical Center.

22 "Business" means an applicant proposing to own or lease
23 premises in a qualified business facility that is:

24 a corporation that is subject to the tax imposed pursuant to
25 section 5 of P.L.1945, c.162 (C.54:10A-5);

26 a corporation that is subject to the tax imposed pursuant to
27 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),
28 section 1 of P.L.1950, c.231 (C.17:32-15) or N.J.S.17B:23-5;

29 a partnership;

30 an S corporation;

31 a limited liability company; or

32 a non-profit corporation.

33 If the business or tenant is a cooperative or part of a cooperative,
34 then the cooperative may qualify for credits by counting the full-
35 time employees and capital investments of its member
36 organizations, and the cooperative may distribute credits to its
37 member organizations. If the business or tenant is a cooperative
38 that leases to its member organizations, the lease shall be treated as
39 a lease to an affiliate or affiliates.

40 A business shall include an affiliate of the business if that
41 business applies for a credit based upon any capital investment
42 made by or full-time employees of an affiliate.

43 "Capital investment" in a qualified business facility means
44 expenses by a business or any affiliate of the business incurred after
45 application for:

46 a. site preparation and construction, repair, renovation,
47 improvement, equipping, or furnishing on real property or of a
48 building, structure, facility, or improvement to real property;

- 1 b. obtaining and installing furnishings and machinery,
2 apparatus, or equipment, including but not limited to material goods
3 subject to bonus depreciation under sections 168 and 179 of the
4 federal Internal Revenue Code (26 U.S.C. s.168 and s.179), for the
5 operation of a business on real property or in a building, structure,
6 facility, or improvement to real property;
- 7 c. receiving Highlands Development Credits under the
8 Highlands Transfer Development Rights Program authorized
9 pursuant to section 13 of P.L.2004, c.120 (C.13:20-13); or
- 10 d. any of the foregoing.

11 In addition to the foregoing, in a Garden State Growth Zone, the
12 following qualify as a capital investment: any development,
13 redevelopment, and relocation costs, including, but not limited to,
14 site acquisition if made within 24 months of application to the
15 authority, engineering, legal, accounting, and other professional
16 services required; and relocation, environmental remediation, and
17 infrastructure improvements for the project area, including, but not
18 limited to, on- and off-site utility, road, pier, wharf, bulkhead, or
19 sidewalk construction or repair.

20 In addition to the foregoing, if a business acquires or leases a
21 qualified business facility, the capital investment made or acquired
22 by the seller or owner, as the case may be, if pertaining primarily to
23 the premises of the qualified business facility, shall be considered a
24 capital investment by the business and, if pertaining generally to the
25 qualified business facility being acquired or leased, shall be
26 allocated to the premises of the qualified business facility on the
27 basis of the gross leasable area of the premises in relation to the
28 total gross leasable area in the qualified business facility. The
29 capital investment described herein may include any capital
30 investment made or acquired within 24 months prior to the date of
31 application so long as the amount of capital investment made or
32 acquired by the business, any affiliate of the business, or any owner
33 after the date of application equals at least 50 percent of the amount
34 of capital investment, allocated to the premises of the qualified
35 business facility being acquired or leased on the basis of the gross
36 leasable area of the premises in relation to the total gross leasable
37 area in the qualified business facility made or acquired prior to the
38 date of application.

39 "College or university" means a county college, an independent
40 institution of higher education, a public research university, or a
41 State college.

42 "Commitment period" means the period of time that is 1.5 times
43 the eligibility period.

44 "County college" means an educational institution established by
45 one or more counties, pursuant to chapter 64A of Title 18A of the
46 New Jersey Statutes.

47 "Deep poverty pocket" means a population census tract having a
48 poverty level of 20 percent or more, and which is located within the

1 qualified incentive area and has been determined by the authority to
2 be an area appropriate for development and in need of economic
3 development incentive assistance.

4 "Disaster recovery project" means a project located on property
5 that has been wholly or substantially damaged or destroyed as a
6 result of a federally-declared disaster which, after utilizing all
7 disaster funds available from federal, State, county, and local
8 funding sources, demonstrates to the satisfaction of the authority
9 that access to additional funding authorized pursuant to the "New
10 Jersey Economic Opportunity Act of 2013," P.L.2013, c.161
11 (C.52:27D-489p et al.), is necessary to complete the redevelopment
12 project, and which is located within the qualified incentive area and
13 has been determined by the authority to be in an area appropriate
14 for development and in need of economic development incentive
15 assistance.

16 "Distressed municipality" means a municipality that is qualified
17 to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a
18 municipality under the supervision of the Local Finance Board
19 pursuant to the provisions of the "Local Government Supervision
20 Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality
21 identified by the Director of the Division of Local Government
22 Services in the Department of Community Affairs to be facing
23 serious fiscal distress, a SDA municipality, or a municipality in
24 which a major rail station is located.

25 "Doctoral university" means a university located within New
26 Jersey that is classified as a doctoral university under the Carnegie
27 Classification of Institutions of Higher Education's Basic
28 Classification methodology on the effective date of P.L.2017, c.221.

29 "Eligibility period" means the period in which a business may
30 claim a tax credit under the Grow New Jersey Assistance Program,
31 beginning with the tax period in which the authority accepts
32 certification of the business that it has met the capital investment
33 and employment requirements of the Grow New Jersey Assistance
34 Program and extending thereafter for a term of not more than 10
35 years, with the term to be determined solely at the discretion of the
36 applicant.

37 "Eligible position" or "full-time job" means a full-time position
38 in a business in this State, which position the business has filled
39 with a full-time employee, who shall have their primary office at
40 the qualified business facility and spend at least 60 percent of their
41 time at the qualified business facility. This requirement shall
42 supersede any law, regulation, or incentive agreement that imposes
43 a requirement that the employee be present at the qualified business
44 facility for a specified percentage of time greater than 60 percent.
45 This amendment shall not alter or terminate any waiver of the
46 requirement that an employee spend time at the qualified business
47 facility implemented by the authority due to COVID-19 public
48 health emergency and state of emergency.

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 or

6 b. who is employed by a professional employer organization
7 pursuant to an employee leasing agreement between the business
8 and the professional employer organization, in accordance with
9 P.L.2001, c.260 (C.34:8-67 et seq.) for at least 35 hours a week, or
10 who renders any other standard of service generally accepted by
11 custom or practice as full-time employment, and whose wages are
12 subject to withholding as provided in the "New Jersey Gross
13 Income Tax Act," N.J.S.54A:1-1 et seq.; or

14 c. who is a resident of another State but whose income is not
15 subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
16 et seq. or who is a partner of a business who works for the
17 partnership for at least 35 hours a week, or who renders any other
18 standard of service generally accepted by custom or practice as full-
19 time employment, and whose distributive share of income, gain,
20 loss, or deduction, or whose guaranteed payments, or any
21 combination thereof, is subject to the payment of estimated taxes, as
22 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
23 et seq.; and

24 d. who, except for purposes of the Statewide workforce, is
25 provided, by the business, with employee health benefits under a
26 health benefits plan authorized pursuant to State or federal law.

27 With respect to a logistics, manufacturing, energy, defense,
28 aviation, or maritime business, excluding primarily warehouse or
29 distribution operations, located in a port district having a container
30 terminal:

31 the requirement that employee health benefits are to be provided
32 shall be deemed to be satisfied if the benefits are provided in
33 accordance with industry practice by a third party obligated to
34 provide such benefits pursuant to a collective bargaining agreement;

35 full-time employment shall include, but not be limited to,
36 employees that have been hired by way of a labor union hiring hall
37 or its equivalent;

38 35 hours of employment per week at a qualified business facility
39 shall constitute one "full-time employee," regardless of whether or
40 not the hours of work were performed by one or more persons.

41 For any project located in a Garden State Growth Zone which
42 qualifies under the "Municipal Rehabilitation and Economic
43 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or any
44 project located in the Atlantic City Tourism District as established
45 pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated
46 by the Casino Reinvestment Development Authority, and which
47 will include a retail facility of at least 150,000 square feet, of which
48 at least 50 percent will be occupied by either a full-service

1 supermarket or grocery store, 30 hours of employment per week at a
2 qualified business facility shall constitute one "full-time employee,"
3 regardless of whether the hours of work were performed by one or
4 more persons, and the requirement that employee health benefits are
5 to be provided shall be deemed to be satisfied if the employees of
6 the business are covered by a collective bargaining agreement.

7 "Full-time employee" shall not include any person who works as
8 an independent contractor or on a consulting basis for the business.

9 Full-time employee shall also not include any person who at the
10 time of project application works in New Jersey for consideration
11 for at least 35 hours per week, or who renders any other standard of
12 service generally accepted by custom or practice as full-time
13 employment but who prior to project application was not provided,
14 by the business, with employee health benefits under a health
15 benefits plan authorized pursuant to State or federal law.

16 "Garden State Create Zone" means the campus of a doctoral
17 university, and the area within a three-mile radius of the outermost
18 boundary of the campus of a doctoral university, according to a map
19 appearing in the doctoral university's official catalog or other
20 official publication on the effective date of P.L.2017, c.221.

21 "Garden State Growth Zone" or "growth zone" means the four
22 New Jersey cities with the lowest median family income based on
23 the 2009 American Community Survey from the US Census, (Table
24 708. Household, Family, and Per Capita Income and Individuals,
25 and Families Below Poverty Level by City: 2009); a municipality
26 which contains a Tourism District as established pursuant to section
27 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino
28 Reinvestment Development Authority; or an aviation district.

29 "Highlands development credit receiving area or redevelopment
30 area" means an area located within a qualified incentive area and
31 designated by the Highlands Water Protection and Planning Council
32 for the receipt of Highlands Development Credits under the
33 Highlands Transfer Development Rights Program authorized
34 pursuant to section 13 of P.L.2004, c.120 (C.13:20-13).

35 "Incentive agreement" means the contract between the business
36 and the authority, which sets forth the terms and conditions under
37 which the business shall be eligible to receive the incentives
38 authorized pursuant to the program.

39 "Incentive effective date" means the date a business submits the
40 documentation required pursuant to paragraph (1) of subsection b.
41 of section 6 of P.L.2011, c.149 (C.34:1B-247) in a form satisfactory
42 to the authority.

43 "Independent institution of higher education" means a college or
44 university incorporated and located in New Jersey, which by virtue
45 of law or character or license is a nonprofit educational institution
46 authorized to grant academic degrees and which provides a level of
47 education which is equivalent to the education provided by the
48 State's public institutions of higher education, as attested by the

1 receipt of and continuation of regional accreditation by the Middle
2 States Association of Colleges and Schools, and which is eligible to
3 receive State aid under the provisions of the Constitution of the
4 United States and the Constitution of the State of New Jersey, but
5 does not include any educational institution dedicated primarily to
6 the education or training of ministers, priests, rabbis or other
7 professional persons in the field of religion.

8 "Major rail station" means a railroad station located within a
9 qualified incentive area which provides access to the public to a
10 minimum of six rail passenger service lines operated by the New
11 Jersey Transit Corporation.

