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REPORTS: No

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"N.J. Tax Break Bill Delayed," The Record, 6-18-14

"Non-gaming projects in Atlantic City could gain tax credits under bill OK'd by N.J. Assembly," northjersey.com, 9-29-14

"Senate OKs bill on Atlantic City tax deals," The Press of Atlantic City, 10-15-14

"Christie signs law making Atlantic City state's fifth Growth Zone," The Press of Atlantic City, 10-25-14

LAW/RWH

Title 34.
Chapter 1B.
Part XIV (New)
Public
Infrastructure Tax
Credit.
§10 –
C.34:1B-251

P.L.2014, CHAPTER 63, *approved October 24, 2014*
Assembly, No. 3213 (*Fifth Reprint*)

1 AN ACT concerning incentives for certain economic development
2 projects and designated as the Economic Opportunity Act of
3 2014, Part 3, ⁴supplementing P.L.1974, c.80 (C.34:1B-1 et
4 seq.),² and ⁴amending ³P.L.2008, c.46,²³ P.L.2009, c.90
5 ¹[and],¹ P.L.2011, c.149¹, and P.L.2013, c.161¹ ⁴, and
6 supplementing P.L.1974, c.80 (C.34:1B-1 et seq.)⁴.

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

10
11 1. Section 33 of P.L.2009, c.90 (C.34:1B-209.1) is amended to
12 read as follows:

13 33. A business may apply to the Director of the Division of
14 Taxation in the Department of the Treasury and the executive
15 director of the authority for a tax credit transfer certificate, covering
16 one or more years, in lieu of the business being allowed any amount
17 of the credit against the tax liability of the business. The tax credit
18 transfer certificate, upon receipt thereof by the business from the
19 director and the executive director of the authority, may be sold or
20 assigned, in full or in part, in an amount not less than **[\$100,000]**
21 \$25,000 of tax credits **[**, although one transfer in each tax period
22 may be in an amount less than \$100,000**]** to any other person that
23 may have a tax liability pursuant to section 5 of P.L.1945, c.162
24 (C.54:10A-5), pursuant to sections 2 and 3 of P.L.1945, c.132
25 (C.54:18A-2 and 54:18A-3), pursuant to section 1 of P.L.1950,
26 c.231 (C.17:32-15), or pursuant to N.J.S.17B:23-5. The certificate
27 provided to the business shall include a statement waiving the
28 business's right to claim that amount of the credit against the taxes
29 that the business has elected to sell or assign. The sale or
30 assignment of any amount of a tax credit transfer certificate allowed

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ACE committee amendments adopted June 5, 2014.

²Assembly AAP committee amendments adopted June 23, 2014.

³Assembly floor amendments adopted June 23, 2014.

⁴Senate floor amendments adopted June 26, 2014.

⁵Assembly amendments adopted in accordance with Governor's recommendations September 11, 2014.

1 under this section shall not be exchanged for consideration received
2 by the business of less than 75 percent of the transferred credit
3 amount before considering any further discounting to present value
4 which shall be permitted. Any amount of a tax credit transfer
5 certificate used by a purchaser or assignee against a tax liability
6 shall be subject to the same limitations and conditions that apply to
7 the use of the credit by the business that originally applied for and
8 was allowed the credit.

9 (cf: P.L.2013, c.161, s.5)

10

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

13 2. As used in P.L.2011, c.149 (C.34:1B-242 et seq.):

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

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

32 "Aviation district" means the area within a one-mile radius of the
33 outermost boundary of the "Atlantic City International Airport,"
34 established pursuant to section 24 of P.L.1991, c.252 (C.27:25A-
35 24).

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

38 a corporation that is subject to the tax imposed pursuant to
39 section 5 of P.L.1945, c.162 (C.54:10A-5);

40 a corporation that is subject to the tax imposed pursuant to
41 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3),
42 section 1 of P.L.1950, c.231 (C.17:32-15) or N.J.S.17B:23-5;

43 a partnership;

44 an S corporation;

45 a limited liability company; or

46 a non-profit corporation.

47 If the business or tenant is a cooperative or part of a cooperative,
48 then the cooperative may qualify for credits by counting the full-

1 time employees and capital investments of its member
2 organizations, and the cooperative may distribute credits to its
3 member organizations. If the business or tenant is a cooperative
4 that leases to its member organizations, the lease shall be treated as
5 a lease to an affiliate or affiliates.

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

9 ²[A business shall include any owner of a partnership or an S
10 corporation that is a business.]²

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. ¹[site acquisition, if purchased within 24 months prior to
15 project application,]¹ site preparation and construction, repair,
16 renovation, improvement, equipping, or furnishing on real property
17 or of a building, structure, facility, or improvement to real property;

18 b. obtaining and installing furnishings and machinery,
19 apparatus, or equipment, including but not limited to material goods
20 subject to bonus depreciation under sections 168 and 179 of the
21 federal Internal Revenue Code (26 U.S.C. s.168 and s.179), for the
22 operation of a business on real property or in a building, structure,
23 facility, or improvement to real property;

24 c. receiving Highlands Development Credits under the
25 Highlands Transfer Development Rights Program authorized
26 pursuant to section 13 of P.L.2004, c.120 (C.13:20-13); or

27 d. any of the foregoing.

28 In addition to the foregoing, in a Garden State Growth Zone, the
29 following qualify as a capital investment: any and all
30 ¹development,¹ redevelopment and relocation costs, including, but
31 not limited to, site acquisition if made within 24 months of
32 application to the authority, engineering, legal, accounting, and
33 other professional services required; and relocation, environmental
34 remediation, and infrastructure improvements for the project area,
35 including, but not limited to, on- and off-site utility, road, pier,
36 wharf, bulkhead, or sidewalk construction or repair.

37 In addition to the foregoing, if a business acquires or leases a
38 qualified business facility, the capital investment made or acquired
39 by the seller or owner, as the case may be, if pertaining primarily to
40 the premises of the qualified business facility, shall be considered a
41 capital investment by the business and, if pertaining generally to the
42 qualified business facility being acquired or leased, shall be
43 allocated to the premises of the qualified business facility on the
44 basis of the gross leasable area of the premises in relation to the
45 total gross leasable area in the qualified business facility. The
46 capital investment described herein may include any capital
47 investment made or acquired within 24 months prior to the date of
48 application so long as the amount of capital investment made or

1 acquired by the business, any affiliate of the business, or any owner
2 after the date of application equals at least 50 percent of the amount
3 of capital investment, allocated to the premises of the qualified
4 business facility being acquired or leased on the basis of the gross
5 leasable area of such premises in relation to the total gross leasable
6 area in the qualified business facility made or acquired prior to the
7 date of application.

8 "Commitment period" means the period of time that is 1.5 times
9 the eligibility period.

10 "Deep poverty pocket" means a population census tract having a
11 poverty level of 20 percent or more, and which is located within the
12 qualified incentive area and has been determined by the authority to
13 be an area appropriate for development and in need of economic
14 development incentive assistance.

15 "Disaster recovery project" means a project located on property
16 that has been wholly or substantially damaged or destroyed as a
17 result of a federally-declared disaster which, after utilizing all
18 disaster funds available from federal, State, county, and local
19 funding sources, demonstrates to the satisfaction of the authority
20 that access to additional funding authorized pursuant to the "New
21 Jersey Economic Opportunity Act of 2013," P.L.2013, c.161
22 (C.52:27D-489p et al.), is necessary to complete such
23 redevelopment project, and which is located within the qualified
24 incentive area and has been determined by the authority to be in an
25 area appropriate for development and in need of economic
26 development incentive assistance.

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

36 "Eligibility period" means the period in which a business may
37 claim a tax credit under the Grow New Jersey Assistance Program,
38 beginning with the tax period in which the authority accepts
39 certification of the business that it has met the capital investment
40 and employment requirements of the Grow New Jersey Assistance
41 Program and extending thereafter for a term of not more than 10
42 years, with the term to be determined solely at the discretion of the
43 applicant.

44 "Eligible position" or "full-time job" means a full-time position
45 in a business in this State which the business has filled with a full-
46 time employee.

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 or
- 5 b. 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 full-time employment, and whose wages are
11 subject to withholding as provided in the "New Jersey Gross
12 Income Tax Act," N.J.S.54A:1-1 et seq., or
- 13 c. who is a resident of another State but whose income is not
14 subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
15 et seq. or who is a partner of a business who works for the
16 partnership 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 distributive share of income, gain,
19 loss, or deduction, or whose guaranteed payments, or any
20 combination thereof, is subject to the payment of estimated taxes, as
21 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
22 et seq., and
- 23 d. who ⁵, except for purposes of the Statewide workforce,⁵ is
24 provided, by the business, with employee health benefits under a
25 health benefits plan authorized pursuant to State or federal law.
- 26 With respect to a logistics, manufacturing, energy, defense,
27 aviation, or maritime business, excluding primarily warehouse or
28 distribution operations, located in a port district having a container
29 terminal:
- 30 the requirement that employee health benefits are to be provided
31 shall be deemed to be satisfied if such benefits are provided in
32 accordance with industry practice by a third party obligated to
33 provide such benefits pursuant to a collective bargaining agreement;
- 34 full-time employment shall include, but not be limited to,
35 employees that have been hired by way of a labor union hiring hall
36 or its equivalent;
- 37 35 hours of employment per week at a qualified business facility
38 shall constitute one "full-time employee," regardless of whether or
39 not the hours of work were performed by one or more persons.
- 40 For any project located in a Garden State Growth Zone which
41 qualifies under the "Municipal Rehabilitation and Economic
42 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or any
43 project located in the Atlantic City Tourism District as established
44 pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated
45 by the Casino Reinvestment Development Authority, and which
46 will include a retail facility of at least 150,000 square feet, of which
47 at least 50 percent will be occupied by either a full-service
48 supermarket or grocery store, [the authority shall accept a standard

1 of service generally accepted by custom or practice as full-time
2 employment in a supermarket, grocery store, or other like retail
3 industry] 30 hours of employment per week at a qualified business
4 facility shall constitute one "full-time employee," regardless of
5 whether or not the hours of work were performed by one or more
6 persons, and the requirement that employee health benefits are to be
7 provided shall be deemed to be satisfied if the employees of the
8 business are covered by a collective bargaining agreement.

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

11 ⁵Full-time employee shall also not include any person who at the
12 time of project application works in New Jersey for consideration
13 for at least 35 hours per week, or who renders any other standard of
14 service generally accepted by custom or practice as full-time
15 employment but who prior to project application was not provided,
16 by the business, with employee health benefits under a health
17 benefits plan authorized pursuant to State or federal law.⁵

18 "Garden State Growth Zone" or "growth zone" means the four
19 New Jersey cities with the lowest median family income based on
20 the 2009 American Community Survey from the US Census, (Table
21 708. Household, Family, and Per Capita Income and Individuals,
22 and Families Below Poverty Level by City: 2009) ⁵; or a
23 municipality which contains a Tourism District as established
24 pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated
25 by the Casino Reinvestment Development Authority⁵.

26 "Highlands development credit receiving area or redevelopment
27 area" means an area located within a qualified incentive area and
28 designated by the Highlands ⁴Water Protection and Planning⁴
29 Council for the receipt of Highlands Development Credits under the
30 Highlands Transfer Development Rights Program authorized
31 pursuant to section 13 of P.L.2004, c.120 (C.13:20-13).

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

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

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

44 "Mega project" means:

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

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

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

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

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

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

16 c. a qualified business facility located in an urban transit hub
17 housing a business of any kind, having a capital investment in
18 excess of \$50,000,000, and at which more than 250 full-time
19 employees of a business are created or retained¹; ⁴or⁴

20 d. ⁴a qualified business facility housing the corporate
21 headquarters of a business of any kind having a capital investment
22 in excess of \$50,000,000, and at which more than 250 full-time
23 employees of ²[such] the² business are created; or

24 e.]⁴ a project located in an area designated in need of
25 redevelopment ⁴, pursuant to P.L.1992, c.79 (C.40A:12A-1 et al.)⁴
26 prior to the enactment of P.L. , c. (C.) (pending before the
27 Legislature as this bill) within Atlantic, Burlington, Camden, Cape
28 May, Cumberland, Gloucester, Ocean, or Salem counties having a
29 capital investment in excess of \$20,000,000, and at which more
30 than 150 full-time employees of ²[such] a² business are created or
31 retained¹.

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

39 "Moderate-income housing" means housing affordable,
40 according to United States Department of Housing and Urban
41 Development or other recognized standards for home ownership
42 and rental costs, and occupied or reserved for occupancy by
43 households with a gross household income equal to more than 50
44 percent but less than 80 percent of the median gross household
45 income for households of the same size within the housing region in
46 which the housing is located.

1 "Municipal Revitalization Index" means the 2007 index by the
2 Office for Planning Advocacy within the Department of State
3 measuring or ranking municipal distress.

4 "New full-time job" means an eligible position created by the
5 business at the qualified business facility that did not previously
6 exist in this State. For the purposes of determining a 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 qualified
10 incentive area that are not located within a distressed municipality,
11 or the priority area.

12 "Partnership" means an entity classified as a partnership for
13 federal income tax purposes.