12 "Mega project" means:

13 a. a qualified business facility located in a port district housing
14 a business in the logistics, manufacturing, energy, defense, or
15 maritime industries, either:

16 (1) having a capital investment in excess of \$20,000,000, and at
17 which more than 250 full-time employees of the business are
18 created or retained; or

19 (2) at which more than 1,000 full-time employees of the
20 business are created or retained;

21 b. a qualified business facility located in an aviation district
22 housing a business in the aviation industry, in a Garden State
23 Growth Zone, or in a priority area housing the United States
24 headquarters and related facilities of an automobile manufacturer,
25 either:

26 (1) having a capital investment in excess of \$20,000,000, and at
27 which more than 250 full-time employees of the business are
28 created or retained, or

29 (2) at which more than 1,000 full-time employees of the
30 business are created or retained;

31 c. a qualified business facility located in an urban transit hub
32 housing a business of any kind, having a capital investment in
33 excess of \$50,000,000, and at which more than 250 full-time
34 employees of the business are created or retained;

35 d. a project located in an area designated in need of
36 redevelopment, pursuant to P.L.1992, c.79 (C.40A:12A-1 et al.)
37 prior to the enactment of P.L.2014, c.63 (C.34:1B-251 et al.) within
38 Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester,
39 Ocean, or Salem counties having a capital investment in excess of
40 \$20,000,000, and at which more than 150 full-time employees of
41 the business are created or retained; or

42 e. a qualified business facility primarily used by a business
43 principally engaged in research, development, or manufacture of a
44 drug or device, as defined in R.S.24:1-1, or primarily used by a
45 business licensed to conduct a clinical laboratory and business
46 facility pursuant to the "New Jersey Clinical Laboratory
47 Improvement Act," P.L.1975, c.166 (C.45:9-42.26 et seq.), 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 "Minimum environmental and sustainability standards" means
7 standards established by the authority in accordance with the green
8 building manual prepared by the Commissioner of Community
9 Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6),
10 regarding the use of renewable energy, energy-efficient technology,
11 and non-renewable resources in order to reduce environmental
12 degradation and encourage long-term cost reduction.

13 "Moderate-income housing" means housing affordable,
14 according to United States Department of Housing and Urban
15 Development or other recognized standards for home ownership
16 and rental costs, and occupied or reserved for occupancy by
17 households with a gross household income equal to more than 50
18 percent but less than 80 percent of the median gross household
19 income for households of the same size within the housing region in
20 which the housing is located.

21 "Municipal Revitalization Index" means the 2007 index by the
22 Office for Planning Advocacy within the Department of State
23 measuring or ranking municipal distress.

24 "New full-time job" means an eligible position created by the
25 business at the qualified business facility that did not previously
26 exist in this State. For the purposes of determining a number of
27 new full-time jobs, the eligible positions of an affiliate shall be
28 considered eligible positions of the business.

29 "Other eligible area" means the portions of the qualified
30 incentive area that are not located within a distressed municipality,
31 or the priority area.

32 "Partnership" means an entity classified as a partnership for
33 federal income tax purposes.

34 "Port district" means the portions of a qualified incentive area
35 that are located within:

36 a. the "Port of New York District" of the Port Authority of
37 New York and New Jersey, as defined in Article II of the Compact
38 Between the States of New York and New Jersey of 1921; or

39 b. a 15-mile radius of the outermost boundary of each marine
40 terminal facility established, acquired, constructed, rehabilitated, or
41 improved by the South Jersey Port District established pursuant to
42 "The South Jersey Port Corporation Act," P.L.1968, c.60
43 (C.12:11A-1 et seq.).

44 "Priority area" means the portions of the qualified incentive area
45 that are not located within a distressed municipality and which:

46 a. are designated pursuant to the "State Planning Act,"
47 P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1
48 (Metropolitan), Planning Area 2 (Suburban), a designated center

1 under the State Development and Redevelopment Plan, or a
2 designated growth center in an endorsed plan until June 30, 2013, or
3 until the State Planning Commission revises and readopts New
4 Jersey's State Strategic Plan and adopts regulations to revise this
5 definition;

6 b. intersect with portions of: a deep poverty pocket, a port
7 district, or federally-owned land approved for closure under a
8 federal Commission on Base Realignment and Closure action;

9 c. are the proposed site of a disaster recovery project, a
10 qualified incubator facility, a highlands development credit
11 receiving area or redevelopment area, a tourism destination project,
12 or transit oriented development; or

13 d. contain: a vacant commercial building having over 400,000
14 square feet of office, laboratory, or industrial space available for
15 occupancy for a period of over one year; or a site that has been
16 negatively impacted by the approval of a "qualified business
17 facility," as defined pursuant to section 2 of P.L.2007, c.346
18 (C.34:1B-208).

19 "Professional employer organization" means an employee leasing
20 company registered with the Department of Labor and Workforce
21 Development pursuant to P.L.2001, c.260 (C.34:8-67 et seq.).

22 "Program" means the "Grow New Jersey Assistance Program"
23 established pursuant to section 3 of P.L.2011, c.149 (C.34:1B-244).

24 "Public research university" means a public research university
25 as defined in section 3 of P.L.1994, c.48 (C.18A:3B-3).

26 "Qualified business facility" means any building, complex of
27 buildings or structural components of buildings, and all machinery
28 and equipment located within a qualified incentive area, used in
29 connection with the operation of a business that is not engaged in
30 final point of sale retail business at that location unless the building,
31 complex of buildings or structural components of buildings, and all
32 machinery and equipment located within a qualified incentive area,
33 are used in connection with the operation of:

34 a. a final point of sale retail business located in a Garden State
35 Growth Zone that will include a retail facility of at least 150,000
36 square feet, of which at least 50 percent is occupied by either a full-
37 service supermarket or grocery store; or

38 b. a tourism destination project located in the Atlantic City
39 Tourism District as established pursuant to section 5 of P.L.2011,
40 c.18 (C.5:12-219).

41 "Qualified incentive area" means:

42 a. an aviation district;

43 b. a port district;

44 c. a distressed municipality or urban transit hub municipality;

45 d. an area (1) designated pursuant to the "State Planning Act,"
46 P.L.1985, c.398 (C.52:18A-196 et seq.), as:

47 (a) Planning Area 1 (Metropolitan);

48 (b) Planning Area 2 (Suburban); or

- 1 (c) Planning Area 3 (Fringe Planning Area);
- 2 (2) located within a smart growth area and planning area
- 3 designated in a master plan adopted by the New Jersey
- 4 Meadowlands Commission pursuant to subsection (i) of section 6 of
- 5 P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan
- 6 adopted by the New Jersey Meadowlands Commission pursuant to
- 7 section 20 of P.L.1968, c.404 (C.13:17-21);
- 8 (3) located within any land owned by the New Jersey Sports and
- 9 Exposition Authority, established pursuant to P.L.1971, c.137
- 10 (C.5:10-1 et seq.), within the boundaries of the Hackensack
- 11 Meadowlands District as delineated in section 4 of P.L.1968, c.404
- 12 (C.13:17-4);
- 13 (4) located within a regional growth area, rural development
- 14 area zoned for industrial use as of the effective date of P.L.2016,
- 15 c.75, town, village, or a military and federal installation area
- 16 designated in the comprehensive management plan prepared and
- 17 adopted by the Pinelands Commission pursuant to the "Pinelands
- 18 Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.);
- 19 (5) located within the planning area of the Highlands Region as
- 20 defined in section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands
- 21 development credit receiving area or redevelopment area;
- 22 (6) located within a Garden State Growth Zone;
- 23 (7) located within land approved for closure under any federal
- 24 Commission on Base Realignment and Closure action; or
- 25 (8) located only within the following portions of the areas
- 26 designated pursuant to the "State Planning Act," P.L.1985, c.398
- 27 (C.52:18A-196 et seq.), as Planning Area 4A (Rural Planning
- 28 Area), Planning Area 4B (Rural/Environmentally Sensitive) or
- 29 Planning Area 5 (Environmentally Sensitive) if Planning Area 4A
- 30 (Rural Planning Area), Planning Area 4B (Rural/Environmentally
- 31 Sensitive) or Planning Area 5 (Environmentally Sensitive) is
- 32 located within:
 - 33 (a) a designated center under the State Development and
 - 34 Redevelopment Plan;
 - 35 (b) a designated growth center in an endorsed plan until the
 - 36 State Planning Commission revises and readopts New Jersey's State
 - 37 Strategic Plan and adopts regulations to revise this definition as it
 - 38 pertains to Statewide planning areas;
 - 39 (c) any area determined to be in need of redevelopment pursuant
 - 40 to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and
 - 41 C.40A:12A-6) or in need of rehabilitation pursuant to section 14 of
 - 42 P.L.1992, c.79 (C.40A:12A-14);
 - 43 (d) any area on which a structure exists or previously existed
 - 44 including any desired expansion of the footprint of the existing or
 - 45 previously existing structure provided the expansion otherwise
 - 46 complies with all applicable federal, State, county, and local
 - 47 permits and approvals;

1 (e) the planning area of the Highlands Region as defined in
2 section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands
3 development credit receiving area or redevelopment area; or

4 (f) any area on which an existing tourism destination project is
5 located.

6 "Qualified incentive area" shall not include any property located
7 within the preservation area of the Highlands Region as defined in
8 section 3 of P.L.2004, c.120 (C.13:20-3).

9 "Qualified incubator facility" means a commercial building
10 located within a qualified incentive area: which contains 50,000 or
11 more square feet of office, laboratory, or industrial space; which is
12 located near, and presents opportunities for collaboration with, a
13 research institution, teaching hospital, college, or university; and
14 within which, at least 50 percent of the gross leasable area is
15 restricted for use by one or more technology startup companies
16 during the commitment period.

17 "Retained full-time job" means an eligible position that currently
18 exists in New Jersey and is filled by a full-time employee but
19 which, because of a potential relocation by the business, is at risk of
20 being lost to another state or country, or eliminated. For the
21 purposes of determining a number of retained full-time jobs, the
22 eligible positions of an affiliate shall be considered eligible
23 positions of the business. For the purposes of the certifications and
24 annual reports required in the incentive agreement pursuant to
25 subsection e. of section 4 of P.L.2011, c.149 (C.34:1B-245), to the
26 extent an eligible position that was the basis of the award no longer
27 exists, a business shall include as a retained full-time job a new
28 eligible position that is filled by a full-time employee provided that
29 the position is included in the order of date of hire and is not the
30 basis for any other incentive award. For a project located in a
31 Garden State Growth Zone which qualified for the "Municipal
32 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
33 (C.52:27BBB-1 et al.), retained full-time job shall include any
34 employee previously employed in New Jersey and transferred to the
35 new location in the Garden State Growth Zone which qualified for
36 the "Municipal Rehabilitation and Economic Recovery Act,"
37 P.L.2002, c.43 (C.52:27BBB-1 et al.).

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 situate.

42 "State college" means a State college or university established
43 pursuant to chapter 64 of Title 18A of the New Jersey Statutes.

44 "Targeted industry" means any industry identified from time to
45 time by the authority which shall initially include advanced
46 transportation and logistics, advanced manufacturing, aviation,
47 autonomous vehicle and zero-emission vehicle research or
48 development, clean energy, life sciences, hemp processing,

1 information and high technology, finance and insurance,
2 professional services, film and digital media, non-retail food and
3 beverage businesses including food innovation, and other
4 innovative industries that disrupt current technologies or business
5 models.

6 "Technology startup company" means a for profit business that
7 has been in operation fewer than five years and is developing or
8 possesses a proprietary technology or business method of a high-
9 technology or life science-related product, process, or service which
10 the business intends to move to commercialization.

11 "Tourism destination project" means a qualified non-gaming
12 business facility that will be among the most visited privately
13 owned or operated tourism or recreation sites in the State, and
14 which is located within the qualified incentive area and has been
15 determined by the authority to be in an area appropriate for
16 development and in need of economic development incentive
17 assistance, including a non-gaming business within an established
18 Tourism District with a significant impact on the economic viability
19 of that District.

20 "Transit oriented development" means a qualified business
21 facility located within a 1/2-mile radius, or one-mile radius for
22 projects located in a Garden State Growth Zone, surrounding the
23 mid-point of a New Jersey Transit Corporation, Port Authority
24 Transit Corporation, or Port Authority Trans-Hudson Corporation
25 rail, bus, or ferry station platform area, including all light rail
26 stations.

27 "Urban transit hub" means an urban transit hub, as defined in
28 section 2 of P.L.2007, c.346 (C.34:1B-208), that is located within
29 an eligible municipality, as defined in section 2 of P.L.2007, c.346
30 (C.34:1B-208) and also located within a qualified incentive area.

31 "Urban transit hub municipality" means a municipality: a. which
32 qualifies for State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et
33 seq.), or which has continued to be a qualified municipality
34 thereunder pursuant to P.L.2007, c.111; and b. in which 30 percent
35 or more of the value of real property was exempt from local
36 property taxation during tax year 2006. The percentage of exempt
37 property shall be calculated by dividing the total exempt value by
38 the sum of the net valuation which is taxable and that which is tax
39 exempt.