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

16 a. the ⁴**[port district]** "Port of New York District"⁴ of the Port
17 Authority of New York and New Jersey, as defined in Article II of
18 the Compact Between the States of New York and New Jersey of
19 1921; or

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

25 "Priority area" means the portions of the qualified incentive area
26 that are not located within a distressed municipality and which:

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

35 b. intersect with portions of: a deep poverty pocket, a port
36 district, or federally-owned land approved for closure under a
37 federal ⁴Commission on⁴ Base Realignment ⁴**[Closing**
38 **Commission]** and Closure⁴ action;

39 c. are the proposed site of a disaster recovery project, a
40 qualified incubator facility, a highlands development credit
41 receiving area or redevelopment area, a tourism destination project,
42 or transit oriented development; or

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

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

6 "Qualified business facility" means any building, complex of
7 buildings or structural components of buildings, and all machinery
8 and equipment located within a qualified incentive area, used in
9 connection with the operation of a business that is not engaged in
10 final point of sale retail business at that location unless the building,
11 complex of buildings or structural components of buildings, and all
12 machinery and equipment located within a qualified incentive area,
13 are used in connection with the operation of:

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

18 b. a tourism destination project located in the Atlantic City
19 Tourism District as established pursuant to section 5 of P.L.2011,
20 c.18 (C.5:12-219).

21 "Qualified incentive area" means:

22 a. an aviation district;

23 b. a port district;

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

25 d. an area (1) designated pursuant to the "State Planning Act,"
26 P.L.1985, c.398 (C.52:18A-196 et seq.), as:

27 (a) Planning Area 1 (Metropolitan);

28 (b) Planning Area 2 (Suburban); or

29 (c) Planning Area 3 (Fringe Planning Area);

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

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

41 (4) located within a regional growth area, town, village, or a
42 military and federal installation area designated in the
43 comprehensive management plan prepared and adopted by the
44 Pinelands Commission pursuant to the "Pinelands Protection Act,"
45 P.L.1979, c.111 (C.13:18A-1 et seq.);

46 (5) located within the planning area of the Highlands Region as
47 defined in section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands
48 development credit receiving area or redevelopment area;

- 1 (6) located within a Garden State Growth Zone;
- 2 (7) located within land approved for closure under any federal
 3 ⁴Commission on⁴ Base ⁴**["Closure and"]**⁴ Realignment
 4 ⁴**["Commission"] and Closure**⁴ action; or
- 5 (8) located only within the following portions of the areas
 6 designated pursuant to the "State Planning Act," P.L.1985, c.398
 7 (C.52:18A-196 et al.), as Planning Area 4A (Rural Planning Area),
 8 Planning Area 4B (Rural/Environmentally Sensitive) or Planning
 9 Area 5 (Environmentally Sensitive) if Planning Area 4A (Rural
 10 Planning Area), Planning Area 4B (Rural/Environmentally
 11 Sensitive) or Planning Area 5 (Environmentally Sensitive) is
 12 located within:
- 13 (a) a designated center under the State Development and
 14 Redevelopment Plan;
- 15 (b) a designated growth center in an endorsed plan until the
 16 State Planning Commission revises and readopts New Jersey's State
 17 Strategic Plan and adopts regulations to revise this definition as it
 18 pertains to Statewide planning areas;
- 19 (c) any area determined to be in need of redevelopment pursuant
 20 to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-
 21 6) or in need of rehabilitation pursuant to section 14 of P.L.1992,
 22 c.79 (C.40A:12A-14);
- 23 (d) any area on which a structure exists or previously existed
 24 including any desired expansion of the footprint of the existing or
 25 previously existing structure provided such expansion otherwise
 26 complies with all applicable federal, State, county, and local
 27 permits and approvals;
- 28 (e) the planning area of the Highlands Region as defined in
 29 section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands
 30 development credit receiving area or redevelopment area; or
- 31 (f) any area on which an existing tourism destination project is
 32 located.
- 33 "Qualified incentive area" shall not include any property located
 34 within the preservation area of the Highlands Region as defined in
 35 ⁴**["the "Highlands Water Protection and Planning Act,"]** section 3
 36 of⁴ P.L.2004, c.120 ⁴**["(C.13:20-1 et al.)"]** (C.13:20-3)⁴.
- 37 "Qualified incubator facility" means a commercial building
 38 located within a qualified incentive area: which contains
 39 ¹**["100,000"]** 50,000¹ or more square feet of office, laboratory, or
 40 industrial space; which is located near, and presents opportunities
 41 for collaboration with, a research institution, teaching hospital,
 42 college, or university; and within which, at least ¹**["75"]** 50¹ percent
 43 of the gross leasable area is restricted for use by one or more
 44 technology startup companies during the commitment period.
- 45 "Retained full-time job" means an eligible position that currently
 46 exists in New Jersey and is filled by a full-time employee but
 47 which, because of a potential relocation by the business, is at risk of

1 being lost to another state or country, or eliminated. For the
2 purposes of determining a number of retained full-time jobs, the
3 eligible positions of an affiliate shall be considered eligible
4 positions of the business. ¹For the purposes of the certifications
5 and annual reports required ²[pursuant to] in² the incentive
6 agreement ²[in] pursuant to² subsection e. of section 4 of P.L.2011,
7 c.149 (C.34:1B-245), to the extent an eligible position that was the
8 basis of the award no longer exists, a business shall include as a
9 retained full-time job a new eligible position that is filled by a full-
10 time employee provided that the position is included in the order of
11 date of hire and is not the basis for any other incentive award. For a
12 project located in a Garden State Growth Zone which qualified for
13 the "Municipal Rehabilitation and Economic Recovery Act,"
14 P.L.2002, c.43 (C.52:27BBB-1 et al.), retained full-time job shall
15 include any employee previously employed in New Jersey and
16 transferred to the new location in the Garden State Growth Zone
17 which qualified for the "Municipal Rehabilitation and Economic
18 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.).¹

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

21 "SDA municipality" means a municipality in which an SDA
22 district is situate.

23 "Targeted industry" means any industry identified from time to
24 time by the authority including initially, a transportation,
25 manufacturing, defense, energy, logistics, life sciences, technology,
26 health, and finance business, but excluding a primarily warehouse
27 or distribution business.

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

33 "Tourism destination project" means a qualified ⁵non-gaming⁵
34 business facility that will be among the most visited privately
35 owned or operated tourism or recreation sites in the State, and
36 which is located within the qualified incentive area and has been
37 determined by the authority to be in an area appropriate for
38 development and in need of economic development incentive
39 assistance ⁵, including a non-gaming business within an established
40 Tourism District with a significant impact on the economic viability
41 of that District⁵.

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 Garden State Growth Zone, surrounding the
45 mid-point of a New Jersey Transit Corporation, Port Authority
46 Transit Corporation, or Port Authority Trans-Hudson Corporation

1 rail, bus, or ferry station platform area, including all light rail
2 stations.

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

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

16 (cf: P.L.2013, c.161, s.7)

17

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

20 3. a. The Grow New Jersey Assistance Program is hereby
21 established as a program under the jurisdiction of the New Jersey
22 Economic Development Authority and shall be administered by the
23 authority. The purpose of the program is to encourage economic
24 development and job creation and to preserve jobs that currently
25 exist in New Jersey but which are in danger of being relocated
26 outside of the State. To implement this purpose, the program may
27 provide tax credits to eligible businesses for an eligibility period not
28 to exceed 10 years.

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

33 (1) the business, expressly including its landlord or seller, will
34 make, acquire, or lease a capital investment equal to, or greater
35 than, the applicable amount set forth in subsection b. of this section
36 at a qualified business facility at which it will:

37 (a) retain full-time jobs in an amount equal to or greater than the
38 applicable number set forth in subsection c. of this section;

39 (b) create new full-time jobs in an amount equal to or greater
40 than the applicable number set forth in subsection c. of this section;
41 or

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

45 (2) the qualified business facility shall be constructed in
46 accordance with the minimum environmental and sustainability
47 standards;

1 (3) the capital investment resultant from the award of tax credits
2 and the resultant retention and creation of full-time jobs will yield a
3 net positive benefit to the State **[,] ¹[and to the municipality]**¹
4 equaling at least 110 percent of the requested tax credit allocation
5 amount, which determination is calculated prior to taking into
6 account the value of the requested tax credit and shall be based on
7 the benefits generated during the first 20 years following the
8 completion of the project, except that:

9 (a) for a mega project or a project located in a Garden State
10 Growth Zone, the determination shall be based on the benefits
11 generated during a period of up to 30 years following the
12 completion of the project, as determined by the authority, and
13 **[except that,]**

14 (b) for a project located in a Garden State Growth Zone which
15 qualified for the "Municipal Rehabilitation and Economic Recovery
16 Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), the net positive benefit
17 determination shall be based on the benefits generated during a
18 period of up to 35 years following completion of the project, as
19 determined by the authority, and shall equal at least 100 percent of
20 the requested tax credit allocation amount and may utilize the value
21 of those property taxes subject to the provisions of section 24 of
22 P.L.2013 c.161 ⁴**[(C.52:27D-489r)]** (C.52:27D-489s)⁴ ⁵, or the
23 value of those property taxes that would have been assessed on the
24 new construction, improvements, or substantial rehabilitation of
25 structures on real property if the structures were not exempt because
26 they are on real property owned by a public entity,⁵ and incremental
27 sales and excise taxes that are derived from activities within the
28 area and which are rebated or retained by the municipality pursuant
29 to the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303
30 (C.52:27H-60 et seq.) or any other law providing for such rebate or
31 retention ¹**[, and**

32 (c) for a project undertaken by a non-profit corporation, the net
33 positive benefit determination shall be calculated prior to taking
34 into account the value of the requested tax credit and the value of
35 exemptions pursuant to R.S.54:4-3.6, subsection (b) of section 9 of
36 P.L.1966, c.30 (C.54:32B-9), and section 3 of P.L.1945, c.162
37 (C.54:10A-3)]¹; and

38 (4) except as provided in subsection f. of this section, the award
39 of tax credits will be a material factor in the business's decision to
40 create or retain the minimum number of new or retained full-time
41 jobs for eligibility under the program.

42 With respect to the provisions of paragraph (3) of this
43 subsection, in the case of a project located in a Garden State
44 Growth Zone, the authority, in its discretion, may award bonuses in
45 its net positive benefit calculation.

1 b. ²**[The]** For all projects approved after the effective date of
2 P.L.2013, c.161, the² minimum capital investment required to be
3 eligible under this program shall be as follows:

4 (1) for the rehabilitation, improvement, fit-out, or retrofit of an
5 existing industrial¹, warehousing, logistics, ²or² research ²**[, or]**
6 and² development¹ premises for continued ¹**[industrial]** similar¹
7 use by the business ²in at least ⁴**[51%]** 51 percent⁴ of the gross
8 leasable area of the premises², a minimum investment of \$20 per
9 square foot of gross leasable area;

10 (2) for the new construction of an industrial ¹, warehousing,
11 logistics, ²or² research ²**[, or]** and² development¹ premises for
12 ¹**[industrial]** similar¹ use by the business ²in at least ⁴**[51%]** 51
13 percent⁴ of the gross leasable area of the premises², a minimum
14 investment of \$60 per square foot of gross leasable area;

15 (3) for the rehabilitation, improvement, fit-out, or retrofit of an
16 existing ¹**[non-industrial]**¹ premises ²**[not used for industrial,**
17 warehousing, logistics, or research and development purposes¹ for
18 continued]² ¹**[non-industrial]** ²**[similar**¹ use by the business] that
19 does not qualify pursuant to paragraphs (1) or (2) of this
20 subsection², a minimum investment of \$40 per square foot of gross
21 leasable area; and

22 (4) for the new construction of a ¹**[non-industrial]**¹ premises
23 ²**[not used for industrial, warehousing, logistics, or research and**
24 development purposes¹ for]² ¹**[non-industrial]** ²**[similar**¹ use by
25 the business] that does not qualify pursuant to paragraphs (1) or (2)
26 of this subsection², a minimum investment of \$120 per square foot
27 of gross leasable area.

28 The minimum capital investment required by this subsection
29 shall be reduced by one-third for projects located in a Garden State
30 Growth Zone or projects located within Atlantic, Burlington,
31 Camden, Cape May, Cumberland, Gloucester, Ocean, or Salem
32 counties.

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

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

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

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

43 The minimum number of new or retained full-time jobs required
44 by this subsection shall be reduced by one-quarter for projects
45 located in a Garden State Growth Zone or projects located within

1 Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester,
2 Ocean, or Salem counties.

3 d. To assist the authority in determining whether a proposed
4 capital investment will yield a net positive benefit, the business's
5 chief executive officer, or equivalent officer, shall submit a
6 certification to the authority indicating: (1) that any existing full-
7 time jobs are at risk of leaving the State or being eliminated; (2)
8 that any projected creation or retention, as applicable, of new full-
9 time jobs would not occur but for the provision of tax credits under
10 the program; and (3) that the business's chief executive officer, or
11 equivalent officer, has reviewed the information submitted to the
12 authority and that the representations contained therein are accurate,
13 provided however, that in satisfaction of the provisions of
14 paragraphs (1) and (2) of this subsection, the certification with
15 respect to a project in a Garden State Growth Zone that qualifies
16 under the "Municipal Rehabilitation and Economic Recovery Act,"
17 P.L.2002, c.43 (C.52:27BBB-1 et al.), ⁵or a project located in a
18 Garden State Growth Zone which contains a Tourism District as
19 established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and
20 regulated by the Casino Reinvestment Development Authority.⁵
21 shall indicate that~~[,]~~ the provision of tax credits under the program
22 is a material factor in the business decision to make a capital
23 investment and locate in a Garden State Growth Zone that qualifies
24 under the "Municipal Rehabilitation and Economic Recovery Act,"
25 P.L.2002, c.43 (C.52:27BBB-1 et al.) ⁵, or a Garden State Growth
26 Zone which contains a Tourism District as established pursuant to
27 section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the
28 Casino Reinvestment Development Authority⁵. In the event that
29 this certification by the business's chief executive officer, or
30 equivalent officer, is found to be willfully false, the authority may
31 revoke any award of tax credits in their entirety, which revocation
32 shall be in addition to any other criminal or civil penalties that the
33 business and the officer may be subject to. When considering an
34 application involving intra-State job transfers, the authority shall
35 require the business to submit the following information as part of
36 its application: a full economic analysis of all locations under
37 consideration by the business; all lease agreements, ownership
38 documents, or substantially similar documentation for the business's
39 current in-State locations; and all lease agreements, ownership
40 documents, or substantially similar documentation for the potential
41 out-of-State location alternatives, to the extent they exist. Based on
42 this information, and any other information deemed relevant by the
43 authority, the authority shall independently verify and confirm, by
44 way of making a factual finding by separate vote of the authority's
45 board, the business's assertion that the jobs are actually at risk of
46 leaving the State, and as to the date or dates at which the authority
47 expects that those jobs would actually leave the State, or, with
48 respect to projects located in a Garden State Growth Zone that

1 qualifies under the "Municipal Rehabilitation and Economic
2 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), ⁵or projects
3 located in a Garden State Growth Zone which contains a Tourism
4 District as established pursuant to section 5 of P.L.2011, c.18
5 (C.5:12-219) and regulated by the Casino Reinvestment
6 Development Authority,⁵ the business's assertion that the provision
7 of tax credits under the program is a material factor in the business's
8 decision to make a capital investment and locate in a Garden State
9 Growth Zone that qualifies under the "Municipal Rehabilitation and
10 Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.),
11 ⁵or in a Garden State Growth Zone which contains a Tourism
12 District as established pursuant to section 5 of P.L.2011, c.18
13 (C.5:12-219) and regulated by the Casino Reinvestment
14 Development Authority,⁵ before a business may be awarded any tax
15 credits under this section.

16 e. A project that consists solely of point-of-final-purchase
17 retail facilities shall not be eligible for a grant of tax credits. If a
18 project consists of both point-of-final-purchase retail facilities and
19 non-retail facilities, only the portion of the project consisting of
20 non-retail facilities shall be eligible for a grant of tax credits. ¹**[In]**
21 For a qualified business facility that is a mixed-use project that
22 includes retail facilities and that is located in¹ a Garden State
23 Growth Zone or the Atlantic City Tourism District as established
24 pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated
25 by the Casino Reinvestment Development Authority, ¹**[up to 7.5**
26 **percent of]**¹ retail facilities ¹**[included in a mixed use project shall**
27 **be eligible]** in an amount up to 7.5 percent of the mixed-use project
28 may be included in the mixed-use project application¹ for a grant of
29 tax credits along with the non-retail facilities ¹, and ²**[such]** that²
30 application may include in the aggregate the pro-rata number of
31 full-time employees employed by any number of tenants or other
32 occupants of the included retail facilities¹. If a warehouse facility is
33 part of a point-of-final-purchase retail facility and supplies only that
34 facility, the warehouse facility shall not be eligible for a grant of tax
35 credits. For the purposes of this section, a retail facility of at least
36 150,000 square feet, of which at least 50 percent is occupied by a
37 full-service supermarket or grocery store, located in a Garden State
38 Growth Zone which qualified under the "Municipal Rehabilitation
39 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et
40 al.), or a tourism destination project in the Atlantic City Tourism
41 District as established pursuant to section 5 of P.L.2011, c.18
42 (C.5:12-219), or catalog distribution centers shall not be considered
43 point-of-final-purchase retail facilities.

44 f. The authority may determine as eligible for tax credits under
45 the program any business that is required to respond to a request for
46 proposals and to fulfill a contract with the federal government
47 although the business's chief executive officer or equivalent officer

1 has not demonstrated to the authority that the award of tax credits
2 will be a material factor in the business's decision to retain the
3 minimum number of retained full-time jobs, as otherwise required
4 by this section. The authority may, in its discretion, consider the
5 economic benefit of the retained jobs servicing the contract in
6 conducting a net benefit analysis required by paragraph (4) of
7 subsection a. of this section. For the purposes of this subsection,
8 "retained full-time jobs" includes jobs that are at risk of being
9 eliminated. Applications to the authority for eligibility under the
10 program pursuant to the criteria set forth in this subsection shall be
11 completed by December 31, 2013. Submission of a proposal to the
12 federal government prior to authority approval shall not disqualify a
13 business from the program.

14 g. Nothing shall preclude a business from applying for tax
15 credits under the program for more than one project pursuant to one
16 or more applications.

17 (cf: P.L.2013, c.161, s.8)

18

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

21 5. a. The total amount of tax credit for an eligible business for
22 each new or retained full-time job shall be as set forth in
23 subsections b. through f. of this section. The total tax credit amount
24 shall be calculated and credited to the business annually for each
25 year of the eligibility period. Notwithstanding any other provisions
26 of P.L.2013, c.161 (C.52:27D-489p et al.), a business may assign its
27 ability to apply for the tax credit under this subsection to a non-
28 profit organization with a mission dedicated to attracting investment
29 and completing development and redevelopment projects in a
30 Garden State Growth Zone. The non-profit organization¹ or
31 organization operating a qualified incubator facility¹ may make an
32 application on behalf of ²[the] a² business which meets the
33 requirements for the tax credit, or a group of non-qualifying
34 businesses¹ or positions¹, ⁵located at a qualified business facility.⁵
35 ²[such]² that ²[these will] shall² be considered a unified project
36 for the purposes of the incentives provided under this section. For
37 any project located in a Garden State Growth Zone that qualifies
38 under the "Municipal Rehabilitation and Economic Recovery Act,"
39 P.L.2002, c.43 (C.52:27BBB-1 et al.)⁵, or any project located in a
40 Garden State Growth Zone which contains a Tourism District as
41 established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and
42 regulated by the Casino Reinvestment Development Authority,⁵ and
43 which will include a retail facility of at least 150,000 square feet, of
44 which at least 50 percent will be occupied by either a full-service
45 supermarket or grocery store, a business may assign its ability to
46 apply for the tax credit under this subsection to the developer of the
47 facility. The developer may make an application on behalf of the

1 business which meets the requirements for the tax credit, or a group
2 of non-qualifying businesses located at the business facility,
3 ²[such]² that ²[these will] shall² be considered a unified project
4 for the purposes of the incentives provided under this section, and
5 the developer may apply for tax credits available based on the
6 number of jobs provided by the business or businesses and the total
7 capital investment of the business or businesses and the developer.

8 b. The base amount of the tax credit for each new or retained
9 full-time job shall be as follows:

10 (1) for a qualified business facility located within an urban
11 transit hub municipality or Garden State Growth Zone or is a mega
12 project, \$5,000 per year;

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

16 (3) for a project in a priority area, \$3,000 per year; and

17 (4) for a project in other eligible areas, \$500 per year.

18 c. In addition to the base amount of the tax credit, the amount
19 of the tax credit to be awarded for each new or retained full-time
20 job shall be increased if the qualified business facility meets any of
21 the following priority criteria or other additional or replacement
22 criteria determined by the authority from time to time in response to
23 evolving economic or market conditions:

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

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

30 (3) for a qualified business facility located in a mixed-use
31 development that incorporates sufficient moderate income housing
32 on site to accommodate a minimum of 20 percent of the full-time
33 employees of the business, an increase of \$500 per year;

34 (4) for a qualified business facility located within a transit
35 oriented development, an increase of \$2,000 per year;

36 (5) for a qualified business facility, other than a mega project, at
37 which the capital investment in industrial premises for industrial
38 use by the business is in excess of the minimum capital investment
39 required for eligibility pursuant to subsection b. of section 3 of
40 P.L.2011, c.149 (C.34:1B-244), an increase of \$1,000 per year for
41 each additional amount of investment that exceeds the minimum
42 amount required for eligibility by 20 percent, with a maximum
43 increase of \$3,000 per year;

44 (6) for a business with new full-time jobs and retained full-time
45 jobs at the project with an average salary in excess of the existing
46 average salary for the county in which the project is located, or, in
47 the case of a project in a Garden State Growth Zone, a business that
48 employs full-time positions at the project with an average salary in

- 1 excess of the average salary for the Garden State Growth Zone, an
2 increase of \$250 per year during the commitment period for each 35
3 percent by which the project's average salary levels exceeds the
4 county or Garden State Growth Zone average salary, with a
5 maximum increase of \$1,500 per year;
- 6 (7) for a business with large numbers of new full-time jobs and
7 retained full-time jobs during the commitment period, the increases
8 shall be in accordance with the following schedule:
- 9 (a) if the number of new full-time jobs and retained full-time
10 jobs is between 251 and 400, \$500 per year;
- 11 (b) if the number of new full-time jobs and retained full-time
12 jobs is between 401 and 600, \$750 per year;
- 13 (c) if the number of new full-time jobs and retained full-time
14 jobs is between 601 and 800, \$1000 per year;
- 15 (d) if the number of new full-time jobs and retained full-time
16 jobs is between 801 and 1,000, \$1,250 per year;
- 17 (e) if the number of new full-time jobs and retained full-time
18 jobs is in excess of 1,000, \$1,500 per year;
- 19 (8) for a business in a targeted industry, an increase of \$500 per
20 year;
- 21 (9) for a qualified business facility exceeding the Leadership in
22 Energy and Environmental Design's "Silver" rating standards or
23 completes substantial environmental remediation, an additional
24 increase of \$250 per year;
- 25 (10) for a mega project or a project located within a Garden State
26 Growth Zone at which the capital investment in industrial premises
27 for industrial use by the business is in excess of the minimum
28 capital investment required for eligibility pursuant to subsection b.
29 of section 3 of P.L.2011, c.149 (C.34:1B-244), an increase of
30 \$1,000 per year for each additional amount of investment that
31 exceeds the minimum amount by 20 percent, with a maximum
32 increase of \$5,000 per year;
- 33 (11) for a project in which a business retains at least 400 jobs
34 and is located within the municipality in which it was located
35 immediately prior to the filing of the application hereunder and is
36 the United States headquarters of an automobile manufacturer, an
37 increase of \$1,500 per year;
- 38 (12) for a project located in a municipality in Atlantic,
39 Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean,
40 and Salem counties with a 2007 Municipality Revitalization Index
41 greater than 465, an increase of \$1,000 per year;
- 42 (13) for a project located within a half-mile of any light rail
43 station constructed after the effective date of P.L.2013, c.161
44 (C.52:27D-489p et al.), an increase of \$1,000 per year;
- 45 (14) for a marine terminal project in a municipality located
46 outside the Garden State Growth Zone, but within the geographical
47 boundaries of the South Jersey Port District, an increase of \$1,500
48 per year;

1 (15) for a project located within an area determined to be in need
2 of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79
3 (C.40A:12A-5 and C.40A:12A-6), and which is located within a
4 quarter mile of at least one United States Highway and at least two
5 New Jersey State Highways, an increase of \$1,500 per year;
6 ²**[and]**²

7 (16) for a project that generates solar energy on site for use
8 within the project of an amount that equals at least 50 percent of the
9 project's electric supply service needs, an increase of \$250 per
10 year ²; and

11 (17) for a qualified business facility that includes a vacant
12 commercial building having over 1,000,000 square feet of office or
13 laboratory space available for occupancy for a period of over one
14 year, an increase of \$1,000 per year².

15 d. The gross amount of the tax credit for an eligible business
16 for each new or retained full-time job shall be the sum of the base
17 amount as set forth pursuant to 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 Garden State Growth
22 Zone, the gross amount for each new or retained full-time job shall
23 not exceed \$15,000 per year;

24 (2) for a qualified business facility located within an urban
25 transit hub municipality, the gross amount for each new or retained
26 full-time job shall not exceed \$12,000 per year;

27 (3) for a qualified business facility in a distressed municipality
28 the gross amount for each new or retained full-time job shall not
29 exceed \$11,000 per year;

30 (4) for a qualified business facility in other priority areas, the
31 gross amount for each new or retained full-time job shall not exceed
32 \$10,500 per year;

33 (5) for a qualified business facility in other eligible areas, the
34 gross amount for each new or retained full-time job shall not exceed
35 \$6,000 per year; and

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

38 Notwithstanding anything to the contrary set forth herein and in
39 the provisions of subsections a. through f. of this section, ¹but
40 subject to ²the provisions of² paragraph (1) of subsection f. of this
41 section,¹ for a project located within a Garden State Growth Zone
42 which qualifies for the "Municipal Rehabilitation and Economic
43 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), ¹which
44 creates 35 or more full-time jobs new to the municipality,¹ the total
45 tax credit shall be:

46 (a) for a project which creates 35 or more ¹**[new or retained]**¹
47 full-time jobs ¹new to the municipality¹ and makes a capital

1 investment of at least \$5,000,000, the total tax credit amount per
2 full-time job shall be the greater of: (i) the total tax credit amount
3 for a qualifying project in a Garden State Growth Zone as
4 calculated pursuant to subsections a. through f. of this section; or
5 (ii) the total capital investment of the project divided by the total
6 number of full-time jobs at that project but not greater than
7 ~~1~~ ~~[\$20,000,000]~~ \$2,000,000 per year¹ over the grant term ¹of ten
8 years¹;

9 (b) for a project which creates 70 or more ~~1~~ ~~new or retained~~¹
10 full-time jobs new to the municipality¹ and makes a capital
11 investment of at least \$10,000,000, the total tax credit amount per
12 full-time job shall be the greater of: (i) the total tax credit amount
13 for a qualifying project in a Garden State Growth Zone as
14 calculated pursuant to subsections a. through f. of this section; or
15 (ii) the total capital investment of the project divided by the total
16 number of full-time jobs at that project but not greater than
17 ~~1~~ ~~[\$30,000,000]~~ \$3,000,000 per year¹ over the grant term ¹of ten
18 years¹;

19 (c) for a project which creates 100 or more ~~1~~ ~~new or retained~~¹
20 full-time jobs new to the municipality¹ and makes a capital
21 investment of at least \$15,000,000, the total tax credit amount per
22 full-time job shall be the greater of: (i) the total tax credit amount
23 for a qualifying project in a Garden State Growth Zone as
24 calculated pursuant to subsections a. through f. of this section; or
25 (ii) the total capital investment of the project divided by the total
26 number of full-time jobs at that project but not greater than
27 ~~1~~ ~~[\$40,000,000]~~ \$4,000,000 per year¹ over the grant term ¹of ten
28 years¹;

29 (d) for a project which creates 150 or more ~~1~~ ~~new or retained~~¹
30 full-time jobs new to the municipality¹ and makes a capital
31 investment of at least \$20,000,000, the total tax credit amount per
32 full-time job shall be the greater of: (i) the total tax credit amount
33 for a qualifying project in a Garden State Growth Zone as
34 calculated pursuant to subsections a. through f. of this section; or
35 (ii) the total capital investment of the project divided by the total
36 number of full-time jobs at that project but not greater than
37 ~~1~~ ~~[\$50,000,000]~~ \$5,000,000 per year¹ over the grant term ¹of ten
38 years¹; or

39 (e) for a project which creates 250 or more ~~1~~ ~~new or retained~~¹
40 full-time jobs new to the municipality¹ and makes a capital
41 investment of at least \$30,000,000, the total tax credit amount per
42 full-time job shall be the greater of: (i) the total tax credit amount
43 for a qualifying project in a Garden State Growth Zone as
44 calculated pursuant to subsections a. through f. of this section; or
45 (ii) the total capital investment of the project divided by the total

1 number of full-time jobs as defined herein at that project ¹divided
2 by the ten-year grant term¹.