40 (cf: P.L.2020, c.156, s.120)

41

42 62. Section 2 of P.L.2007, c.346 (C.34:1B-208) is amended to
43 read as follows:

44 2. As used in this act:

45 "Affiliate" means an entity that directly or indirectly controls, is
46 under common control with, or is controlled by the business.
47 Control exists in all cases in which the entity is a member of a
48 controlled group of corporations as defined pursuant to section 1563

1 of the Internal Revenue Code of 1986 (26 U.S.C.s.1563) or the
2 entity is an organization in a group of organizations under common
3 control as defined pursuant to subsection (b) or (c) of section 414 of
4 the Internal Revenue Code of 1986 (26 U.S.C.s.414). A taxpayer
5 may establish by clear and convincing evidence, as determined by
6 the Director of the Division of Taxation in the Department of the
7 Treasury, that control exists in situations involving lesser
8 percentages of ownership than required by those statutes. An
9 affiliate of a business may contribute to meeting either the qualified
10 investment or full-time employee requirements of a business that
11 applies for a credit under section 3 of P.L.2007, c.346 (C.34:1B-
12 209).

13 "Authority" means the New Jersey Economic Development
14 Authority established by section 4 of P.L.1974, c.80 (C.34:1B-4).

15 "Business" means a corporation that is subject to the tax imposed
16 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), a
17 corporation that is subject to the tax imposed pursuant to sections 2
18 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of
19 P.L.1950, c.231 (C.17:32-15) or N.J.S.17B:23-5, or is a partnership,
20 an S corporation, or a limited liability corporation. A business shall
21 include an affiliate of the business if that business applies for a
22 credit based upon any capital investment made by or full-time
23 employees of an affiliate.

24 "Capital investment" in a qualified business facility means
25 expenses incurred after, but before the end of the eighth year after,
26 the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.) for: a.
27 the site preparation and construction, repair, renovation,
28 improvement, equipping, or furnishing of a building, structure,
29 facility or improvement to real property; and b. obtaining and
30 installing furnishings and machinery, apparatus or equipment for
31 the operation of a business in a building, structure, facility or
32 improvement to real property.

33 "Eligible municipality" means a municipality: (1) which qualifies
34 for State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.) or
35 which was continued to be a qualified municipality thereunder
36 pursuant to P.L.2007, c.111; and (2) in which 30 percent or more of
37 the value of real property was exempt from local property taxation
38 during tax year 2006. The percentage of exempt property shall be
39 calculated by dividing the total exempt value by the sum of the net
40 valuation which is taxable and that which is tax exempt.

41 "Full-time employee" means a person employed by the business
42 for consideration for at least 35 hours a week, or who renders any
43 other standard of service generally accepted by custom or practice
44 as full-time employment, or a person who is employed by a
45 professional employer organization pursuant to an employee leasing
46 agreement between the business and the professional employer
47 organization, in accordance with P.L.2001, c.260 (C.34:8-67 et
48 seq.) for at least 35 hours a week, or who renders any other standard

1 of service generally accepted by custom or practice as full-time
2 employment, and whose wages are subject to withholding as
3 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
4 et seq. or an employee who is a resident of another State but whose
5 income is not subject to the "New Jersey Gross Income Tax Act,"
6 N.J.S.54A:1-1 et seq. or who is a partner of a business who works
7 for the partnership for at least 35 hours a week, or who renders any
8 other standard of service generally accepted by custom or practice
9 as full-time employment, and whose distributive share of income,
10 gain, loss, or deduction, or whose guaranteed payments, or any
11 combination thereof, is subject to the payment of estimated taxes, as
12 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
13 et seq. "Full-time employee" shall not include any person who
14 works as an independent contractor or on a consulting basis for the
15 business.

16 "Full-time employee at the qualified business facility" means a
17 full-time position in a business in this State, which position the
18 business has filled with a full-time employee, who shall have their
19 primary office at the qualified business facility and spend at least 60
20 percent of their time at the qualified business facility. This
21 requirement shall supersede any law, regulation, or incentive
22 agreement that imposes a requirement that the employee be present
23 at the qualified business facility for a specified percentage of time
24 greater than 60 percent. This amendment shall not alter or
25 terminate any waiver of the requirement that an employee spend
26 time at the qualified business facility implemented by the authority
27 due to COVID-19 public health emergency and state of emergency.

28 "Mixed use project" means a project comprising both a qualified
29 business facility and a qualified residential project.

30 "Partnership" means an entity classified as a partnership for
31 federal income tax purposes.

32 "Professional employer organization" means an employee leasing
33 company registered with the Department of Labor and Workforce
34 Development pursuant to P.L.2001, c.260 (C.34:8-67 et seq.).

35 "Qualified business facility" means any building, complex of
36 buildings or structural components of buildings, and all machinery
37 and equipment located within a designated urban transit hub in an
38 eligible municipality, used in connection with the operation of a
39 business.

40 "Qualified residential project" shall have the meaning ascribed to
41 that term under section 34 of P.L.2009, c.90 (C.34:1B-209.2).

42 "Residential unit" means a residential dwelling unit such as a
43 rental apartment, a condominium or cooperative unit, a hotel room,
44 or a dormitory room.

45 "Urban transit hub" means:

46 a. (1) property located within a 1/2-mile radius surrounding the
47 mid point of a New Jersey Transit Corporation, Port Authority

1 Transit Corporation or Port Authority Trans-Hudson Corporation
2 rail station platform area, including all light rail stations, and

3 (2) property located within a one-mile radius of the mid point of
4 the platform area of such a rail station if the property is in a
5 qualified municipality under the "Municipal Rehabilitation and
6 Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et seq.) or
7 in an area that is the subject of a Choice Neighborhoods
8 Transformation Plan funded by the federal Department of Housing
9 and Urban Development, and

10 (3) the site of the campus of an acute care medical facility
11 located within a one-mile radius of the mid point of the platform
12 area of such a rail station, and

13 (4) the site of a closed hospital located within a one-mile radius
14 of the mid point of the platform area of such a rail station;

15 b. property located within a 1/2-mile radius surrounding the
16 mid point of one of up to two underground light rail stations'
17 platform areas that are most proximate to an interstate rail station;

18 c. property adjacent to, or connected by rail spur to, a freight
19 rail line if the business utilizes that freight line at any rail spur
20 located adjacent to or within a one-mile radius surrounding the
21 entrance to the property for loading and unloading freight cars on
22 trains;

23 which property shall have been specifically delineated by the
24 authority pursuant to subsection e. of section 3 of P.L.2007, c.346
25 (C.34:1B-209).

26 A property which is partially included within the radius shall
27 only be considered part of the urban transit hub if over 50 percent
28 of its land area falls within the radius.

29 "Rail station" shall not include any rail station located at an
30 international airport, except that any property within a 1/2-mile
31 radius surrounding the mid point of a New Jersey Transit
32 Corporation rail station platform area at an international airport
33 upon which a qualified business facility is constructed or renovated
34 commencing after the effective date of P.L.2011, c.149 (C.34:1B-
35 242 et al.) shall be deemed an urban transit hub, excluding any
36 property owned or controlled by the Port Authority of New York
37 and New Jersey.

38 (cf: P.L.2011, c.149, s.10)

39

40 63. Section 2 of P.L.1996, c.26 (C.34:1B-125) is amended to
41 read as follows:

42 2. As used in sections 1 through 17 of P.L.1996, c.26
43 (C.34:1B-124 et seq.) and in sections 9 through 11 of P.L.2003,
44 c.166 (C.34:1B-139.1 through C.34:1B-139.3), unless a different
45 meaning clearly appears from the context:

46 "Advanced computing" means a technology used in the
47 designing and developing of computing hardware and software,
48 including innovations in designing the full spectrum of hardware

1 from hand-held calculators to super computers, and peripheral
2 equipment.

3 "Advanced computing company" means a person, whose
4 headquarters or base of operations is located in New Jersey,
5 engaged in the research, development, production, or provision of
6 advanced computing for the purpose of developing or providing
7 products or processes for specific commercial or public purposes.

8 "Advanced materials" means materials with engineered
9 properties created through the development of specialized
10 processing and synthesis technology, including ceramics, high
11 value-added metals, electronic materials, composites, polymers, and
12 biomaterials. "Advanced materials company" means a person,
13 whose headquarters or base of operations is located in New Jersey,
14 engaged in the research, development, production, or provision of
15 advanced materials for the purpose of developing or providing
16 products or processes for specific commercial or public purposes.

17 "Application year" means the grant year for which an eligible
18 partnership submits the information required under section 8 of
19 P.L.1996, c.26 (C.34:1B-131).

20 "Authority" means the New Jersey Economic Development
21 Authority created pursuant to section 4 of P.L.1974, c.80 (C.34:1B-
22 4).

23 "Base years" means the first two complete calendar years
24 following the effective date of an agreement.

25 "Biotechnology" means the continually expanding body of
26 fundamental knowledge about the functioning of biological systems
27 from the macro level to the molecular and sub-atomic levels, as
28 well as novel products, services, technologies, and sub-technologies
29 developed as a result of insights gained from research advances
30 which add to that body of fundamental knowledge.

31 "Biotechnology company" means a person, whose headquarters
32 or base of operations is located in New Jersey, engaged in the
33 research, development, production, or provision of biotechnology
34 for the purpose of developing or providing products or processes for
35 specific commercial or public purposes, including but not limited
36 to, medical, pharmaceutical, nutritional, and other health-related
37 purposes, agricultural purposes, and environmental purposes, or a
38 person, whose headquarters or base of operations is located in New
39 Jersey, engaged in providing services or products necessary for
40 such research, development, production, or provision.

41 "Bonds" means bonds, notes, or other obligations issued by the
42 authority pursuant to P.L.1996, c.26 (C.34:1B-124 et seq.).

43 "Business" means a corporation; sole proprietorship; partnership;
44 corporation that has made an election under Subchapter S of
45 Chapter One of Subtitle A of the Internal Revenue Code of 1986, or
46 any other business entity through which income flows as a
47 distributive share to its owners; limited liability company; nonprofit
48 corporation; or any other form of business organization located

1 either within or outside this State. A grant received under
2 P.L.1996, c.26 (C.34:1B-124 et seq.) by a partnership, Subchapter
3 S-Corporation, or other business entity shall be apportioned among
4 the persons to whom the income or profit of the partnership,
5 Subchapter S-Corporation, or other entity is distributed, in the same
6 proportions as those in which the income or profit is distributed.

7 "Business employment incentive agreement" or "agreement"
8 means the written agreement between the authority and a business
9 proposing a project in this State in accordance with the provisions
10 of P.L.1996, c.26 (C.34:1B-124 et seq.) which establishes the terms
11 and conditions of a grant to be awarded pursuant to P.L.1996, c.26
12 (C.34:1B-124 et seq.).

13 "Designated industry" means a business engaged in the field of
14 biotechnology, pharmaceuticals, financial services, transportation
15 and logistics, advanced computing, advanced materials, electronic
16 device technology, environmental technology, or medical device
17 technology.

18 "Director" means the Director of the Division of Taxation.

19 "Division" means the Division of Taxation in the Department of
20 the Treasury.

21 "Electronic device technology" means a technology involving
22 microelectronics, semiconductors, electronic equipment, and
23 instrumentation, radio frequency, microwave, and millimeter
24 electronics, and optical and optic-electrical devices, or data and
25 digital communications and imaging devices.

26 "Electronic device technology company" means a person, whose
27 headquarters or base of operations is located in New Jersey,
28 engaged in the research, development, production, or provision of
29 electronic device technology for the purpose of developing or
30 providing products or processes for specific commercial or public
31 purposes.

32 "Eligible partnership" means a partnership or limited liability
33 company that is qualified to receive a grant as established in
34 P.L.1996, c.26 (C.34:1B-124 et seq.).

35 "Eligible position" is a new full-time position created by a
36 business in New Jersey or transferred from another state by the
37 business under the terms and conditions set forth in P.L.1996, c.26
38 (C.34:1B-124 et seq.) during the base years or in subsequent years
39 of a grant. In determining if positions are eligible positions, the
40 authority shall give greater consideration to positions that average
41 at least 1.5 times the minimum hourly wage during the term of an
42 agreement authorized pursuant to P.L.1996, c.26 (C.34:1B-124 et
43 seq.). For grants awarded on or after July 1, 2003, eligible position
44 includes only a position for which a business provides employee
45 health benefits under a group health plan as defined under section
46 14 of P.L.1997, c.146 (C.17B:27-54), a health benefits plan as
47 defined under section 1 of P.L.1992, c.162 (C.17B:27A-17), or a
48 policy or contract of health insurance covering more than one

1 person issued pursuant to Article 2 of Title 17B of the New Jersey
2 Statutes. An "eligible position" shall also include all current and
3 future partners or members of a partnership or limited liability
4 company created by a business in New Jersey or transferred from
5 another state by the business pursuant to the conditions set forth in
6 P.L.1996, c.26 (C.34:1B-124 et seq.) during the base years or in
7 subsequent years of a grant. An "eligible position" shall also
8 include a position occupied by a resident of this State whose
9 position is relocated to this State from another state but who does
10 not qualify as a "new employee" because prior to relocation the
11 resident's wages or the resident's distributive share of income from
12 a gain, from a loss or deduction, or the resident's guaranteed
13 payments or any combination thereof, prior to the relocation, were
14 not subject to income taxes imposed by the state or municipality in
15 which the position was previously located. An "eligible position"
16 shall also include a position occupied by a resident of another State
17 whose position is relocated to this State but whose income is not
18 subject to the New Jersey gross income tax pursuant to the "New
19 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. An "eligible
20 position" shall not include any position located within New Jersey,
21 which, within a period either three months prior to the business'
22 application for a grant under P.L.1996, c.26 (C.34:1B-124 et seq.)
23 or six months after the date of application, ceases to exist or be
24 located within New Jersey.

25 "Employment incentive" means the amount of a grant, either in
26 cash or in tax credits, determined pursuant to subsection a. of
27 section 6 of P.L.1996, c.26 (C.34:1B-129).

28 "Environmental technology" means assessment and prevention of
29 threats or damage to human health or the environment,
30 environmental cleanup, or the development of alternative energy
31 sources.

32 "Environmental technology company" means a person, whose
33 headquarters or base of operations is located in New Jersey,
34 engaged in the research, development, production, or provision of
35 environmental technology for the purpose of developing or
36 providing products or processes for specific commercial or public
37 purposes.

38 "Estimated tax" means an amount calculated for a partner in an
39 eligible position equal to 6.37 percent of the lesser of: a. the amount
40 of the partner's net income from the eligible partnership that is
41 sourced to New Jersey as reflected in Column B of the partner's
42 Schedule NJK-1 of the application year less the amount of the
43 partner's net income from the eligible partnership that is sourced to
44 New Jersey as reflected in column B of the partner's Schedule NJK-
45 1 in the foundation year; or b. the net of all items of partnership
46 income upon which tax has been paid as reflected on the partner's
47 New Jersey Gross Income Tax return in the application year.

1 "Foundation year" means the year immediately prior to the
2 creation of the eligible position.

3 "Full-time employee" means a person who is employed for
4 consideration for at least 35 hours a week, or who renders any other
5 standard of service generally accepted by custom or practice as full-
6 time employment, whose wages are subject to withholding as
7 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
8 et seq., and who is determined by the authority to be employed in a
9 permanent position according to criteria it develops, or who is a
10 partner of an eligible partnership, who works for the partnership for
11 at least 35 hours a week, or who renders any other standard of
12 service generally accepted by custom or practice as full-time
13 employment, and whose distributive share of income, gain, loss, or
14 deduction, or whose guaranteed payments, or any combination
15 thereof, is subject to the payment of estimated taxes, as provided in
16 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.
17 "Full-time employee" shall not include any person who works as an
18 independent contractor or on a consulting basis for the business.

19 "Full-time employee at the qualified business facility" means a
20 full-time position in a business in this State, which position the
21 business has filled with a full-time employee, who shall have their
22 primary office at the qualified business facility and spend at least 60
23 percent of their time at the qualified business facility. This
24 requirement shall supersede any law, regulation, or incentive
25 agreement that imposes a requirement that the employee be present
26 at the qualified business facility for a specified percentage of time
27 greater than 60 percent. This amendment shall not alter or
28 terminate any waiver of the requirement that an employee spend
29 time at the qualified business facility implemented by the authority
30 due to COVID-19 public health emergency and state of emergency.

31 "Grant" means a business employment incentive grant as
32 established in P.L.1996, c.26 (C.34:1B-124 et seq.).

33 "Medical device technology" means a technology involving any
34 medical equipment or product, other than a pharmaceutical product,
35 that has therapeutic value, diagnostic value, or both, and is
36 regulated by the federal Food and Drug Administration.

37 "Medical device technology company" means a person, whose
38 headquarters or base of operations is located in New Jersey,
39 engaged in the research, development, production, or provision of
40 medical device technology for the purpose of developing or
41 providing products or processes for specific commercial or public
42 purposes.

43 "Net income from the eligible partnership" means the net
44 combination of a partner's distributive share of the eligible
45 partnership's income, gain, loss, deduction, or guaranteed payments.

46 "New employee" means a full-time employee first employed in
47 an eligible position on the project which is the subject of an
48 agreement or who is a partner of an eligible partnership, who works

1 for the partnership for at least 35 hours a week, or who renders any
2 other standard of service generally accepted by custom or practice
3 as full-time employment, and whose distributive share of income,
4 gain, loss or deduction, or whose guaranteed payments, or any
5 combination thereof, is subject to the payment of estimated taxes, as
6 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
7 et seq.; except that a New Jersey resident whose position is
8 relocated to this State shall not be classified as a "new employee"
9 unless the employee's wages, or the employee's distributive share of
10 income from a gain, from a loss or deduction, or the employee's
11 guaranteed payments or any combination thereof, prior to the
12 relocation, were subject to income taxes imposed by the state or
13 municipality in which the position was previously located. "New
14 employee" may also include an employee rehired or called back
15 from a layoff during or following the base years to a vacant position
16 previously held by that employee or to a new position established
17 during or following the base years. "New employee" shall not
18 include any employee who was previously employed in New Jersey
19 by the business or by a related person as defined in section 2 of
20 P.L.1993, c.170 (C.54:10A-5.5) if the employee is transferred to the
21 business, which is the subject of an agreement, unless the
22 employee's position at the employee's previous employer is filled by
23 a new employee. "New employee" also shall not include a child,
24 grandchild, parent, or spouse of an individual associated with the
25 business who has direct or indirect ownership of at least 15 percent
26 of the profits, capital, or value of the business. New employee shall
27 also include an employee whose position is relocated to this State
28 but whose income is not subject to the New Jersey gross income tax
29 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
30 et seq.

31 "Partner" means a person who is entitled to either a distributive
32 share of a partnership's income, gain, loss, or deduction, or
33 guaranteed payments, or any combination thereof, by virtue of
34 holding an interest in the partnership. "Partner" also includes a
35 person who is a member of a limited liability company which is
36 treated as a partnership, as provided in the "New Jersey Gross
37 Income Tax Act," N.J.S.54A:1-1 et seq.

38 "Refunding Bonds" means bonds, notes or other obligations
39 issued to refinance bonds, notes or other obligations previously
40 issued by the authority pursuant to the provisions of P.L.1996, c.26
41 (C.34:1B-124 et seq.).

42 "Residual withholdings" means for any period of time, the excess
43 of the estimated cumulative withholdings for all executed
44 agreements eligible for payments under P.L.1996, c.26 (C.34:1B-
45 124 et seq.) over the cumulative anticipated grant amounts.

46 "Schedule NJK-1" means Schedule NJK-1 as the form existed for
47 taxable year 1997.

1 "Withholdings" means the amount withheld by a business from
2 the wages of new employees or estimated taxes paid by, or on
3 behalf of, partners that are new employees, or any combination
4 thereof, pursuant to the "New Jersey Gross Income Tax Act,"
5 N.J.S.54A:1-1 et seq., and, if the new employee is an employee
6 whose position has moved to New Jersey but whose income is not
7 subject to the New Jersey gross income tax pursuant to
8 N.J.S.54A:1-1 et seq., the amount of withholding that would occur
9 if the employee were to move to New Jersey.
10 (cf: P.L.2015, c.194, s.1)

11

12 64. Section 2 of P.L.1996, c.25 (C.34:1B-113) is amended to
13 read as follows:

14 2. As used in this act:

15 "Affiliate" means an entity that directly or indirectly controls, is
16 under common control with, or is controlled by the business.
17 Control exists in all cases in which the entity is a member of a
18 controlled group of corporations as defined pursuant to section 1563
19 of the Internal Revenue Code of 1986 (26 U.S.C. s.1563) or the
20 entity is an organization in a group of organizations under common
21 control as defined pursuant to subsection (b) or (c) of section 414 of
22 the Internal Revenue Code of 1986 (26 U.S.C. s.414). An entity
23 may establish by clear and convincing evidence, as determined by
24 the Director of the Division of Taxation in the Department of the
25 Treasury, that control exists in situations involving lesser
26 percentages of ownership than required by those statutes;

27 "Authority" means the New Jersey Economic Development
28 Authority created pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.);

29 "Business retention or relocation grant of tax credits" or "grant of
30 tax credits" means a grant which consists of the value of
31 corporation business tax credits against the liability imposed
32 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) or credits
33 against the taxes imposed on insurers pursuant to P.L.1945, c.132
34 (C.54:18A-1 et al.), section 1 of P.L.1950, c.231 (C.17:32-15), and
35 N.J.S.17B:23-5, provided to fund a portion of retention and
36 relocation costs pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.);

37 "Business" means an employer located in this State that has
38 operated continuously in the State, in whole or in part, in its current
39 form or as a predecessor entity for at least 10 years prior to filing an
40 application pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.) and
41 which is subject to the provisions of R.S.43:21-1 et seq. and may
42 include a sole proprietorship, a partnership, or a corporation that
43 has made an election under Subchapter S of Chapter One of Subtitle
44 A of the Internal Revenue Code of 1986, or any other business
45 entity through which income flows as a distributive share to its
46 owners, limited liability company, nonprofit corporation, or any
47 other form of business organization located either within or outside
48 the State. A business shall include an affiliate of the business if that

1 business applies for a credit based upon any capital investment
2 made by an affiliate or based upon retained full-time jobs of an
3 affiliate;

4 "Capital investment" means expenses that the business incurs
5 following its submission of an application to the authority pursuant
6 to section 5 of P.L.1996, c.25 (C.34:1B-116), but prior to the
7 Capital Investment Completion Date, as shall be defined in the
8 project agreement, for: (1) the site preparation and construction,
9 renovation, improvement, equipping of, or obtaining and installing
10 fixtures and machinery, apparatus or equipment in, a newly
11 constructed, renovated or improved building, structure, facility, or
12 improvement to real property in this State; and (2) obtaining and
13 installing fixtures and machinery, apparatus or equipment in a
14 building, structure, or facility in this State. Provided however, that
15 "capital investment" shall not include soft costs such as financing
16 and design, furniture or decorative items such as artwork or plants,
17 or office equipment if the office equipment is property with a
18 recovery period of less than five years. The recovery period of any
19 property, for purposes of this section, shall be determined as of the
20 date such property is first placed in service or use in this State by
21 the business, determined in accordance with section 168 of the
22 federal Internal Revenue Code of 1986 (26 U.S.C. s.168). A
23 business that acquires or leases a qualified business facility shall
24 also be deemed to have acquired the capital investment made or
25 acquired by the seller or landlord, as the case may be;

26 "Certificate of compliance" means a certificate issued by the
27 authority pursuant to section 9 of P.L.1996, c.25 (C.34:1B-120);