3 e. After the determination by the authority of the gross amount
4 of tax credits for which a business is eligible pursuant to subsection
5 d. of this section, the final total tax credit amount shall be
6 calculated as follows: (1) for each new full-time job, the business
7 shall be allowed tax credits equaling 100 percent of the gross
8 amount of tax credits for each new full-time job; and (2) for each
9 retained full-time job, the business shall be allowed tax credits
10 equaling ²the lesser of² 50 percent of the gross amount of tax
11 credits for each retained full-time job, ²["but not greater than"] or²
12 one-tenth of the capital investment divided by the number of
13 ["each"] retained and new² full-time ²["job"] jobs per year over the
14 grant term of ten years^{2, 1}, unless the jobs are part of a mega project
15 which is the United States headquarters of an automobile
16 manufacturer located within a priority area or in a Garden State
17 Growth Zone, in which case the business shall be entitled to tax
18 credits equaling 100 percent of the gross amount of tax credits for
19 each retained full-time job, or unless the new qualified business
20 facility would replace a facility that has been wholly or
21 substantially damaged as a result of a federally-declared disaster, in
22 which case the business shall be entitled to tax credits equaling 100
23 percent of the gross amount of tax credits for each retained full-time
24 job.

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

29 (1) \$35,000,000 and provides a net benefit to the State as
30 provided herein with respect to a qualified business facility in a
31 Garden State Growth Zone which qualifies under the "Municipal
32 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
33 (C.52:27BBB-1 et al.) ⁵, or which contains a Tourism District as
34 established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and
35 regulated by the Casino Reinvestment Development Authority⁵ ;

36 (2) \$30,000,000 and provides a net benefit to the State as
37 provided herein with respect to a mega project or a qualified
38 business facility in a Garden State Growth Zone;

39 (3) \$10,000,000 and provides a net benefit to the State as
40 provided herein with respect to a qualified business facility in an
41 urban transit hub municipality;

42 (4) \$8,000,000 and provides a net benefit to the State as
43 provided herein with respect to a qualified business facility in a
44 distressed municipality;

45 (5) \$4,000,000 and provides a net benefit to the State as
46 provided herein with respect to a qualified business facility in other

1 priority areas, but not more than 90 percent of the withholdings of
2 the business from the qualified business facility; and

3 (6) \$2,500,000 and provides a net benefit to the State as
4 provided herein with respect to a qualified business facility in other
5 eligible areas, but not more than 90 percent of the withholdings of
6 the business from the qualified business facility.

7 ²[Notwithstanding the foregoing provisions of paragraphs (5)
8 and (6) of this subsection, the limitations on tax credits relating to
9 90 percent of the withholdings of the business from the qualified
10 business facility shall not apply to projects located in an area
11 determined to be in need of redevelopment pursuant to the "Local
12 Development and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et
13 seq.) or an "area in need of rehabilitation" as defined in section 3 of
14 P.L.1991, c.441 (C.40A:21-3).]²

15 Under paragraphs (1) through (6) of this subsection, ¹with the
16 exception of a project located within a Garden State Growth Zone
17 which qualifies for the "Municipal Rehabilitation and Economic
18 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.) ⁵, or which
19 contains a Tourism District as established pursuant to section 5 of
20 P.L.2011, c.18 (C.5:12-219) and regulated by the Casino
21 Reinvestment Development Authority, ⁵ that divides the total capital
22 investment of the project by the total number of full-time jobs at
23 that project,¹ for each application for tax credits in excess of
24 \$4,000,000 annually, the amount of tax credits available to be
25 applied by the business annually shall be the lesser of the maximum
26 amount under the applicable subsection or an amount determined by
27 the authority necessary to complete the project, with such
28 determination made by the authority's utilization of a full economic
29 analysis of all locations under consideration by the business; all
30 lease agreements, ownership documents, or substantially similar
31 documentation for the business's current in-State locations, as
32 applicable; and all lease agreements, ownership documents, or
33 substantially similar documentation for the potential out-of-State
34 location alternatives, to the extent they exist. Based on this
35 information, and any other information deemed relevant by the
36 authority, the authority shall independently verify and confirm the
37 amount necessary to complete the project.

38 (cf: P.L.2013, c.161, s.10)

39

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

42 6. a. (1) The combined value of all credits approved by the
43 authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) and
44 P.L.2011, c.149 (C.34:1B-242 et al.) prior to December 31, 2013
45 shall not exceed \$1,750,000,000, except as may be increased by the
46 authority as set forth in paragraph (5) of subsection a. of ⁴section 35
47 of⁴ P.L.2009, c.90 (C.34:1B-209.3). Following the enactment of

1 the "New Jersey Economic Opportunity Act of 2013," P.L.2013,
 2 c.161 (C.52:27D-489p et al.), there shall be no monetary cap on the
 3 value of credits approved by the authority attributable to the
 4 program pursuant to the "New Jersey Economic Opportunity Act of
 5 2013," P.L.2013, c.161 (C.52:27D-489p et al.).

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

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

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

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

10 b. (1) A business shall submit an application for tax credits
 11 prior to July 1, 2019. The authority shall not approve an application
 12 for tax credits unless the application was submitted prior to July 1,
 13 2019.

14 (2) A business shall submit its documentation indicating that it
 15 has met the capital investment and employment requirements
 16 specified in the incentive agreement for certification of its tax credit
 17 amount within three years following the date of approval of its
 18 application by the authority. The authority shall have the discretion
 19 to grant two six-month extensions of this deadline. In no event
 20 shall the incentive effective date occur later than four years
 21 following the date of approval of an application by the authority.

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

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

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

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

37 The credit amount ²[that]² may be taken ²[for a tax period of]
 38 by² the [business] ²[tax certificate holder that exceeds the final
 39 liabilities of the]² [business] tax certificate holder for the tax
 40 period ²for which it was issued or² may be carried forward for use
 41 by the [business] tax certificate holder in ²any of² the next 20
 42 successive tax periods, and shall expire thereafter. ²The tax
 43 certificate holder may transfer the tax credit amount on or after the
 44 date of issuance or at any time ⁵[prior to its expiration] within
 45 three years of the date of issuance⁵ for use by the transferee in the
 46 tax period ⁵[for] during⁵ which it was ⁵[issued] transferred⁵ or in
 47 any of the next ⁵[20] three⁵ successive tax periods.

1 Notwithstanding the foregoing, no more than the amount of tax
2 credits equal to the total credit amount divided by the duration of
3 the eligibility period in years may be taken in any tax period.²

4 (2) **【A business that is】** Credits granted to a partnership shall
5 **【not be allowed a credit under this section directly, but the amount**
6 **of credit of an owner of a business shall be determined by allocating**
7 **to each owner of the partnership that proportion of the credit of the**
8 **business that is equal to the owner of the partnership's share,**
9 **whether or not distributed, of the total distributive income or gain**
10 **of the partnership for its tax period ending within or with the**
11 **owner's tax period, or that proportion that is allocated by an**
12 **agreement, if any, among the owners of the partnership that has**
13 **been】** be passed through to the partners, members, or owners,
14 respectively, pro-rata or pursuant to an executed agreement among
15 the partners, members, or owners documenting an alternate
16 distribution method provided to the Director of the Division of
17 Taxation in the Department of the Treasury **【by such time and】**
18 accompanied by **【such】** any additional information as the director
19 may require.

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

26 ⁵**【(b) (i) For any project located in a Garden State Growth Zone**
27 **or any mega project conducted】** which is also a municipality
28 which qualifies under the "Municipal Rehabilitation and Economic
29 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), and
30 undertaken² by a ²partnership or² corporation, if the corporation has
31 made a valid election as a New Jersey S corporation pursuant to
32 section 3 of P.L.1993, c.173 (C.54:10A-5.22), ²the credit may be
33 applied by the partners of the partnership or shareholders of the
34 corporation against the tax liability otherwise due pursuant to
35 N.J.S.54A:1-1 et seq., provided that² the amount of credit that may
36 be used by ²a partner of a partnership or² a shareholder of the
37 corporation shall be determined by allocating to each ²partner or²
38 shareholder of the S corporation that proportion of the tax credit of
39 the ²partnership or² corporation that is equal to the ²partner's or²
40 shareholder's proportionate share of the ²partnership or²
41 corporation, whether or not distributed, or the total distributive
42 income or gain of the ²partnership or² S corporation for its tax
43 period ending with or within the ²partner's or² shareholder's tax
44 period, and the credit may be applied by the ²partners or²
45 shareholders against the tax liability otherwise due pursuant to
46 N.J.S.54A:1-1 et seq.

1 (ii) For purposes of this subparagraph (b), in the case of a
2 corporation that has made a valid election as a New Jersey S
3 corporation pursuant to section 3 of P.L.1993, c.173 (C.54:10A-
4 5.22) and is recognized as a New Jersey Qualified Subchapter S
5 Subsidiary (NJ-QSSS), as defined in N.J.A.C.18:7-20.2, as may be
6 amended, the credit ²~~will~~ shall² be allocated to the parent
7 shareholder corporation which shall allocate the credit among its
8 shareholders in the manner described in subparagraph (i)
9 ²~~above~~ of this subparagraph².

10 (iii) For purposes of this subparagraph (b), if a parent
11 shareholder corporation of a New Jersey Qualified Subchapter S
12 Subsidiary (NJ-QSSS) is itself also a New Jersey Qualified
13 Subchapter S Subsidiary (NJ-QSSS), the parent shareholder
14 corporation shall allocate the credit to its parent shareholder
15 corporation that is a New Jersey S corporation, which may then
16 allocate the credit among its shareholders in the manner described
17 in subparagraph (i) ⁴~~above~~ of this subparagraph⁴ .]⁵

18 d. (1) If, in any tax period, the business reduces the total
19 number of full-time employees in its Statewide workforce by more
20 than 20 percent from the number of full-time employees in its
21 Statewide workforce in the last tax period prior to the credit amount
22 approval under section 3 of P.L.2011, c.149 (C.34:1B-244), then
23 ~~the business shall forfeit its~~ ¹~~there shall be a pro rata reduction~~
24 ~~of the business's~~ the business shall forfeit its¹ credit amount for
25 that tax period and each subsequent tax period, until the first tax
26 period for which documentation demonstrating [the restoration of]
27 ¹the restoration of¹ the business' Statewide workforce [the
28 threshold levels required by this paragraph] ¹has been restored to
29 at least 80 percent of the number of full-time employees in its
30 Statewide workforce in the last tax period prior to the credit amount
31 approval] to the threshold levels required by this paragraph¹ has
32 been reviewed and approved by the authority, for which tax period
33 and each subsequent tax period the full amount of the credit shall be
34 allowed.

35 (2) If, in any tax period, the number of full-time employees
36 employed by the business at the qualified business facility located
37 within a qualified incentive area drops below 80 percent of the
38 number of new and retained full-time jobs specified in the incentive
39 agreement, then ~~the business shall forfeit its~~ ¹~~there shall be a~~
40 ~~pro rata reduction of the business's tax~~ the business shall forfeit
41 its¹ credit amount for that tax period and each subsequent tax
42 period, until the first tax period for which documentation
43 demonstrating [the restoration of] ¹the restoration of¹ the number
44 of full-time employees employed by the business at the qualified
45 business facility ¹has been restored¹ to ¹at least¹ 80 percent of
46 the number of jobs specified in the incentive agreement ¹has been
47 reviewed and approved by the authority, for which tax period and

1 each subsequent tax period the full amount of the tax credit shall be
2 allowed¹.