28 "Chief executive officer" means the chief executive officer of the
29 New Jersey Economic Development Authority;

30 "Commitment duration" means the tax credit term and five years
31 from the end of the tax credit term specified in the project
32 agreement entered into pursuant to section 5 of P.L.1996, c.25
33 (C.34:1B-116);

34 "Designated industry" means an industry identified by the
35 authority as desirable for the State to maintain, which may be
36 designated and amended via the promulgation of rules by the
37 authority to reflect changing market conditions;

38 "Designated urban center" means an urban center designated in
39 the State Development and Redevelopment Plan adopted by the
40 State Planning Commission;

41 "Eligible position" means a full-time position retained by a
42 business in this State for which a business provides employee health
43 benefits under a group health plan as defined under section 14 of
44 P.L.1997, c.146 (C.17B:27-54), a health benefits plan as defined
45 under section 1 of P.L.1992, c.162 (C.17B:27A-17), or a policy or
46 contract of health insurance covering more than one person issued
47 pursuant to Article 2 of Chapter 27 of Title 17B of the New Jersey
48 Statutes;

1 "Full-time employee" means a person employed by the business
2 for consideration for at least 35 hours a week, or who renders any
3 other standard of service generally accepted by custom or practice,
4 as determined by the authority, as full-time employment, or a
5 person who is employed by a professional employer organization
6 pursuant to an employee leasing agreement between the business
7 and the professional employer organization, in accordance with
8 P.L.2001, c.260 (C.34:8-67 et seq.) for at least 35 hours a week, or
9 who renders any other standard of service generally accepted by
10 custom or practice, as determined by the authority, as full-time
11 employment, and whose wages are subject to withholding as
12 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
13 et seq. or an employee who is a resident of another State but whose
14 income is not subject to the "New Jersey Gross Income Tax Act,"
15 N.J.S.54A:1-1 et seq. or who is a partner of a business who works
16 for the partnership for at least 35 hours a week, or who renders any
17 other standard of service generally accepted by custom or practice,
18 as determined by the authority, as full-time employment, and whose
19 distributive share of income, gain, loss, or deduction, or whose
20 guaranteed payments, or any combination thereof, is subject to the
21 payment of estimated taxes, as provided in the "New Jersey Gross
22 Income Tax Act," N.J.S.54A:1-1 et seq. "Full-time employee" shall
23 not include any person who works as an independent contractor or
24 on a consulting basis for the business;

25 "Full-time employee at the qualified business facility" means a
26 full-time position in a business in this State, which position the
27 business has filled with a full-time employee, who shall have their
28 primary office at the qualified business facility and spend at least 60
29 percent of their time at the qualified business facility. This
30 requirement shall supersede any law, regulation, or incentive
31 agreement that imposes a requirement that the employee be present
32 at the qualified business facility for a specified percentage of time
33 greater than 60 percent. This amendment shall not alter or
34 terminate any waiver of the requirement that an employee spend
35 time at the qualified business facility implemented by the authority
36 due to COVID-19 public health emergency and state of emergency.

37 "New business location" means the premises to which a business
38 will relocate that the business has either purchased or built or for
39 which the business has entered into a purchase agreement or a
40 written lease for a period of no less than the commitment duration
41 or eight years, whichever is greater, from the date of relocation. A
42 "new business location" also means the business's current location
43 or locations if the business makes a capital investment equal to the
44 total value of the business retention or relocation grant of tax credits
45 to the business at that location or locations;

46 "Program" means the Business Retention and Relocation
47 Assistance Grant Program created pursuant to P.L.1996, c.25
48 (C.34:1B-112 et seq.);

1 "Project agreement" means an agreement between a business and
2 the authority that sets the forecasted schedule for completion and
3 occupancy of the project, the date the commitment duration shall
4 commence, the amount and tax credit term of the applicable grant of
5 tax credits, and other such provisions which further the purposes of
6 P.L.1996, c.25 (C.34:1B-112 et seq.);

7 "Retained full-time job" means an eligible position that currently
8 exists in New Jersey and is filled by a full-time employee but
9 which, because of a potential relocation by the business, is at risk of
10 being lost to another state or country. For the purposes of
11 determining a number of retained full-time jobs, the eligible
12 positions of an affiliate shall be considered the eligible positions of
13 the business;

14 "Tax credit term" means the period of time commencing with the
15 first issuance of tax credits and continuing during the period in
16 which the recipient of a grant of tax credits is eligible to apply the
17 tax credits pursuant to section 7 of P.L.2004, c.65 (C.34:1B-115.3);
18 and

19 "Yearly tax credit amount" means \$1,500 times the number of
20 retained full-time jobs. "Yearly tax credit amount" does not include
21 the amount of any bonus award authorized pursuant to section 5 of
22 P.L.2004, c.65 (C.34:1B-115.1).
23 (cf: P.L.2011, c.149, s.12)

24
25 65. (New section) Sections 65 through 68 of P.L. ,
26 c. (C.) (pending before the Legislature as this bill) shall be
27 known and may be cited as the "New Jersey Innovation Fellows
28 Program Act."

29
30 66. (New section) The Legislature finds and declares that:

31 a. One of the most difficult challenges for upstart entrepreneurs
32 is forgoing employment to launch their businesses.

33 b. For diverse entrepreneurs from underserved populations, this
34 challenge is often exacerbated as these entrepreneurs historically
35 lack funding from family and friends to support their living
36 expenses while building a business without income.

37 c. Having alternative sources of capital and new ways to
38 deploy capital to entrepreneurs can be crucial for disadvantaged
39 entrepreneurs in particular.

40 d. Although many universities provide fellowships for
41 advancing business ideas, this assistance is often only available to
42 students, and there is a dearth of programs designed specifically to
43 support non-student entrepreneurs.

44 e. The New Jersey Economic Development Authority, through
45 the New Jersey Innovation Fellows Program, shall seek to
46 consolidate public and private economic development efforts
47 through various funding sources into one targeted program to invest

1 in diverse talent critical to New Jersey having a vibrant innovation
2 ecosystem.

3

4 67. (New section) As used in sections 65 through 68 of P.L. ,
5 c. (C.) (pending before the Legislature as this bill):

6 “Authority” means the New Jersey Economic Development
7 Authority established pursuant to section 4 of P.L.1974, c.80
8 (C.34:1B-4).

9 “Chief executive officer” means the Chief Executive Officer of
10 the New Jersey Economic Development Authority.

11 “Eligible municipality” means a city of the first class, a
12 municipality with a private research university, a municipality that
13 is qualified to receive assistance under P.L.1978, c.14 (C.52:27D-
14 178 et seq.), a municipality under the supervision of the Local
15 Finance Board pursuant to the provisions of the "Local Government
16 Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a
17 municipality identified by the Director of the Division of Local
18 Government Services in the Department of Community Affairs to
19 be facing serious fiscal distress, a SDA municipality, or a
20 municipality in which a major rail station is located.

21 “Entrepreneur” means an individual starting a small business and
22 who meets the eligibility criteria established by the authority for the
23 program.

24 “Program” means the New Jersey Innovation Fellows Program,
25 established pursuant to section 68 of P.L. , c. (C.) (pending
26 before the Legislature as this bill).

27 “Targeted industry” means any industry identified from time to
28 time by the authority that 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,
33 professional services, film and digital media, non-retail food and
34 beverage businesses including food innovation, and other
35 innovative industries that disrupt current technologies or business
36 models.

37

38 68. (New section) a. There is established the “New Jersey
39 Innovation Fellows Program” within the authority for the purpose
40 of providing seed funding to teams of entrepreneurs, through the
41 disbursement of fellowship grants, and facilitating economic growth
42 and job creation in eligible municipalities. The award of a
43 fellowship grant to a team of entrepreneurs shall be limited to
44 \$350,000 per team and shall be used as income-replacement for
45 entrepreneurs who leave the workforce to open and operate a
46 business in an eligible municipality.

47 b. The chief executive officer shall award fellowship grants
48 through a competitive grant solicitation to teams of no less than

1 three entrepreneurs, in which at least half of the team members are
2 first time entrepreneurs, with well-written business plans who:

3 (1) are seeking to open and operate a business in a targeted
4 industry, which business is located in an eligible municipality;

5 (2) commit to working at the business on a full-time basis for
6 two years next following receipt of the fellowship grant;

7 (3) participate in a mentorship program; and

8 (4) pay gross income tax pursuant to N.J.S.54A:1-1 et seq. at the
9 time of applying for the fellowship grant and remain New Jersey
10 taxpayers during the time in which fellowship grants are disbursed
11 and the next following two years. If any member of the original
12 awarded team of entrepreneurs ceases to be a New Jersey taxpayer
13 during the time in which fellowship grants are disbursed and the
14 next following two years, the fellowship grant may be rescinded,
15 and any amount paid may be recouped, by the authority.

16 c. A team of entrepreneurs seeking to participate in the
17 program shall submit an application in a form determined by the
18 chief executive officer. The application shall include information
19 that the chief executive officer determines is necessary to
20 administer the program.

21 d. The chief executive officer shall award fellowship grants in
22 intervals determined by the chief executive officer following
23 application approval and the submission of proof by a team of
24 entrepreneurs that the team has fulfilled the eligibility requirements
25 pursuant to subsection b. of this section and any other requirements
26 determined by the authority. The submission of proof shall be
27 subject to review and audit by the authority.

28 e. A team of entrepreneurs that includes at least one member
29 who is a graduate of a New Jersey college or university or is a
30 diverse entrepreneur, as defined in section 2 of P.L.1997, c.349
31 (C.54:10A-5.29), and meets the eligibility requirements may receive
32 a fellowship grant up to \$400,000.

33 f. Within one year of the effective date of P.L. , c. (C.)
34 (pending before the Legislature as this bill), the authority shall
35 undertake a disparity study analyzing the relative availability of
36 seed money and capital for diverse entrepreneurs, as defined in
37 section 2 of P.L.1997, c.349 (C.54:10A-5.29), in this State and the
38 authority's historic support of such businesses. If recommended by
39 the study, the authority shall establish policies, practices, protocols,
40 and, if appropriate, minimum percentages of the funds to be set
41 aside to eligible teams of entrepreneurs that include at least one
42 diverse entrepreneur or one female entrepreneur. Regardless of
43 whether the disparity study recommends a set-aside for diverse
44 entrepreneurs, the authority may make up to 35 percent of the funds
45 available for the award of fellowship grants to teams of
46 entrepreneurs that include at least one a member that either resides
47 in an New Jersey State opportunity zone, as defined in section 45 of

1 P.L.2020, c.156 (C.34:1B-313), or is seeking to open and operate a
2 business in an opportunity zone eligible census tract.

3

4 69. There is appropriated from the General Fund to the New
5 Jersey Economic Development Authority the sum of \$10,000,000
6 for the award of fellowship grants to teams of entrepreneurs
7 pursuant to sections 65 through 68 of P.L. , c. (C.)
8 (pending before the Legislature as this bill) and for the costs of
9 administering the “New Jersey Innovation Fellows Program.”

10

11 70. This act shall take effect immediately, and the amendments
12 made to P.L.2020, c.156 by this act, P.L. , c. (pending before the
13 Legislature as this bill), shall apply to applications submitted
14 pursuant section 72 of P.L.2020, c.156 (C.34:1B-340), section 1 of
15 P.L.2018, c.56 (C.54A:4-12a), and 2 of P.L.2018, c.56 (C.54A:4-
16 12b) on or after the effective date of P.L.2020, c.156, except the
17 amendments made by this act to paragraph (2) of subsection a. of
18 section 1 of P.L.2018, c.56 (C.54A:4-12a) and paragraph (2) of
19 subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) shall
20 apply to applications submitted on and after the effective date of
21 this act. The amendments made to P.L.2020, c.156 by this act shall
22 apply to all other applications submitted under P.L.2020, c.156 on
23 and after the effective date of this act.