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

32 (4) ⁴~~[(a)]~~ (a)⁴ For a project located within a Garden State
33 Growth Zone, if, in any tax period, the number of full-time
34 employees employed by the business at the qualified business
35 facility located within a qualified incentive area increases above the
36 number of full-time employees specified in the incentive agreement,
37 then the business shall be entitled to an increased base credit
38 amount for that tax period and each subsequent tax period, for each
39 additional full-time employee added above the number of full-time
40 employees specified in the incentive agreement, until the first tax
41 period for which documentation demonstrating a reduction of the
42 number of full-time employees employed by the business at the
43 qualified business facility, at which time the tax credit amount will
44 be adjusted 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.), ⁵or 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,⁵ and which qualifies for a
3 tax credit pursuant to ¹subsubparagraph (ii) of¹ subparagraphs (a)
4 through (e) of paragraph (6) of subsection d. of section 5 of
5 P.L.2011, c.149 (C.34:1B-246), if, in any tax period the number of
6 full-time employees employed by the business at the qualified
7 business facility located within a qualified incentive area increases
8 above the number of full-time employees specified in the incentive
9 agreement such that the business ²**[will]** ²**shall**² then meet the
10 minimum number of employees required in ⁴**[subparagraph]**
11 subparagraphs⁴ (b), (c), (d), or (e) of paragraph (6) of subsection d.
12 of section 5 of P.L.2011, c.149 (C.34:1B-246), then the authority
13 shall recalculate the total tax credit amount per full-time job by
14 using the ¹**[total]**¹ certified capital investment of the project
15 ¹allowable under the applicable subsubparagraph¹ and the number
16 of full-time jobs certified on the date of the recalculation and
17 applying those numbers to subparagraphs (b), (c), (d), or (e) of
18 paragraph (6) of subsection d. of section 5 of P.L.2011, c.149
19 (C.34:1B-246) ¹, until the first tax period for which documentation
20 demonstrating a reduction of the number of full-time employees
21 employed by the business at the qualified business facility, at which
22 time the tax credit amount ²**[will]** ²**shall**² be adjusted accordingly
23 pursuant to this section¹. ¹**[From the date of the recalculation**
24 through the end of the eligibility period, the annual tax credit for the
25 business shall be the amount determined after the recalculation.]¹

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

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

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

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

1 provisions of the program.
2 (cf: P.L.2013, c.161, s.11)

3

4 6. Section 7 of P.L.2011, c.149 (C.34:1B-248) is amended to
5 read as follows:

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

30 (cf: P.L.2011, c.149, s.7)

31

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

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

36 "Applicant" means a developer proposing to enter into a
37 redevelopment incentive grant agreement.

38 "Ancillary infrastructure project" means structures or
39 improvements that are located within the incentive area but outside
40 the project area of a redevelopment project, including, but not
41 limited to, docks, bulkheads, parking garages, freight rail spurs,
42 roadway overpasses, and train station platforms, provided a
43 developer or municipal redeveloper has demonstrated that the
44 redevelopment project would not be economically viable or
45 promote the use of public transportation without such
46 improvements, as approved by the State Treasurer.

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

4 "Aviation district" means the area within a one-mile radius of the
5 outermost boundary of the "Atlantic City International Airport,"
6 established pursuant to section 24 of P.L.1991, c.252 (C.27:25A-
7 24).

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

13 "Developer" means any person who enters or proposes to enter
14 into a redevelopment incentive grant agreement pursuant to the
15 provisions of section 9 of P.L.2009, c.90 (C.52:27D-489i), or its
16 successors or assigns, including but not limited to a lender that
17 completes a redevelopment project, operates a redevelopment
18 project, or completes and operates a redevelopment project. A
19 developer also may be a municipal government or a redevelopment
20 agency as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3).

21 "Director" means the Director of the Division of Taxation in the
22 Department of the Treasury.

23 "Disaster recovery project" means a redevelopment project
24 located on property that has been wholly or substantially damaged
25 or destroyed as a result of a federally-declared disaster, and which
26 is located within the incentive area and has been determined by the
27 authority to be in an area appropriate for development and in need
28 of economic development incentive assistance.

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

38 "Eligibility period" means the period of time specified in a
39 redevelopment incentive grant agreement for the payment of
40 reimbursements to a developer, which period shall not exceed 20
41 years, with the term to be determined solely at the discretion of the
42 applicant.

43 "Eligible revenue" means the property tax increment and any
44 other incremental revenues set forth in section 11 of P.L.2009, c.90
45 (C.52:27D-489k), except in the case of a Garden State Growth
46 Zone, in which such property tax increment and any other
47 incremental revenues are calculated as those incremental revenues
48 that would have existed notwithstanding the provisions of the "New

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

3 "Garden State Growth Zone" or "growth zone" means the four
4 New Jersey cities with the lowest median family income based on
5 the 2009 American Community Survey from the US Census, (Table
6 708. Household, Family, and Per Capita Income and Individuals,
7 and Families Below Poverty Level by City: 2009); or a municipality
8 which contains a Tourism District as established pursuant to section
9 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino
10 Reinvestment Development Authority.

11 "Highlands development credit receiving area or redevelopment
12 area" means an area located within an incentive area and designated
13 by the Highlands Council for the receipt of Highlands Development
14 Credits under the Highlands Transfer Development Rights Program
15 authorized under section 13 of P.L.2004, c.120 (C.13:20-13).

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

21 "Infrastructure improvements in the public right-of-way" mean
22 public structures or improvements located in the public right of way
23 that are located within a project area or that constitute an ancillary
24 infrastructure project, either of which are dedicated to or owned by
25 a governmental body or agency upon completion, or any required
26 payment in lieu of such structures, improvements or projects or any
27 costs of remediation associated with such structures, improvements
28 or projects, and that are determined by the authority, in consultation
29 with applicable State agencies, to be consistent with and in
30 furtherance of State public infrastructure objectives and initiatives.

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

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

42 "Moderate-income housing" means housing affordable,
43 according to United States Department of Housing and Urban
44 Development or other recognized standards for home ownership
45 and rental costs, and occupied or reserved for occupancy by
46 households with a gross household income equal to more than 50
47 percent but less than 80 percent of the median gross household

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

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

7 "Municipal Revitalization Index" means the 2007 index by the
8 Office for Planning Advocacy within the Department of State
9 measuring or ranking municipal distress.

10 "Project area" means land or lands located within the incentive
11 area under common ownership or control including through a
12 redevelopment agreement with a municipality, or as otherwise
13 established by a municipality or a redevelopment agreement
14 executed by a State entity to implement a redevelopment project.

15 "Project cost" means the costs incurred in connection with the
16 redevelopment project by the developer until the issuance of a
17 permanent certificate of occupancy, or until such other time
18 specified by the authority, for a specific investment or
19 improvement, including the costs relating to receiving Highlands
20 Development Credits under the Highlands Transfer Development
21 Rights Program authorized pursuant to section 13 of P.L.2004,
22 c.120 (C.13:20-13), lands, buildings, improvements, real or
23 personal property, or any interest therein, including leases
24 discounted to present value, including lands under water, riparian
25 rights, space rights and air rights acquired, owned, developed or
26 redeveloped, constructed, reconstructed, rehabilitated or improved,
27 any environmental remediation costs, plus costs not directly related
28 to construction, of an amount not to exceed 20 percent of the total
29 costs, capitalized interest paid to third parties, and the cost of
30 infrastructure improvements, including ancillary infrastructure
31 projects, and, for projects located in a Garden State Growth Zone
32 only, the cost of infrastructure improvements including any
33 ancillary infrastructure project and the amount by which total
34 project cost exceeds the cost of an alternative location for the
35 redevelopment project, but excluding any particular costs for which
36 the project has received federal, State, or local funding.

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

1 which total project cost exceeds the cost of an alternative location
2 for the out-of-State redevelopment project.

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

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

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

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

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

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

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

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

- 41 a. an aviation district;
- 42 b. a port district;
- 43 c. a distressed municipality; or
- 44 d. an area (1) designated pursuant to the "State Planning Act,"
45 P.L.1985, c.398 (C.52:18A-196 et seq.), as:
 - 46 (a) Planning Area 1 (Metropolitan);
 - 47 (b) Planning Area 2 (Suburban); or
 - 48 (c) Planning Area 3 (Fringe Planning Area);

- 1 (2) located within a smart growth area and planning area
2 designated in a master plan adopted by the New Jersey
3 Meadowlands Commission pursuant to subsection (i) of section 6 of
4 P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan
5 adopted by the New Jersey Meadowlands Commission pursuant to
6 section 20 of P.L.1968, c.404 (C.13:17-21);
- 7 (3) located within any land owned by the New Jersey Sports and
8 Exposition Authority, established pursuant to P.L.1971, c.137
9 (C.5:10-1 et seq.), within the boundaries of the Hackensack
10 Meadowlands District as delineated in section 4 of P.L.1968, c.404
11 (C.13:17-4);
- 12 (4) located within a regional growth area, a town, village, or a
13 military and federal installation area designated in the
14 comprehensive management plan prepared and adopted by the
15 Pinelands Commission pursuant to the "Pinelands Protection Act,"
16 P.L.1979, c.111 (C.13:18A-1 et seq.);
- 17 (5) located within the planning area of the Highlands Region as
18 defined in section 3 of P.L.2004, c.120 (C.13:20-3) or in a
19 highlands development credit receiving area or redevelopment area;
- 20 (6) located within a Garden State Growth Zone;
- 21 (7) located within land approved for closure under any federal
22 Base Closure and Realignment Commission action; or
- 23 (8) located only within the following portions of the areas
24 designated pursuant to the "State Planning Act," P.L.1985, c.398
25 (C.52:18A-196 et al.), as Planning Area 4A (Rural Planning Area),
26 Planning Area 4B (Rural/Environmentally Sensitive) or Planning
27 Area 5 (Environmentally Sensitive) if Planning Area 4A (Rural
28 Planning Area), Planning Area 4B (Rural/Environmentally
29 Sensitive) or Planning Area 5 (Environmentally Sensitive) is
30 located within:
 - 31 (a) a designated center under the State Development and
32 Redevelopment Plan;
 - 33 (b) a designated growth center in an endorsed plan until the
34 State Planning Commission revises and readopts New Jersey's State
35 Strategic Plan and adopts regulations to revise this definition as it
36 pertains to Statewide planning areas;
 - 37 (c) any area determined to be in need of redevelopment pursuant
38 to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-
39 6) or in need of rehabilitation pursuant to section 14 of P.L.1992,
40 c.79 (C.40A:12A-14);
 - 41 (d) any area on which a structure exists or previously existed
42 including any desired expansion of the footprint of the existing or
43 previously existing structure provided such expansion otherwise
44 complies with all applicable federal, State, county, and local
45 permits and approvals;
 - 46 (e) the planning area of the Highlands Region as defined in
47 section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands
48 development credit receiving area or redevelopment area; or

1 (f) any area on which an existing tourism destination project is
2 located.

3 "Qualifying economic redevelopment and growth grant incentive
4 area" or "incentive area" shall not include any property located
5 within the preservation area of the Highlands Region as defined in
6 the "Highlands Water Protection and Planning Act," P.L.2004,
7 c.120 (C.13:20-1 et al.).

8 "Redevelopment incentive grant agreement" means an agreement
9 between, (1) the State and the New Jersey Economic Development
10 Authority and a developer, or (2) a municipality and a developer, or
11 a municipal ordinance authorizing a project to be undertaken by a
12 municipal redeveloper, under which, in exchange for the proceeds
13 of an incentive grant, the developer agrees to perform any work or
14 undertaking necessary for a redevelopment project, including the
15 clearance, development or redevelopment, construction, or
16 rehabilitation of any structure or improvement of commercial,
17 industrial, residential, or public structures or improvements within a
18 qualifying economic redevelopment and growth grant incentive area
19 or a transit village.

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

1 "Redevelopment utility" means a self-liquidating fund created by
2 a municipality pursuant to section 12 of P.L.2009, c.90 (C.52:27D-
3 489l) to account for revenues collected and incentive grants paid
4 pursuant to section 11 of P.L.2009, c.90 (C.52:27D-489k), or other
5 revenues dedicated to a redevelopment project.

6 "Revenue increment base" means the amounts of all eligible
7 revenues from sources within the redevelopment project area in the
8 calendar year preceding the year in which the redevelopment
9 incentive grant agreement is executed, as certified by the State
10 Treasurer for State revenues, and the chief financial officer of the
11 municipality for municipal revenues.

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

14 "SDA municipality" means a municipality in which an SDA
15 district is situate.

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

21 "Tourism destination project" means a redevelopment project
22 that will be among the most visited privately owned or operated
23 tourism or recreation sites in the State, and which is located within
24 the incentive area and has been determined by the authority to be in
25 an area appropriate for development and in need of economic
26 development incentive assistance.

27 "Transit project" means a redevelopment project located within a
28 1/2-mile radius, or one-mile radius for projects located in a Garden
29 State Growth Zone, surrounding the mid-point of a New Jersey
30 Transit Corporation, Port Authority Transit Corporation, or Port
31 Authority Trans-Hudson Corporation rail, bus, or ferry station
32 platform area, including all light rail stations.

33 "Transit village" means a community with a bus, train, light rail,
34 or ferry station that has developed a plan to achieve its economic
35 development and revitalization goals and has been designated by
36 the New Jersey Department of Transportation as a transit village.

37 "Urban transit hub" means an urban transit hub, as defined in
38 section 10 of P.L.2007, c.346 (C.34:1B-208), that is located within
39 an eligible municipality, as defined in section 10 of P.L.2007, c.346
40 (C.34:1B-208), or all light rail stations and property located within
41 a one-mile radius of the mid-point of the platform area of such a
42 rail, bus, or ferry station if the property is in a qualified
43 municipality under the "Municipal Rehabilitation and Economic
44 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.).

45 "Vacant commercial building" means any commercial building
46 or complex of commercial buildings having over 400,000 square
47 feet of office, laboratory, or industrial space that is more than 70
48 percent unoccupied at the time of application to the authority or is

1 negatively impacted by the approval of a "qualified business
2 facility," as defined pursuant to section 2 of P.L.2007, c.346
3 (C.34:1B-208), or any vacant commercial building in a Garden
4 State Growth Zone having over 35,000 square feet of office,
5 laboratory, or industrial space, or over 200,000 square feet of
6 office, laboratory, or industrial space in Atlantic, Burlington,
7 Camden, Cape May, Cumberland, Gloucester, Ocean, or Salem
8 counties available for occupancy for a period of over one year.

9 "Vacant health facility project" means a redevelopment project
10 where a health facility, as defined by section 2 of P.L.1971, c.136
11 (C.26:2H-2), currently exists and is considered vacant. A health
12 facility shall be considered vacant if at least 70 percent of that
13 facility has not been open to the public or utilized to serve any
14 patients at the time of application to the authority.⁵

15 (cf: P.L.2013, c.161, s.14)

16

17 ⁵[7.] 8.⁵ Section 6 of P.L.2009, c.90 (C.52:27D-489f) is
18 amended to read as follows:

19 6. a. Up to the limits established in subsection b. of this
20 section and in accordance with a redevelopment incentive grant
21 agreement, beginning upon the receipt of occupancy permits for any
22 portion of the redevelopment project, or upon such other event
23 evidencing project completion as set forth in the incentive grant
24 agreement, the State Treasurer shall pay to the developer
25 incremental State revenues directly realized from businesses
26 operating on or at the site of the redevelopment project from the
27 following taxes: the Corporation Business Tax Act (1945),
28 P.L.1945, c.162 (C.54:10A-1 et seq.), the tax imposed on marine
29 insurance companies pursuant to R.S.54:16-1 et seq., the tax
30 imposed on insurers generally, pursuant to P.L.1945, c.132
31 (C.54:18A-1 et seq.), the public utility franchise tax, public utilities
32 gross receipts tax and public utility excise tax imposed on sewerage
33 and water corporations pursuant to P.L.1940, c.5 (C.54:30A-49 et
34 seq.), those tariffs and charges imposed by electric, natural gas,
35 telecommunications, water and sewage utilities, and cable television
36 companies under the jurisdiction of the New Jersey Board of
37 Utilities, or comparable entity, except for those tariffs, fees, or taxes
38 related to societal benefits charges assessed pursuant to section 12
39 of P.L.1999, c.23 (C.48:3-60), any charges paid for compliance
40 with the "Global Warming Response Act," P.L.2007, c.112
41 (C.26:2C-37 et seq.), transitional energy facility assessment unit
42 taxes paid pursuant to section 67 of P.L.1997, c.162 (C.48:2-21.34),
43 and the sales and use taxes on public utility and cable television
44 services and commodities, the tax derived from net profits from
45 business, a distributive share of partnership income, or a pro rata
46 share of S corporation income under the "New Jersey Gross Income
47 Tax Act," N.J.S.54A:1-1 et seq., the tax derived from a business at
48 the site of a redevelopment project that is required to collect the tax

1 pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-
2 1 et seq.), the tax imposed pursuant to P.L.1966, c.30 (C.54:32B-1
3 et seq.) from the purchase of furniture, fixtures and equipment, or
4 materials for the remediation, the construction of new structures at
5 the site of a redevelopment project, the hotel and motel occupancy
6 fee imposed pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1),
7 or the portion of the fee imposed pursuant to section 3 of P.L.1968,
8 c.49 (C.46:15-7) derived from the sale of real property at the site of
9 the redevelopment project and paid to the State Treasurer for use by
10 the State, that is not credited to the "Shore Protection Fund" or the
11 "Neighborhood Preservation Nonlapsing Revolving Fund" ("New
12 Jersey Affordable Housing Trust Fund") pursuant to section 4 of
13 P.L.1968, c.49 (C.46:15-8). Any developer shall be allowed to
14 assign their ability to apply for the tax credit under this subsection
15 to a non-profit organization with a mission dedicated to attracting
16 investment and completing development and redevelopment
17 projects in a Garden State Growth Zone. The non-profit
18 organization may make an application on behalf of a developer
19 which meets the requirements for the tax credit, or a group of non-
20 qualifying developers, such that these will be considered a unified
21 project for the purposes of the incentives provided under this
22 section.

23 b. (1) Up to an average of 75 percent of the projected annual
24 incremental revenues or 85 percent of the projected annual
25 incremental revenues in a Garden State Growth Zone may be
26 pledged towards the State portion of an incentive grant.

27 (2) In the case of a qualified residential project, if the authority
28 determines that the estimated amount of incremental revenues
29 pledged towards the State portion of an incentive grant is
30 inadequate to fully fund the amount of the State portion of the
31 incentive grant, then in lieu of an incentive grant based on such
32 incremental revenue, the developer shall be awarded tax credits
33 equal to the full amount of the incentive grant. The value of all
34 credits approved by the authority pursuant to this paragraph shall
35 not exceed \$600,000,000, of which:

36 (a) \$250,000,000 shall be restricted to qualified residential
37 projects within Atlantic, Burlington, Camden, Cape May,
38 Cumberland, Gloucester, Ocean, and Salem counties, of which
39 \$175,000,000 of credits shall be restricted to qualified residential
40 projects in a Garden State Growth Zone located within the
41 aforementioned counties, and \$75,000,000 of credits shall be
42 restricted to qualified residential projects in municipalities with a
43 2007 Municipal Revitalization Index of 400 or higher as of the date
44 of enactment of the "New Jersey Economic Opportunity Act of
45 2013," P.L.2013, c.161 (C.52:27D-489p et al.) and located within
46 the aforementioned counties;

47 (b) \$250,000,000 shall be restricted to qualified residential
48 projects located in: (i) urban transit hubs that are commuter rail in

1 nature that otherwise do not qualify under subparagraph (a) of this
2 paragraph, (ii) a Garden State Growth Zone not located in a county
3 mentioned in subparagraph (a) of this paragraph, (iii) disaster
4 recovery projects that otherwise do not qualify under subparagraph
5 (a) of this paragraph, or (iv) SDA municipalities located in Hudson
6 County that were awarded State Aid in State Fiscal Year 2013
7 through the Transitional Aid to Localities program and otherwise do
8 not qualify under subparagraph (a) of this paragraph;

9 (c) \$75,000,000 shall be restricted to qualified residential
10 projects in distressed municipalities, deep poverty pockets,
11 highlands development credit receiving areas or redevelopment
12 areas, otherwise not qualifying pursuant to subparagraph (a) or (b)
13 of this paragraph; and

14 (d) \$25,000,000 shall be restricted to qualified residential
15 projects that are located within a qualifying economic
16 redevelopment and growth grant incentive area otherwise not
17 qualifying under subparagraph (a), (b), or (c) of this paragraph.

18 (e) For subparagraphs (a) through (d) of this paragraph, not
19 more than \$40,000,000 of credits shall be awarded to any qualified
20 residential project in a deep poverty pocket or distressed
21 municipality and not more than \$20,000,000 of credits shall be
22 awarded to any other qualified residential project. The developer of
23 a qualified residential project seeking an award of credits towards
24 the funding of its incentive grant shall submit an incentive grant
25 application prior to July 1, ¹~~2015~~ 2016¹ and if approved ¹after the
26 effective date of P.L.2013, c.161¹ shall submit a temporary
27 certificate of occupancy for such project no later than July 28,
28 ~~2015~~ 2018. Applications for tax credits pursuant to this
29 subsection relating to an ancillary infrastructure project or
30 infrastructure improvement in the public right of way, or both, shall
31 be accompanied with a letter of support relating to the project or
32 improvement by the governing body or agency in which the project
33 is located. Credits awarded to a developer pursuant to this
34 subsection shall be subject to the same financial and related analysis
35 by the authority ¹, the same term of the grant, and the same
36 mechanism for administering the credits,¹ and shall be utilized or
37 transferred by the developer as if such credits had been awarded to
38 the developer pursuant to section 35 of P.L.2009, c.90 (C.34:1B-
39 209.3) for qualified residential projects thereunder. No portion of
40 the revenues pledged pursuant to the "New Jersey Economic
41 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.)
42 shall be subject to withholding or retainage for adjustment, in the
43 event the developer or taxpayer waives its rights to claim a refund
44 thereof.

45 (3) A developer may apply to the Director of the Division of
46 Taxation in the Department of the Treasury and the chief executive
47 officer of the authority for a tax credit transfer certificate, if the
48 developer is awarded a tax credit pursuant to paragraph (2) of this

1 subsection, covering one or more years, in lieu of the developer
2 being allowed any amount of the credit against the tax liability of
3 the developer. The tax credit transfer certificate, upon receipt
4 thereof by the developer from the director and the chief executive
5 officer of the authority, may be sold or assigned, in full or in part,
6 to any other person that may have a tax liability pursuant to section
7 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945,
8 c.132 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231
9 (C.17:32-15), or N.J.S.17B:23-5. The certificate provided to the
10 developer shall include a statement waiving the developer's right to
11 claim that amount of the credit against the taxes that the developer
12 has elected to sell or assign. The sale or assignment of any amount
13 of a tax credit transfer certificate allowed under this paragraph shall
14 not be exchanged for consideration received by the developer of
15 less than 75 percent of the transferred credit amount before
16 considering any further discounting to present value that may be
17 permitted. Any amount of a tax credit transfer certificate used by a
18 purchaser or assignee against a tax liability shall be subject to the
19 same limitations and conditions that apply to the use of the credit by
20 the developer who originally applied for and was allowed the credit.

21 c. All administrative costs associated with the incentive grant
22 shall be assessed to the applicant and be retained by the State
23 Treasurer from the annual incentive grant payments.

24 d. The incremental revenue for the revenues listed in
25 subsection a. of this section shall be calculated as the difference
26 between the amount collected in any fiscal year from any eligible
27 revenue source included in the State redevelopment incentive grant
28 agreement, less the revenue increment base for that eligible
29 revenue.

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

34 (cf: P.L.2013, c.161, s.17)

35

36 ⁵[18.] 9.⁵ Section 24 of P.L.2013, c.161 (C.52:27D-489s) is
37 amended to read as follows:

38 24. a. A Garden State Growth Zone Development Entity is
39 authorized to undertake clearance, re-planning, development, or
40 redevelopment of property within a Garden State Growth Zone.

41 b. Notwithstanding any other law to the contrary, every Garden
42 State Growth Zone Development Entity that owns real property ⁵,
43 or leases real property for a period of not less than 30 years,⁵ within
44 a Garden State Growth Zone and that undertakes the clearance, re-
45 planning, development, or redevelopment of such property is hereby
46 granted an exemption on improvements to such eligible property for
47 any new construction, improvements, or substantial rehabilitation of
48 structures on real property for a period of 20 years from receiving a

1 final Certificate of Occupancy, provided however, that a
2 municipality located within the Garden State Growth Zone shall, by
3 ordinance, opt-in to such program within 90 calendar days of the
4 enactment of P.L.2013, c.161 (C.52:27D-489p et al.). The
5 exemption allowed by this subsection shall be dependent upon: (1)
6 the owner ⁵, or lessee,⁵ of the real property making improvements to
7 the real property after the enactment of P.L.2013, c.161 (C.52:27D-
8 489p et al.); and (2) the Division of Codes and Standards, in
9 consultation with the eligible municipality, issuing a final
10 Certificate of Occupancy within 10 years of the date of enactment
11 of P.L.2013, c.161 (C.52:27D-489p et al.). ⁵For purposes of this
12 section, a lessee of real property shall include a Garden State
13 Growth Zone Development Entity that is a lessee that is subject to a
14 statutory obligation to make a payment in lieu of taxes on the
15 improvements equal to the taxes on real and personal property.⁵

16 c. The exemption granted by subsection b. of this section shall
17 be for a period of 20 years. For the first 10 years immediately
18 subsequent to the issuance of a Certificate of Occupancy, the
19 Garden State Growth Zone Development Entity shall be exempt
20 from the payment of taxes on the improvements to the eligible
21 property. Thereafter, the Garden State Growth Zone Development
22 Entity shall pay to the municipality in lieu of full property tax
23 payments an amount equal to a percentage of taxes otherwise due,
24 according to the following schedule:

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

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

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

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

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

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

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

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

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

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

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

1 d. Upon the termination of the exemption granted pursuant to
2 subsection c. of this section, the project, all affected parcels, land,
3 and all improvements made thereto shall be assessed and subject to
4 taxation as are other taxable properties in the municipality. After
5 the date of termination, all restrictions and limitations upon the
6 Garden State Growth Zone Development Entity shall terminate and
7 be at an end upon the entity's rendering its final accounting to and
8 with the municipality.

9 e. Notwithstanding subsection b. of this section, the owner of
10 any property located within a Garden State Growth Zone, that does
11 not qualify as a Garden State Growth Zone Development Entity,
12 that performs any new construction, improvements, or substantial
13 rehabilitation improvements to property, shall be entitled to an
14 exemption from taxation regarding such improvements as provided
15 herein. For purposes of such exemption, the municipality shall
16 consider the assessor's full and true value of the improvements as
17 not increasing the value of the property for a period of five years,
18 notwithstanding that the value of the property to which the
19 improvements are made is increased thereby.

20 f. Any exemption obtained under this section shall be fully
21 transferable upon the sale of real property, as long as the new owner
22 meets all requirements for exemption set forth pursuant to this
23 section, or, for the sale of a residential unit, as long as the new
24 owner occupies the unit as a primary residence.¹

25 (cf: P.L.2013, c.161, s.24)

26
27 ⁵[²9. Section 9 of P.L.2009, c.90 (C.52:27D-489i) is amended to
28 read as follows:

29 9. a. The authority is authorized to enter into a redevelopment
30 incentive grant agreement with a developer for any redevelopment
31 project located within a qualifying economic redevelopment and
32 growth grant incentive area that does not qualify as such area solely
33 by virtue of being a transit village.

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

38 c. The Chief Executive Officer of the authority, in consultation
39 with the State Treasurer shall negotiate the terms and conditions of
40 any redevelopment incentive grant agreement on behalf of the State.