24

25

26

STATEMENT

27

28 This bill revises various provisions of the “New Jersey Economic
29 Recovery Act of 2020,” P.L.2020, c.156 (C.34:1B-269 et al.) and
30 establishes the "New Jersey Innovation Fellows Program" within
31 the New Jersey Economic Development Authority (EDA).

32

33 *The New Jersey Innovation Fellows Program.* Under the
34 program, the EDA would provide fellowship grants, through a
35 competitive process, for teams of entrepreneurs who operate
36 businesses in targeted industries within certain eligible
37 municipalities. The bill provides that the fellowship grants, which
38 may not exceed \$250,000 per team, would be used as income
39 replacement for entrepreneurs who leave the workforce to open and
40 operate the business. The bill appropriates \$10 million from the
41 General Fund to support the program.

42

43 *The New Jersey Aspire Program.* The bill revises various
44 provisions of the New Jersey Aspire Program, including:

45 (1) expanding the definition of “incentive area” to include
46 aviation and port districts;

47 (2) removing the requirement for commercial projects to
48 demonstrate that increases in incremental State revenues would

- 1 exceed the amounts needed to support the developer's project
- 2 financing gap;
- 3 (3) increasing the tax credit allowance for certain residential
- 4 projects, which also receive an allocation of federal four-percent
- 5 low income housing tax credits, to 60 percent of total project costs;
- 6 (4) increasing the total value of tax credits that may be awarded
- 7 per redevelopment project to: (i) \$60 million for residential projects
- 8 that receive federal four-percent low income housing tax credits, or
- 9 redevelopment projects located in certain designated areas; and (ii)
- 10 \$42 million for all other redevelopment projects;
- 11 (5) reducing the amount for which the developers of residential
- 12 projects may assign tax credit certificates;
- 13 (6) revising the requirements for new residential projects to
- 14 dedicate certain units for affordable housing purposes;
- 15 (7) providing that the EDA may allow up to six years to elapse
- 16 from the date on which an incentive award agreement is executed to
- 17 the date in which a certificate of occupancy is issued for certain
- 18 higher-cost projects;
- 19 (8) defining the term "technology startup company";
- 20 (9) revising the procedures and calculations for recapturing tax
- 21 credit financing when the developer's actual project financing gap
- 22 is less than initially approved and when the developer's actual
- 23 return on investment is more than initially approved;
- 24 (10) reducing the requirements for mixed-use projects to qualify
- 25 as transformative projects;
- 26 (11) establishing additional requirements for certain residential
- 27 projects to qualify as transformative projects;
- 28 (12) removing the limitation on the number of incentive awards
- 29 that may be awarded to transformative projects;
- 30 (13) increasing the tax credit award for transformative projects
- 31 from 30 percent to 40 percent of total project costs, or \$350 million,
- 32 whichever is less;
- 33 (14) establishing standards for the execution of transformative
- 34 phase agreements and the completion of transformative projects in
- 35 phases;
- 36 (15) requiring transformative projects, other than those that
- 37 include certain film production infrastructure, to be located within
- 38 an incentive area, distressed municipality, or enhanced area;
- 39 (16) allowing the acquisition of land to count towards the
- 40 calculation of project costs;
- 41 (17) revising the definition of "enhanced area" to include any
- 42 municipality that contains an urban transit hub;
- 43 (18) revising the definitions of "food desert community" to
- 44 include areas designated under the Food Desert Relief Program and
- 45 "food delivery service" to reduce the square footage requirement;
- 46 (19) modifying the definition of "qualified childcare facility" to
- 47 include registered family child care homes, and providing that the
- 48 term includes facilities that maintain a licensed capacity for

1 children aged 13 or younger who attend for less than 24 hours per
2 day; and

3 (20) revising the definition of “cash flow” to include government
4 payments.

5

6 *The New Jersey Emerge Program.* The bill also revises various
7 provisions of the New Jersey Emerge Program, including:

8 (1) amending the definition of “full-time employee” to remove
9 certain language concerning the minimum wage requirements;

10 (2) replacing references to “incentive agreement” and “incentive
11 phase agreement” with “project agreement” and “project phase
12 agreement,” respectively;

13 (3) defining the term “technology startup company”;

14 (4) modifying the job retention and creation requirements for
15 eligible projects and providing preferential treatment for projects
16 located in certain areas, including government-restricted
17 municipalities, enhanced areas, and qualified census tracts;

18 (5) allowing the EDA to designate the time period in which a
19 business should demonstrate that it has obtained project approval;

20 (6) expanding the tax credit bonus for solar energy projects to
21 include projects that generate geo-thermal, wind, or any other
22 renewable or distributive energy;

23 (7) eliminating the tax credit bonus for projects located in
24 qualified incentive tracts;

25 (8) providing that when one-third or more of the members of an
26 eligible business’s governing body self-identify as members of an
27 underrepresented community, then the \$2,000 per year tax credit
28 bonus would be calculated based on each new or retained full-time
29 job;

30 (9) reducing the amount of bonus credits awarded for excess
31 capital investment and higher-paid employees;

32 (10) requiring the EDA to reduce the tax credits awarded to a
33 project located in a government-restricted municipality if the
34 median salary of new and retained positions is less than the existing
35 median salary in the municipality;

36 (11) adjusting the starting point, to the EDA’s first issuance of a
37 certificate of compliance, for the two-year period in which the
38 payment of prevailing wages is required for construction work;

39 (12) revising the definition of “incentive area” to include
40 enhanced areas and remove the requirement for certain suburban
41 planning areas and rural centers to be located nearby certain
42 transportation facilities;

43 (13) modifying the definition of “qualified childcare facility” to
44 include registered family child care homes, and providing that the
45 term includes facilities that maintain a licensed capacity for
46 children aged 13 or younger who attend for less than 24 hours per
47 day;

1 (14) revising the definition of “enhanced area” to include any
2 municipality that contains an urban transit hub; and

3 (15) expands the definition of “capital investment to include
4 costs incurred on behalf of a business by its landlord.

5
6 *The Historic Property Reinvestment Program.* The bill revises
7 the amount of credits that may be awarded to eligible business
8 entities under the program. Specifically, the credits would be
9 limited to \$8 million for the rehabilitation of qualified properties
10 located in a qualified incentive tract or government-restricted
11 municipality, \$50 million for the rehabilitation of a transformative
12 project, and \$4 million for any other project. The bill also expands
13 the definition of “transformative project” to include certain projects
14 that are located within government-restricted municipalities.
15 Lastly, the bill provides that prevailing wage requirements would
16 also apply to building services work.

17
18 *The Brownfields Redevelopment Incentive Program.* The bill
19 revises the manner in which tax credit awards are calculated under
20 the program. Specifically, projects located in a qualified incentive
21 tract or government-restricted municipality would receive credits
22 equal to 60 percent of actual remediation costs, 60 percent of
23 projected remediation costs, or \$8 million, whichever is least. All
24 other projects would receive credits equal to 50 percent of actual
25 remediation costs, 50 percent of projected remediation costs, or \$4
26 million, whichever is least. The bill also allows the credit to be
27 claimed against the tax imposed under sections 2 and 3 of P.L.1945,
28 c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231
29 (C.17:32-15), or N.J.S.17B:23-5. The bill also requires developers
30 to provide the EDA with additional forms of evidence concerning
31 actual remediation costs and completion of remediation. Lastly, the
32 bill provides that prevailing wage requirements would also apply to
33 building services work.

34
35 *The New Jersey Innovation Evergreen Program.* The bill
36 reduces the minimum amount of tax credits, from \$1 million to
37 \$500,000, that a potential purchaser may bid for through the
38 competitive auction. The bill also requires a potential purchaser of
39 tax credits to pay not less than 90 percent of the dollar value of the
40 credits.

41
42 *The Food Desert Relief Program.* The bill revises various
43 requirements governing the program. Notably, the bill requires the
44 authority to designate the State’s “food desert communities” based
45 on the geographical areas having limited access to nutritious foods.
46 The bill also allows the authority to consider various additional
47 factors when making this determination. Additionally, the bill
48 expands the definition of “small-food retailer” to include non-

1 traditional retailers such as mobile vendors and farmers' markets.
2 The bill also allows the authority to award grants to other eligible
3 entities to support initiatives to strengthen the food security of
4 residents in food desert communities.

5

6 *The Main Street Recovery Finance Program.* The bill amends
7 various provisions of the program, including:

8 (1) revises the definition of "microbusiness" to include
9 businesses with less than \$1.5 million in annual gross revenue, as
10 opposed to \$1 million;

11 (2) requires the authority to undertake a disparity study of the
12 relative availability of capital and related banking resources for
13 small businesses and microbusinesses that are women- and
14 minority-owned business enterprises in this State. As
15 recommended by the study, the authority would also establish
16 policies for the set-aside of funds for eligible small businesses and
17 microbusinesses that are minority-owned business enterprises or
18 women-owned business enterprises;

19 (3) allows the authority to provide grants to for-profit and non-
20 profit entities that provide technical assistance to microbusinesses;

21 (4) exempts capital improvements in excess of \$50,000 from
22 certain requirements regarding the use of renewable energy, energy-
23 efficient technology, and non-renewable resources; and

24 (5) provides that minority deposit institutions are eligible to
25 receive grants and loans under the program.

26

27 *Other Changes to Specific Programs in the "New Jersey
28 Economic Recovery Act of 2020."* The bill makes changes to other
29 constituent programs of the "New Jersey Economic Recovery Act
30 of 2020." The bill amends the definition of "experienced non-profit
31 or governmental or community development entity" under the
32 Community-Anchored Development Program to remove the
33 requirement for these entities to own or control significant real
34 estate assets.

35 Additionally, the bill expands program eligibility under the New
36 Jersey Ignite Program to include companies founded within the last
37 seven years, as opposed to three years. Under the bill, the
38 maximum aggregate amount of start-up rent grants that may be
39 provided to an approved collaborative workspace could not exceed
40 \$100,000 per calendar year. The bill also provides additional
41 guidance concerning the application of bonus months under the
42 New Jersey Ignite Program.

43 The bill revises parts of the "Economic Development Authority
44 Integrity and Protection Act" to clarify the responsibilities of the
45 Chief Compliance Officer and authorize the authority to recapture
46 any economic development incentive in the case of substantial
47 noncompliance, fraud, or abuse by the recipient. The bill also
48 provides that the Office of the Economic Development Inspector

1 General would be situated in, but not of, the Department of the
2 Treasury.

3 The bill also increases the number of members who will serve on
4 the Working Group on Entrepreneur Zones in the authority from
5 seven to 14 members.

6

7 *General Changes to the “New Jersey Economic Recovery Act of*
8 *2020.”* The bill also makes certain changes that apply to multiple
9 components of the “New Jersey Economic Recovery Act of 2020.”

10 Notably, the bill provides that up to \$350 million in tax credits,
11 which credits were originally allocated for the New Jersey Aspire
12 Program and the Emerge Program, would instead be made available
13 for qualified offshore wind projects pursuant to section 6 of
14 P.L.2010, c.57 (C.34:1B-209.4). As part of this change, the bill
15 also revises certain elements of that law.

16 Additionally, the bill provides that if the EDA awards less than
17 the annual limitation of tax credits under the New Jersey Aspire
18 Program and the Emerge Program, then the uncommitted credits
19 would be made available to qualified offshore wind projects and
20 New Jersey studio partners, pursuant to P.L.2018, c.56. The bill
21 also provides that beginning in fiscal year 2025, additional tax
22 credits would be made available to New Jersey studio partners.

23 The bill also revises the manner in which the EDA would review
24 the compliance of tax credit recipients. Specifically, the bill
25 requires the EDA to confirm whether the business entity is in
26 substantial good standing with respective State departments, or has
27 entered into an agreement with a department that includes a
28 practical corrective action plan. Additionally, the business entity
29 would be required to confirm whether any contractors or
30 subcontractors that perform work at a project site: (1) are registered
31 under “The Public Works Contractor Registration Act,” N.J.S.A.
32 34:11-56.48 et seq.; (2) have not been debarred by Department of
33 Labor and Workforce Development from engaging in or bidding on
34 Public Works Contracts in New Jersey; and (3) possess a tax
35 clearance certificate issued by the Division of Taxation in the
36 Department of the Treasury.

37 Additionally, the bill exempts eligible businesses from the
38 requirement to enter a community benefits agreement under the
39 New Jersey Aspire Program and the Emerge Program when the
40 business submits a copy of the business’s approval letter from the
41 EDA or a redevelopment agreement, provided that such
42 documentation is certified by the host municipality and includes
43 provisions that meet or exceed the standards for community benefit
44 agreements.

45 The bill makes changes to the Historic Property Reinvestment
46 Program and the Brownfields Redevelopment Incentive Program to
47 provide that prevailing wage requirements also apply to building
48 services work.

1 The bill also amends the definition of “project financing gap”
2 under the “Historic Property Reinvestment Act,” the “Brownfields
3 Redevelopment Incentive Act,” and the “New Jersey Aspire
4 Program Act.” Specifically, the bill modifies the capital
5 contribution requirements for projects located in a government-
6 restricted municipality, clarifies the meaning of contributed capital,
7 and clarifies the determination of project value.

8 The bill also amends various sections of law to correct
9 typographical errors.
10

11 *Other Economic Development Programs.* The bill revises certain
12 other economic development programs that predated the “New
13 Jersey Economic Recovery Act of 2020.”

14 Notably, the bill amends the laws governing the film and digital
15 media tax credit program. Specifically, the bill increases the
16 amount of the film production tax credit to 35 percent of the
17 qualified film production expenses incurred by the taxpayer. The
18 bill also extends the period in which film production credits may be
19 claimed to those expenses incurred before July 1, 2034.
20 Additionally, the bill provides additional requirements concerning
21 the review of tax credit recipients. for The bill also replaces
22 references to “New Jersey film partners” with “New Jersey studio
23 partners,” and reduces the number of New Jersey studio partners
24 that may be designated throughout the State.

25 Additionally, the bill amends the various economic development
26 programs, including the Grow New Jersey Assistance Program, the
27 Business Employment Incentive Program, and the Business
28 Retention and Relocation Assistance Grant Program, by adding a
29 new definition for “full-time employee at a qualified business
30 facility.” This provision would supersede any existing requirements
31 for employees to be present at the qualified business facility for at
32 least 60 percent of their time.

33 Under the “New Jersey Economic Recovery Act of 2020,” the
34 Economic Redevelopment and Growth Grant (ERGG) Program was
35 extended to provide \$200 million in new tax credits, including \$150
36 for certain commercial projects and \$50 million for residential
37 projects. The bill revises this allocation, providing instead that
38 \$125 million in tax credits would be made available for residential
39 projects and \$75 million in State incentive grants would be made
40 available for commercial properties. The bill also requires the
41 authority to apply certain standards set forth in the New Jersey
42 Aspire Program when determining the repayment amount for
43 recipients under the ERGG program.

44 In addition, the bill revises the New Jersey Emerging
45 Technology and Biotechnology Financial Assistance Program by
46 increasing, from \$10 million to \$15 million, the amount allocated
47 for the surrender of transferable tax benefits for new and expanding
48 emerging technology and biotechnology companies operating in

1 certain areas. The bill also expands eligibility for these funds to
2 include new and expanding emerging technology and biotechnology
3 companies that operate in opportunity zones, or that are certified as
4 a woman- or minority-owned business.

5 Lastly, the bill amends current law to allow the New Jersey
6 Infrastructure Bank to guarantee debt instruments issued by local
7 government units to support redevelopment projects that include
8 wastewater treatment system projects, water supply projects, or
9 transportation projects.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 3993

STATE OF NEW JERSEY

DATED: JUNE 22, 2021

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 3993.

This bill revises various provisions of the “New Jersey Economic Recovery Act of 2020,” P.L.2020, c.156 (C.34:1B-269 et al.) and establishes the "New Jersey Innovation Fellows Program" within the New Jersey Economic Development Authority (EDA).

The New Jersey Innovation Fellows Program. Under the program, the EDA would provide fellowship grants, through a competitive process, for teams of entrepreneurs who operate businesses in targeted industries within certain eligible municipalities. The bill provides that the fellowship grants, which may not exceed \$350,000 per team, would be used as income replacement for entrepreneurs who leave the workforce to open and operate the business. The bill appropriates \$10 million from the General Fund to support the program.

The New Jersey Aspire Program. The bill revises various provisions of the New Jersey Aspire Program, including:

(1) expanding the definition of “incentive area” to include aviation and port districts;

(2) removing the requirement for commercial projects to demonstrate that increases in incremental State revenues would exceed the amounts needed to support the developer’s project financing gap;

(3) increasing the tax credit allowance for certain residential projects, which also receive an allocation of federal four-percent low income housing tax credits, to 60 percent of total project costs;

(4) increasing the total value of tax credits that may be awarded per redevelopment project to: (i) \$60 million for residential projects that receive federal four-percent low income housing tax credits, or redevelopment projects located in certain designated areas; and (ii) \$42 million for all other redevelopment projects;

(5) reducing the amount for which the developers of residential projects may assign tax credit certificates;

(6) revising the requirements for new residential projects to dedicate certain units for affordable housing purposes;

(7) providing that the EDA may allow up to six years to elapse from the date on which an incentive award agreement is executed to the date in which a certificate of occupancy is issued for certain higher-cost projects;

(8) defining the term “technology startup company”;

(9) revising the procedures and calculations for recapturing tax credit financing when the developer’s actual project financing gap is less than initially approved and when the developer’s actual return on investment is more than initially approved;

(10) reducing the requirements for mixed-use projects to qualify as transformative projects;

(11) establishing additional requirements for certain residential projects to qualify as transformative projects;

(12) removing the limitation on the number of incentive awards that may be awarded to transformative projects;

(13) increasing the tax credit award for transformative projects from 30 percent to 40 percent of total project costs, or \$350 million, whichever is less;

(14) establishing standards for the execution of transformative phase agreements and the completion of transformative projects in phases;

(15) requiring transformative projects, other than those that include certain film production infrastructure, to be located within an incentive area, distressed municipality, or enhanced area;

(16) allowing the acquisition of land to count towards the calculation of project costs;

(17) revising the definition of “enhanced area” to include any municipality that contains an urban transit hub;

(18) revising the definitions of “food desert community” to include areas designated under the Food Desert Relief Program and “food delivery service” to reduce the square footage requirement;

(19) modifying the definition of “qualified childcare facility” to include registered family child care homes, and providing that the term includes facilities that maintain a licensed capacity for children aged 13 or younger who attend for less than 24 hours per day; and

(20) revising the definition of “cash flow” to include government payments.

The New Jersey Emerge Program. The bill also revises various provisions of the New Jersey Emerge Program, including:

(1) amending the definition of “full-time employee” to remove certain language concerning the minimum wage requirements;

(2) replacing references to “incentive agreement” and “incentive phase agreement” with “project agreement” and “project phase agreement,” respectively;

(3) defining the term “technology startup company”;

(4) modifying the job retention and creation requirements for eligible projects and providing preferential treatment for projects located in certain areas, including government-restricted municipalities, enhanced areas, and qualified census tracts;

(5) allowing the EDA to designate the time period in which a business should demonstrate that it has obtained project approval;

(6) expanding the tax credit bonus for solar energy projects to include projects that generate geo-thermal, wind, or any other renewable or distributive energy;

(7) eliminating the tax credit bonus for projects located in qualified incentive tracts;

(8) providing that when one-third or more of the members of an eligible business's governing body self-identify as members of an underrepresented community, then the \$2,000 per year tax credit bonus would be calculated based on each new or retained full-time job;

(9) reducing the amount of bonus credits awarded for excess capital investment and higher-paid employees;

(10) requiring the EDA to reduce the tax credits awarded to a project located in a government-restricted municipality if the median salary of new and retained positions is less than the existing median salary in the municipality;

(11) adjusting the starting point, to the EDA's first issuance of a certificate of compliance, for the two-year period in which the payment of prevailing wages is required for construction work;

(12) revising the definition of "incentive area" to include enhanced areas and remove the requirement for certain suburban planning areas and rural centers to be located nearby certain transportation facilities;

(13) modifying the definition of "qualified childcare facility" to include registered family child care homes, and providing that the term includes facilities that maintain a licensed capacity for children aged 13 or younger who attend for less than 24 hours per day;

(14) revising the definition of "enhanced area" to include any municipality that contains an urban transit hub; and

(15) expands the definition of "capital investment to include costs incurred on behalf of a business by its landlord.

The Historic Property Reinvestment Program. The bill revises the amount of credits that may be awarded to eligible business entities under the program. Specifically, the credits would be limited to \$8 million for the rehabilitation of qualified properties located in a qualified incentive tract or government-restricted municipality, \$50 million for the rehabilitation of a transformative project, and \$4 million for any other project. The bill also expands the definition of "transformative project" to include certain projects that are located within government-restricted municipalities. Lastly, the bill

provides that prevailing wage requirements would also apply to building services work.

The Brownfields Redevelopment Incentive Program. The bill revises the manner in which tax credit awards are calculated under the program. Specifically, projects located in a qualified incentive tract or government-restricted municipality would receive credits equal to 60 percent of actual remediation costs, 60 percent of projected remediation costs, or \$8 million, whichever is least. All other projects would receive credits equal to 50 percent of actual remediation costs, 50 percent of projected remediation costs, or \$4 million, whichever is least. The bill also allows the credit to be claimed against the tax imposed under sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The bill also requires developers to provide the EDA with additional forms of evidence concerning actual remediation costs and completion of remediation. Lastly, the bill provides that prevailing wage requirements would also apply to building services work.

The New Jersey Innovation Evergreen Program. The bill reduces the minimum amount of tax credits, from \$1 million to \$500,000, that a potential purchaser may bid for through the competitive auction. The bill also requires a potential purchaser of tax credits to pay not less than 90 percent of the dollar value of the credits.

The Food Desert Relief Program. The bill revises various requirements governing the program. Notably, the bill requires the authority to designate the State's "food desert communities" based on the geographical areas having limited access to nutritious foods. The bill also allows the authority to consider various additional factors when making this determination. Additionally, the bill expands the definition of "small-food retailer" to include non-traditional retailers such as mobile vendors and farmers' markets. The bill also allows the authority to award grants to other eligible entities to support initiatives to strengthen the food security of residents in food desert communities.

The Main Street Recovery Finance Program. The bill amends various provisions of the program, including:

(1) revises the definition of "microbusiness" to include businesses with less than \$1.5 million in annual gross revenue, as opposed to \$1 million;

(2) requires the authority to undertake a disparity study of the relative availability of capital and related banking resources for small businesses and microbusinesses that are women- and minority-owned business enterprises in this State. As recommended by the study, the

authority would also establish policies for the set-aside of funds for eligible small businesses and microbusinesses that are minority-owned business enterprises or women-owned business enterprises;

(3) allows the authority to provide grants to for-profit and non-profit entities that provide technical assistance to microbusinesses;

(4) exempts capital improvements in excess of \$50,000 from certain requirements regarding the use of renewable energy, energy-efficient technology, and non-renewable resources; and

(5) provides that minority deposit institutions are eligible to receive grants and loans under the program.

Other Changes to Specific Programs in the “New Jersey Economic Recovery Act of 2020.” The bill makes changes to other constituent programs of the “New Jersey Economic Recovery Act of 2020.” The bill amends the definition of “experienced non-profit or governmental or community development entity” under the Community-Anchored Development Program to remove the requirement for these entities to own or control significant real estate assets.

Additionally, the bill expands program eligibility under the New Jersey Ignite Program to include companies founded within the last seven years, as opposed to three years. Under the bill, the maximum aggregate amount of start-up rent grants that may be provided to an approved collaborative workspace could not exceed \$100,000 per calendar year. The bill also provides additional guidance concerning the application of bonus months under the New Jersey Ignite Program.