41 d. (1) The redevelopment incentive grant agreement shall
42 specify the maximum amount of project costs, the amount of the
43 incentive grant to be awarded the developer, the frequency of
44 payments, and the eligibility period, which shall not exceed 20
45 years, during which reimbursement will be granted, and for a
46 project receiving an incentive grant in excess of \$50 million, the
47 amount of the negotiated repayment amount to the State, which may
48 include, but not be limited to, cash, equity, and warrants. Except

1 for redevelopment incentive grant agreements with a municipal
2 redeveloper or with the developer of a redevelopment project solely
3 with respect to the cost of infrastructure improvements in the public
4 right-of-way including any ancillary infrastructure project in the
5 public right-of-way, in no event shall the base amount of the
6 combined reimbursements under redevelopment incentive grant
7 agreements with the State or municipality exceed 20 percent of the
8 total project cost, except in a Garden State Growth Zone or in an
9 urban transit hub, which shall not exceed 30 percent.

10 (2) The authority shall be permitted to increase the amount of
11 the reimbursement under the redevelopment incentive grant
12 agreement with the State by up to 10 percent of the total project
13 cost if the project is:

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

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

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

30 (d) a transit project;

31 (e) a qualified residential project in which at least 10 percent of
32 the residential units are constructed as and reserved for moderate
33 income housing;

34 (f) located in a highlands development credit receiving area or
35 redevelopment area;

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

37 (h) a disaster recovery project;

38 (i) an aviation project;

39 (j) a tourism destination project; or

40 (k) substantial rehabilitation or renovation of an existing
41 structure or structures.

42 (3) The maximum amount of any redevelopment incentive grant
43 shall be equal to up to 30 percent of the total project costs, except
44 for projects located in a Garden State Growth Zone or in an urban
45 transit hub, in which case the maximum amount of any
46 redevelopment incentive grant shall be equal to up to 40 percent of
47 the total project costs.

1 e. Except in the case of a qualified residential project, the
2 authority and the State Treasurer may enter into a redevelopment
3 incentive grant agreement only if they make a finding that the State
4 revenues to be realized from the redevelopment project will be in
5 excess of the amount necessary to reimburse the developer for its
6 project financing gap. This finding may be made by an estimation
7 based upon the professional judgment of the Chief Executive
8 Officer of the authority and the State Treasurer.

9 f. In deciding whether or not to recommend entering into a
10 redevelopment incentive grant agreement and in negotiating a
11 redevelopment agreement with a developer, the Chief Executive
12 Officer of the authority shall consider the following factors:

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

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

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

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

31 (5) the relationship of the redevelopment project to a
32 comprehensive local development strategy, including other major
33 projects undertaken within the municipality;

34 (6) the need of the redevelopment incentive grant agreement to
35 the viability of the redevelopment project or the promotion of the
36 use of public transportation; and

37 (7) the degree to which the redevelopment project enhances and
38 promotes job creation and economic development or the promotion
39 of the use of public transportation.

40 g. (1) A developer that has entered into a redevelopment
41 incentive grant agreement with the authority and the State Treasurer
42 pursuant to this section may, upon notice to and consent of the
43 authority and the State Treasurer, pledge, assign, transfer, or sell
44 any or all of its right, title and interest in and to such agreements
45 and in the incentive grants payable thereunder, and the right to
46 receive same, along with the rights and remedies provided to the
47 developer under such agreement. Any such assignment shall be an

1 absolute assignment for all purposes, including the federal
2 bankruptcy code.

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

15 (cf: P.L.2013, c.161, s.19)]⁵

16

17 ³[²10. Section 18 of P.L.2008, c.46 (C.52:27D-329.9) is
18 amended to read as follows:

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

36 b. Subject to the provisions of subsection d. of this section, a
37 developer of a project consisting of newly-constructed residential
38 units being financed in whole or in part with State funds, including,
39 but not limited to, transit villages designated by the Department of
40 Transportation and units constructed on State-owned property, shall
41 be required to reserve at least 20 percent of the residential units
42 constructed for occupancy by low or moderate income households,
43 as those terms are defined in section 4 of P.L.1985, c.222
44 (C.52:27D-304), with affordability controls as required under the
45 rules of the council, unless the municipality in which the property is
46 located has received substantive certification from the council and
47 such a reservation is not required under the approved affordable
48 housing plan, or the municipality has been given a judgment of

1 repose or a judgment of compliance by the court, and such a
2 reservation is not required under the approved affordable housing
3 plan.

4 c. (1) The Legislature recognizes that regional planning entities
5 are appropriately positioned to take a broader role in the planning
6 and provision of affordable housing based on regional planning
7 considerations. In recognition of the value of sound regional
8 planning, including the desire to foster economic growth, create a
9 variety and choice of housing near public transportation, protect
10 critical environmental resources, including farmland and open space
11 preservation, and maximize the use of existing infrastructure, there
12 is created a new program to foster regional planning entities.

13 (2) The regional planning entities identified in subsection a. of
14 this section shall identify and coordinate regional affordable
15 housing opportunities in cooperation with municipalities in areas
16 with convenient access to infrastructure, employment opportunities,
17 and public transportation. Coordination of affordable housing
18 opportunities may include methods to regionally provide housing in
19 line with regional concerns, such as transit needs or opportunities,
20 environmental concerns, or such other factors as the council may
21 permit; provided, however, that such provision by such a regional
22 entity may not result in more than a 50 percent change in the fair
23 share obligation of any municipality; provided that this limitation
24 shall not apply to affordable housing units directly attributable to
25 development by the New Jersey Sports and Exposition Authority
26 within the New Jersey Meadowlands District.

27 (3) In addition to the entities identified in subsection a. of this
28 section, the Casino Reinvestment Development Authority, in
29 conjunction with the Atlantic County Planning Board, shall identify
30 and coordinate regional affordable housing opportunities directly
31 attributable to Atlantic City casino development, which may be
32 provided anywhere within Atlantic County, subject to the
33 restrictions of paragraph (4) of this subsection.

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

46 d. Notwithstanding the provisions of subsection b. of this
47 section, or any other law or regulation to the contrary, for purposes
48 of mixed use projects or qualified residential projects in which a

1 business receives a tax credit pursuant to P.L.2007, c.346 (C.34:1B-
2 207 et seq.) or a tax credit pursuant to section 35 of P.L.2009, c.90
3 (C.34:1B-209.3), or both, an "eligible municipality," as defined in
4 section 2 of P.L.2007, c.346 (C.34:1B-208), shall have the option of
5 deciding the percentage of newly-constructed residential units
6 within the project, up to 20 percent of the total, required to be
7 reserved for occupancy by low or moderate income households.
8 For a mixed use project or a qualified residential project that has
9 received preliminary or final site plan approval prior to the effective
10 date of P.L.2011, c.89, the percentage shall be deemed to be the
11 percentage, if any, of units required to be reserved for low or
12 moderate income households in accordance with the terms and
13 conditions of such approval.

14 e. Notwithstanding the provisions of subsection a. of this
15 section, or any other law or regulation to the contrary, whenever
16 newly-constructed residential units are built within a "project area,"
17 as that term is defined by section 3 of P.L.2010, c.51 (C.52:27I-20),
18 the 20 percent of units required to be reserved for occupancy by low
19 or moderate income households shall not be required to be
20 constructed within the project area. For any reserved units not
21 constructed within the project area, the reserved unit requirement
22 shall be allocated to developments constructed in other areas within
23 the "host municipality," as that term is defined by section 3 of
24 P.L.2010, c.51 (C.52:27I-20).²】³
25 (cf: P.L.2011, c.89, s.5)

26
27 ³【²11.】 10.³ (New section) a. For the purposes of this section:

28 ⁵【"Applicant" means a designated redeveloper of a
29 redevelopment project approved pursuant to the "Local
30 Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et
31 al.), that undertakes to provide and donate public infrastructure.】
32 "Authority" means the New Jersey Economic Development
33 Authority established pursuant to section 4 of P.L.1974, c.80
34 (C.34:1B-4).⁵

35 "Government entity" means the State government, a local unit of
36 government, or a State or local government agency or authority.

37 "Providing public infrastructure" means undertaking and paying
38 for the construction of public infrastructure; contributing money or
39 paying debt service for the construction of public infrastructure; or
40 deeding land to a government entity for use as public infrastructure.

41 "Public infrastructure" means: ⁴【a.】 (1)⁴ buildings and
42 structures, such as schools; fire houses; police stations; recreation
43 centers; public works garages; and water and sewer treatment and
44 pumping facilities; ⁴【b.】 (2)⁴ open space with improvements such
45 as athletic fields; playgrounds; planned parks; ⁴【c.】 (3)⁴ open space
46 without improvements; and ⁴【d.】 (4)⁴ public transportation
47 facilities such as train stations and public parking facilities. To

1 qualify as public infrastructure under this section, the facilities,
2 land, or both, shall have a minimum fair market value of \$5 million;
3 provided, however, that multiple lands and facilities, valued
4 individually at less than \$5 million, that are part of the same
5 redevelopment project may be aggregated to achieve the minimum
6 \$5 million requirement. In the case of open space without
7 improvements, the land shall have a minimum fair market value of
8 at least \$1 million prior to its dedication as open space. Sidewalks,
9 streets, roads, ramps, and jug handles shall not be deemed public
10 infrastructure for the purposes of this section.

11 ⁵["Rebate" means a refund or other repayment of a fee paid by
12 an applicant pursuant to law.

13 "Redevelopment project" means any work or undertaking
14 pursuant to a redevelopment plan adopted under the "Local
15 Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et
16 al.); and may include any buildings, land, including demolition,
17 clearance, or removal of buildings from land, equipment, facilities,
18 or other real or personal properties which are necessary, convenient,
19 or desirable appurtenances, such as, but not limited to, streets,
20 sewers, utilities, parks, site preparation, landscaping, and
21 administrative, community, health, recreational, educational, and
22 welfare facilities.]⁵

23 "Tax credit" means a credit equal to 100 percent of the
24 applicant's cost of providing public infrastructure for use to offset a
25 tax liability.

26 "Tax liability" means a liability for the taxes imposed pursuant to
27 ⁵[the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.
28 or]⁵ the "Corporation Business Tax (1945)," P.L.1945, c.162
29 (C.54:10A-1 et seq.), and liability for basic, general, additional, and
30 supplemental realty transfer fees imposed pursuant P.L.1968, c.49
31 (C.46:15-5 et seq.), as amended and supplemented ⁵]; provided
32 that].⁵ ⁵[the liability results from a redevelopment project for
33 which the applicant or the applicant's business is a redeveloper
34 designated by a municipality or redevelopment entity under the
35 "Local Redevelopment and Housing Law," P.L.1992, c.79
36 (C.40A:12A-1 et al.). A tax liability may be for any year in which
37 the applicant, or the applicant's business, was a designated
38 redeveloper by a municipality or redevelopment entity under the
39 "Local Redevelopment and Housing Law," P.L.1992, c.79
40 (C.40A:12A-1 et al.).]⁵

41 b. Commencing with the effective date of P.L. , c. (C.)
42 (pending before the Legislature as this bill) and ending on
43 December 31 of the fifth complete year next following, an applicant
44 that has agreed to, or has provided, public infrastructure may apply
45 to the New Jersey Economic Development Authority for ⁵[a rebate
46 or]⁵ a tax credit under the following conditions:

1 ⁵[(1) The government entity receiving the infrastructure consents
2 to the rebate or tax credit and either:
3 (a) the redevelopment project will provide new ratables with a
4 minimum value of \$50 million;
5 (b) the redevelopment project will create at least 100 new or
6 rehabilitated housing units; or
7 (c) the redevelopment project will create retail, commercial, or
8 office space with a square footage of at least 100,000 square feet.
9 When a project is completed in components or phases, the ratables,
10 housing units, and newly created square footage may be aggregated
11 by the applicant to meet the thresholds set forth within this
12 paragraph.] (1) The applicant makes a new capital investment in
13 an amount equal to or greater than \$10,000,000 in, or causes
14 another entity by contract or development agreement to construct, a
15 building, complex of buildings or other similar structures or
16 facilities, which shall be completed within two years following
17 approval by the Authority, which relies on the completed public
18 infrastructure.⁵
19 (2) The applicant has not received a tax credit under the “Grow
20 New Jersey Assistance Program” established by section 3 of
21 P.L.2011, c.149 (C.34:1B-244).
22 (3) The applicant has not received a grant under a State or a local
23 Economic Redevelopment and Growth Grant program pursuant to
24 section 4 or section 5 of P.L.2009, c.90 (C.52:27D-489d or
25 C.52:27D-489e).
26 (4) The applicant is not a “Garden State Growth Zone
27 Development Entity,” as defined in section 23 of P.L.2013, c.161
28 (C.52:27D-489r).
29 (5) The applicant is not partnered with the New Jersey Sports
30 and Exposition Authority for the ⁵[redevelopment project] capital
31 investment pursuant to this section⁵.
32 c. The New Jersey Economic Development Authority shall
33 grant an application for a ⁵[rebate or tax credits] tax credit⁵ if the
34 government entity receiving the public infrastructure⁵[.]⁵ adopts a
35 resolution and files it with the authority, consenting to the ⁵[rebate
36 or tax credits] award of the tax credit⁵ and the ownership of the
37 public infrastructure is transferred to that government entity, and
38 either: (1) the construction commences after January 1, 2013; (2)
39 the construction is completed, as evidenced by a certificate of
40 occupancy or other certificate of completion, after January 1, 2013;
41 (3) the first monetary or debt service payment occurs after January
42 1, 2013; or (4) the land is deeded to the government entity after
43 January 1, 2013. ⁵[A rebate or tax credit shall not be paid or issued
44 to an applicant until the New Jersey Economic Development
45 Authority receives a true copy of the resolution by the government
46 entity receiving the public infrastructure consenting to the granting
47 of the rebate or tax credit.]⁵

1 d. (1) ⁵【The rebate or tax credit may to be granted to
 2 individuals】 The total amount of tax credits that may be awarded to
 3 an eligible applicant for a single project shall not exceed
 4 \$5,000,000 and the total value of all tax credits approved by the
 5 authority pursuant to P.L. . c. (C.) (pending before the
 6 Legislature as this bill) shall not exceed \$25,000,000.⁵ ⁵【with an
 7 ownership interest in a business that has been designated as a
 8 redeveloper by a municipality or other redevelopment entity under
 9 the "Local Redevelopment and Housing Law," P.L.1992, c.79
 10 (C.40A:12A-1 et al.).