The bill revises parts of the “Economic Development Authority Integrity and Protection Act” to clarify the responsibilities of the Chief Compliance Officer and authorize the authority to recapture any economic development incentive in the case of substantial noncompliance, fraud, or abuse by the recipient. The bill also provides that the Office of the Economic Development Inspector General would be situated in, but not of, the Department of the Treasury.

The bill also increases the number of members who will serve on the Working Group on Entrepreneur Zones in the authority from seven to 14 members.

General Changes to the “New Jersey Economic Recovery Act of 2020.” The bill also makes certain changes that apply to multiple components of the “New Jersey Economic Recovery Act of 2020.”

Notably, the bill provides that up to \$350 million in tax credits, which credits were originally allocated for the New Jersey Aspire Program and the Emerge Program, would instead be made available for qualified offshore wind projects pursuant to section 6 of

P.L.2010, c.57 (C.34:1B-209.4). As part of this change, the bill also revises certain elements of that law.

Additionally, the bill provides that if the EDA awards less than the annual limitation of tax credits under the New Jersey Aspire Program and the Emerge Program, then the uncommitted credits would be made available to qualified offshore wind projects and New Jersey studio partners, pursuant to P.L.2018, c.56. The bill also provides that beginning in fiscal year 2025, additional tax credits would be made available to New Jersey studio partners.

The bill also revises the manner in which the EDA would review the compliance of tax credit recipients. Specifically, the bill requires the EDA to confirm whether the business entity is in substantial good standing with respective State departments, or has entered into an agreement with a department that includes a practical corrective action plan. Additionally, the business entity would be required to confirm whether any contractors or subcontractors that perform work at a project site: (1) are registered under “The Public Works Contractor Registration Act,” N.J.S.A. 34:11-56.48 et seq.; (2) have not been debarred by Department of Labor and Workforce Development from engaging in or bidding on Public Works Contracts in New Jersey; and (3) possess a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury.

Additionally, the bill exempts eligible businesses from the requirement to enter a community benefits agreement under the New Jersey Aspire Program and the Emerge Program when the business submits a copy of the business’s approval letter from the EDA or a redevelopment agreement, provided that such documentation is certified by the host municipality and includes provisions that meet or exceed the standards for community benefit agreements.

The bill makes changes to the Historic Property Reinvestment Program and the Brownfields Redevelopment Incentive Program to provide that prevailing wage requirements also apply to building services work.

The bill also amends the definition of “project financing gap” under the “Historic Property Reinvestment Act,” the “Brownfields Redevelopment Incentive Act,” and the “New Jersey Aspire Program Act.” Specifically, the bill modifies the capital contribution requirements for projects located in a government-restricted municipality, clarifies the meaning of contributed capital, and clarifies the determination of project value.

The bill also amends various sections of law to correct typographical errors.

Other Economic Development Programs. The bill revises certain other economic development programs that predated the “New Jersey Economic Recovery Act of 2020.”

Notably, the bill amends the laws governing the film and digital media tax credit program. Specifically, the bill increases the amount of the film production tax credit to 35 percent of the qualified film production expenses incurred by the taxpayer. The bill also extends the period in which film production credits may be claimed to those expenses incurred before July 1, 2034. Additionally, the bill provides additional requirements concerning the review of tax credit recipients. The bill also replaces references to “New Jersey film partners” with “New Jersey studio partners,” and reduces the number of New Jersey studio partners that may be designated throughout the State.

Additionally, the bill amends the various economic development programs, including the Grow New Jersey Assistance Program, the Business Employment Incentive Program, and the Business Retention and Relocation Assistance Grant Program, by adding a new definition for “full-time employee at a qualified business facility.” This provision would supersede any existing requirements for employees to be present at the qualified business facility for at least 60 percent of their time.

Under the “New Jersey Economic Recovery Act of 2020,” the Economic Redevelopment and Growth Grant (ERGG) Program was extended to provide \$200 million in new tax credits, including \$150 million for certain commercial projects and \$50 million for residential projects. The bill revises this allocation, providing instead that \$125 million in tax credits would be made available for residential projects and \$75 million in State incentive grants would be made available for commercial properties. The bill also requires the authority to apply certain standards set forth in the New Jersey Aspire Program when determining the repayment amount for recipients under the ERGG program.

In addition, the bill revises the New Jersey Emerging Technology and Biotechnology Financial Assistance Program by increasing, from \$10 million to \$15 million, the amount allocated for the surrender of transferable tax benefits for new and expanding emerging technology and biotechnology companies operating in certain areas. The bill also expands eligibility for these funds to include new and expanding emerging technology and biotechnology companies that operate in opportunity zones, or that are certified as a woman- or minority-owned business.

Lastly, the bill amends current law to allow the New Jersey Infrastructure Bank to guarantee debt instruments issued by local government units to support redevelopment projects that include wastewater treatment system projects, water supply projects, or transportation projects.

FISCAL IMPACT:

Fiscal information is currently unavailable for this bill.

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 3993
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: AUGUST 16, 2021

SUMMARY

- Synopsis:** Revises various provisions of “New Jersey Economic Recovery Act of 2020” and other economic development programs; establishes New Jersey Innovation Fellows Program; appropriates \$10 million.
- 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
<u>State</u> Expenditure Increase	\$10,000,000
Direct <u>State</u> Revenue Loss	Indeterminate
Indirect <u>State</u> Revenue Gain	Indeterminate
<u>State</u> Opportunity Cost	Indeterminate
Indirect <u>Local</u> Revenue Gain	Indeterminate
<u>Local</u> 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. The inability to determine the direction and magnitude of the fiscal net impact is rooted in the fact that the bill modifies various existing incentive programs. Each program has its own set of provisions that set forth eligibility requirements; thus, due to the scope of the bill and the uniqueness of each incentive program, the OLS cannot reasonably determine the number of projects that may newly materialize and receive incentives because 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.

BILL DESCRIPTION

This bill revises various provisions of the New Jersey Economic Recovery Act of 2020 and establishes the New Jersey Innovation Fellows Program within the New Jersey Economic Development Authority

The bill provides that fellowship grants through the New Jersey Innovation Fellows program, which generally may not exceed \$350,000 per team, to be used as income replacement for entrepreneurs who leave the workforce to open and operate the business. The bill appropriates \$10 million from the General Fund to support the program.

The bill changes credit award calculations and qualifications under the New Jersey Aspire Program and the New Jersey Emerge Program, but does not alter the overall \$1.1 billion annual tax credit cap split between these two programs.

The bill changes credit award calculations and qualifications under the Historic Property Reinvestment Program, generally to make more projects eligible and increase the size of tax credits awarded for some projects, while capping the tax credits for certain larger projects.

The bill changes credit award calculations under the Brownfields Redevelopment Incentive Program, generally to make more projects eligible and increase the size of tax credits awarded for some projects, but does not alter the overall \$50 million tax credit cap. The bill also allows credits to be applied against insurance premiums taxes.

The bill reduces the minimum amount of tax credits that a potential purchaser may bid for through the competitive auction under the New Jersey Innovation Evergreen Program. The bill also reduces the minimum amount that a potential purchaser of tax credits is required to pay for tax credits, from 85 percent to 75 percent of the dollar value of the credits. The bill does not modify the \$60 million annual tax credit cap or the \$300 million total cap.

The bill revises various eligibility requirements governing the Food Desert Relief Program. The bill also allows the authority to award grants to other eligible entities to support initiatives to strengthen the food security of residents in food desert communities. The bill does not alter the \$40 million annual tax credit cap. The bill also allows credits to be applied against insurance premiums taxes.

The bill amends various eligibility requirements of the Main Street Recovery Finance Program. The bill requires the authority to undertake a disparity study as part of the program. The bill allows the authority to provide grants to for-profit and non-profit entities that provide technical assistance to microbusinesses.

The bill provides that up to \$350 million in tax credits, which credits were originally allocated for the New Jersey Aspire Program and the Emerge Program, would instead be made available for qualified offshore wind projects. If the authority awards less than the annual limitation of tax credits under the New Jersey Aspire Program and the Emerge Program, then the uncommitted credits would be made available to qualified offshore wind projects and New Jersey studio partners. The bill also provides that beginning in fiscal year 2025, additional tax credits would be made available to New Jersey studio partners.

The bill increases the amount of the film production tax credit to 35 percent of the qualified film production expenses incurred by the taxpayer. The bill also extends the period in which film production credits may be claimed to those expenses incurred before July 1, 2034.

The bill makes various additional changes to other programs of the New Jersey Economic Recovery Act of 2020, including, but not limited to, eligibility requirements, grant awards, clarifications, reviews, and technical changes. Information concerning those changes and additional details of the incentive programs established by the bill may be found in the Assembly Appropriations Committee and Senate Budget and Appropriations Committee statements.

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. The inability to determine the direction and magnitude of the fiscal net impact is rooted in the fact that the bill modifies various existing incentive programs. Each program has its own set of provisions that set forth eligibility requirements; thus, due to the scope of the bill and the uniqueness of each incentive program, the OLS cannot reasonably determine the number of projects that may newly materialize and receive incentives because of the bill's enactment.

Instead, the OLS recognizes that the direct revenue impact of this bill will likely materialize through additional credits being awarded that otherwise would not have under the original New Jersey Economic Recovery Act of 2020. The bill largely does not change the \$14.4 billion in tax credits authorized under that act. However, the bill would alter the allocation of that cap among the different incentive programs, which may or may not increase overall utilization. Additionally, various provisions across all covered programs are to be modified in a way that will likely allow more projects to qualify for assistance.

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 Cost: State expenditures will increase by \$10 million reflecting an appropriation to support the New Jersey Innovation Fellows Program. Further increases in direct State costs could materialize if additional funding is allocated to continue the program after the initial \$10 million appropriation is exhausted. The amount of this increase is unknown, but will depend upon the timing and number of qualifying applicants for the program. The State will also incur an indeterminate one-time direct cost to conduct a disparity study of the relative availability of capital and related banking resources for small businesses and microbusinesses that are women- and minority-owned business enterprises in this State.

Direct State Revenue Loss: The OLS cannot quantify the precise direct revenue loss the bill will impose on the State. Many of the bill's provisions would likely increase the number of projects that would be eligible for various incentives, or would increase the amount of the incentive awarded for some projects, thus potentially increasing direct State revenue loss. Other provisions would make the programs more restrictive or less generous, offsetting that increase to an extent. The net effect of these changes remains uncertain and will depend upon participation in various

programs. Most of the tax credit programs modified by the bill remain temporally limited and subject to the same global cap on tax credit awards over a seven-year period as exists in current law. Consequently, the net direct revenue impact of the bill's revisions to all programs subject to the global cap could only be negative if the State had been destined to underspend the global cap under the current law.

The bill will likely increase the total amount of tax credits awarded under the film and digital media incentive program, because the program is subject to only annual caps on the award of tax credits but not the global cap.

The revenue reduction from any financial assistance provided 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 authority has the ability 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 or fail to 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, additional 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 authority issuing additional incentive awards under 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 will be less than the direct State revenue loss. First, not all of the authority'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 authority 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 would 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 Takes Action on Legislation

07/2/2021

TRENTON – Today, Governor Murphy signed the following bills into law:

SCS for S-887/ACS for A-4790 (Sweeney, Greenstein/Downey, Benson, Vainieri Huttle) – Requires DHS to contract with third party entity to apply risk reduction model to Medicaid prescription drug services.

A-5840/S-3923 (Burzichelli, Taliaferro, Karabinchak/Sweeney) – Authorizes State Treasurer to enter lease for real property and improvements with NJEDA for construction of New Jersey Wind Port in Lower Alloways Creek Township, Salem County.

A-5897/S-3958 (Reynolds-Jackson, Verrelli/Turner) – Authorizes Capital City Redevelopment Corporation on behalf of State Treasurer to sell surplus real property and improvements located in City of Trenton, County of Mercer; appropriates proceeds of sale.

A-5939/S-3993 (Pintor Marin, Burzichelli/Ruiz, Cruz-Perez) – Revises various provisions of “New Jersey Economic Recovery Act of 2020” and other economic development programs; establishes New Jersey Innovation Fellows Program; appropriates \$10 million.