11 (2) A person with an ownership interest in ⁴a⁴ business
 12 designated as a redeveloper may use the tax credit to offset any
 13 other tax liability of that person resulting from any other
 14 redevelopment project for which the person, or the person's
 15 business, is a designated redeveloper under the "Local
 16 Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et
 17 al.).

18 (3) A rebate shall be paid by the State Treasurer from the
 19 General Fund upon authorization by the Executive Director of the
 20 New Jersey Economic Development Authority.】⁵

21 ⁵【(4)】 (2)⁵ A tax credit granted pursuant to this section may be
 22 transferred in the same manner as tax credits are transferred under
 23 section 33 of P.L.2009, c.90 (C.34:1B-209.1).

24 ⁵(3) Nothing in this section shall prohibit an applicant from
 25 applying for and being awarded multiple tax credit awards based on
 26 separate public infrastructure projects.⁵

27 e. The ⁵【Executive Director of the New Jersey Economic
 28 Development Authority】 chief executive of the authority⁵, in
 29 consultation with the Director of the Division of Taxation in the
 30 Department of the Treasury, ⁵【shall】 may⁵ adopt rules and
 31 regulations pursuant to the "Administrative Procedure Act,"
 32 P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to implement the
 33 provisions of this section.²

34
 35 ¹【8.】 ²【9.1】 ³【12.2】 11.³ This act shall take effect immediately.

36
 37
 38
 39
 40 _____
 “Economic Opportunity Act of 2014, Part 3.”

ASSEMBLY, No. 3213

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED MAY 15, 2014

Sponsored by:
Assemblyman LOUIS D. GREENWALD
District 6 (Burlington and Camden)

SYNOPSIS

“Economic Opportunity Act of 2014, Part 3.”

CURRENT VERSION OF TEXT

As introduced.



A3213 GREENWALD

2

1 AN ACT concerning incentives for certain economic development
2 projects and designated as the Economic Opportunity Act of
3 2014, Part 3, and amending P.L.2009, c.90 and P.L.2011, c.149.

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

7
8 1. Section 33 of P.L.2009, c.90 (C.34:1B-209.1) is amended to
9 read as follows:

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

36 (cf: P.L.2013, c.161, s.5)

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

40 2. As used in P.L.2011, c.149 (C.34:1B-242 et seq.):

41 "Affiliate" means an entity that directly or indirectly controls, is
42 under common control with, or is controlled by the business.
43 Control exists in all cases in which the entity is a member of a
44 controlled group of corporations as defined pursuant to section 1563
45 of the Internal Revenue Code of 1986 (26 U.S.C.s.1563) or the

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

Matter underlined thus is new matter.

1 entity is an organization in a group of organizations under common
2 control as defined pursuant to subsection (b) or (c) of section 414 of
3 the Internal Revenue Code of 1986 (26 U.S.C.s.414). A taxpayer
4 may establish by clear and convincing evidence, as determined by
5 the Director of the Division of Taxation in the Department of the
6 Treasury, that control exists in situations involving lesser
7 percentages of ownership than required by those statutes. An
8 affiliate of a business may contribute to meeting either the qualified
9 investment or full-time employee requirements of a business that
10 applies for a credit under section 3 of P.L.2007, c.346 (C.34:1B-
11 209).

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

14 "Aviation district" means the area within a one-mile radius of the
15 outermost boundary of the "Atlantic City International Airport,"
16 established pursuant to section 24 of P.L.1991, c.252 (C.27:25A-
17 24).

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

20 a corporation that is subject to the tax imposed pursuant to
21 section 5 of P.L.1945, c.162 (C.54:10A-5);

22 a corporation that is subject to the tax imposed pursuant to
23 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3),
24 section 1 of P.L.1950, c.231 (C.17:32-15) or N.J.S.17B:23-5;

25 a partnership;

26 an S corporation;

27 a limited liability company; or

28 a non-profit corporation.

29 If the business or tenant is a cooperative or part of a cooperative,
30 then the cooperative may qualify for credits by counting the full-
31 time employees and capital investments of its member
32 organizations, and the cooperative may distribute credits to its
33 member organizations. If the business or tenant is a cooperative
34 that leases to its member organizations, the lease shall be treated as
35 a lease to an affiliate or affiliates.

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

39 A business shall include any owner of a partnership or an S
40 corporation that is a business.

41 "Capital investment" in a qualified business facility means
42 expenses by a business or any affiliate of the business incurred after
43 application for:

44 a. site acquisition, if purchased within 24 months prior to
45 project application, site preparation and construction, repair,
46 renovation, improvement, equipping, or furnishing on real property
47 or of a building, structure, facility, or improvement to real property;

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- 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 and all

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 such 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 "Commitment period" means the period of time that is 1.5 times

40 the eligibility period.

41 "Deep poverty pocket" means a population census tract having a

42 poverty level of 20 percent or more, and which is located within the

43 qualified incentive area and has been determined by the authority to

44 be an area appropriate for development and in need of economic

45 development incentive assistance.

46 "Disaster recovery project" means a project located on property

47 that has been wholly or substantially damaged or destroyed as a

48 result of a federally-declared disaster which, after utilizing all

1 disaster funds available from federal, State, county, and local
2 funding sources, demonstrates to the satisfaction of the authority
3 that access to additional funding authorized pursuant to the "New
4 Jersey Economic Opportunity Act of 2013," P.L.2013, c.161
5 (C.52:27D-489p et al.), is necessary to complete such
6 redevelopment project, and which is located within the qualified
7 incentive area and has been determined by the authority to be in an
8 area appropriate for development and in need of economic
9 development incentive assistance.

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

19 "Eligibility period" means the period in which a business may
20 claim a tax credit under the Grow New Jersey Assistance Program,
21 beginning with the tax period in which the authority accepts
22 certification of the business that it has met the capital investment
23 and employment requirements of the Grow New Jersey Assistance
24 Program and extending thereafter for a term of not more than 10
25 years, with the term to be determined solely at the discretion of the
26 applicant.

27 "Eligible position" or "full-time job" means a full-time position
28 in a business in this State which the business has filled with a full-
29 time employee.

30 "Full-time employee" means a person:

31 a. who is employed by a business for consideration for at least
32 35 hours a week, or who renders any other standard of service
33 generally accepted by custom or practice as full-time employment,
34 or

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

43 c. who is a resident of another State but whose income is not
44 subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
45 et seq. or who is a partner of a business who works for the
46 partnership for at least 35 hours a week, or who renders any other
47 standard of service generally accepted by custom or practice as full-
48 time employment, and whose distributive share of income, gain,

1 loss, or deduction, or whose guaranteed payments, or any
2 combination thereof, is subject to the payment of estimated taxes, as
3 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
4 et seq., and

5 d. who is provided, by the business, with employee health
6 benefits under a health benefits plan authorized pursuant to State or
7 federal law.

8 With respect to a logistics, manufacturing, energy, defense,
9 aviation, or maritime business, excluding primarily warehouse or
10 distribution operations, located in a port district having a container
11 terminal:

12 the requirement that employee health benefits are to be provided
13 shall be deemed to be satisfied if such benefits are provided in
14 accordance with industry practice by a third party obligated to
15 provide such benefits pursuant to a collective bargaining agreement;

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

19 35 hours of employment per week at a qualified business facility
20 shall constitute one "full-time employee," regardless of whether or
21 not the hours of work were performed by one or more persons.

22 For any project located in a Garden State Growth Zone which
23 qualifies under the "Municipal Rehabilitation and Economic
24 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or any
25 project located in the Atlantic City Tourism District as established
26 pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated
27 by the Casino Reinvestment Development Authority, and which
28 will include a retail facility of at least 150,000 square feet, of which
29 at least 50 percent will be occupied by either a full-service
30 supermarket or grocery store, **the authority shall accept a standard**
31 **of service generally accepted by custom or practice as full-time**
32 **employment in a supermarket, grocery store, or other like retail**
33 **industry】 30 hours of employment per week at a qualified business**
34 **facility shall constitute one "full-time employee," regardless of**
35 **whether or not the hours of work were performed by one or more**
36 **persons, and the requirement that employee health benefits are to be**
37 **provided shall be deemed to be satisfied if the employees of the**
38 **business are covered by a collective bargaining agreement.**

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

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

46 "Highlands development credit receiving area or redevelopment
47 area" means an area located within a qualified incentive area and
48 designated by the Highlands Council for the receipt of Highlands

1 Development Credits under the Highlands Transfer Development
2 Rights Program authorized pursuant to section 13 of P.L.2004,
3 c.120 (C.13:20-13).

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

8 "Incentive effective date" means the date the authority issues a
9 tax credit based on documentation submitted by a business pursuant
10 to paragraph (1) of subsection b. of section 6 of P.L.2011, c.149
11 (C.34:1B-247).

12 "Major rail station" means a railroad station located within a
13 qualified incentive area which provides access to the public to a
14 minimum of six rail passenger service lines operated by the New
15 Jersey Transit Corporation.

16 "Mega project" means:

17 a. a qualified business facility located in a port district housing
18 a business in the logistics, manufacturing, energy, defense, or
19 maritime industries, either:

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

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

25 b. a qualified business facility located in an aviation district
26 housing a business in the aviation industry, in a Garden State
27 Growth Zone, or in a priority area housing the United States
28 headquarters and related facilities of an automobile manufacturer,
29 either:

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

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

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

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

46 "Moderate-income housing" means housing affordable,
47 according to United States Department of Housing and Urban
48 Development or other recognized standards for home ownership

1 and rental costs, and occupied or reserved for occupancy by
2 households with a gross household income equal to more than 50
3 percent but less than 80 percent of the median gross household
4 income for households of the same size within the housing region in
5 which the housing is located.

6 "Municipal Revitalization Index" means the 2007 index by the
7 Office for Planning Advocacy within the Department of State
8 measuring or ranking municipal distress.

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

14 "Other eligible area" means the portions of the qualified
15 incentive area that are not located within a distressed municipality,
16 or the priority area.

17 "Partnership" means an entity classified as a partnership for
18 federal income tax purposes.

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

21 a. the port district of the Port Authority of New York and New
22 Jersey, as defined in Article II of the Compact Between the States
23 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 "Priority area" means the portions of the qualified incentive area
30 that are not located within a distressed municipality and which:

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

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

42 c. are the proposed site of a disaster recovery project, a
43 qualified incubator facility, a highlands development credit
44 receiving area or redevelopment area, a tourism destination project,
45 or transit oriented development; or

46 d. contain: a vacant commercial building having over 400,000
47 square feet of office, laboratory, or industrial space available for
48 occupancy for a period of over one year; or a site that has been

1 negatively impacted by the approval of a "qualified business
2 facility," as defined pursuant to section 2 of P.L.2007, c.346
3 (C.34:1B-208).

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

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

9 "Qualified business facility" means any building, complex of
10 buildings or structural components of buildings, and all machinery
11 and equipment located within a qualified incentive area, used in
12 connection with the operation of a business that is not engaged in
13 final point of sale retail business at that location unless the building,
14 complex of buildings or structural components of buildings, and all
15 machinery and equipment located within a qualified incentive area,
16 are used in connection with the operation of:

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

21 b. a tourism destination project located in the Atlantic City
22 Tourism District as established pursuant to section 5 of P.L.2011,
23 c.18 (C.5:12-219).

24 "Qualified incentive area" means:

25 a. an aviation district;

26 b. a port district;

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

28 d. an area (1) designated pursuant to the "State Planning Act,"
29 P.L.1985, c.398 (C.52:18A-196 et seq.), as:

30 (a) Planning Area 1 (Metropolitan);

31 (b) Planning Area 2 (Suburban); or

32 (c) Planning Area 3 (Fringe Planning Area);

33 (2) 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 (3) located within any land owned by the New Jersey Sports and
40 Exposition Authority, established pursuant to P.L.1971, c.137
41 (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 (4) located within a regional growth area, town, village, or a
45 military and federal installation area designated in the
46 comprehensive management plan prepared and adopted by the
47 Pinelands Commission pursuant to the "Pinelands Protection Act,"
48 P.L.1979, c.111 (C.13:18A-1 et seq.);

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

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

5 (7) located within land approved for closure under any federal
6 Base Closure and Realignment Commission action; or

7 (8) located only within the following portions of the areas
8 designated pursuant to the "State Planning Act," P.L.1985, c.398
9 (C.52:18A-196 et al.), as Planning Area 4A (Rural Planning Area),
10 Planning Area 4B (Rural/Environmentally Sensitive) or Planning
11 Area 5 (Environmentally Sensitive) if Planning Area 4A (Rural
12 Planning Area), Planning Area 4B (Rural/Environmentally
13 Sensitive) or Planning Area 5 (Environmentally Sensitive) is
14 located within:

15 (a) a designated center under the State Development and
16 Redevelopment Plan;

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

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

25 (d) any area on which a structure exists or previously existed
26 including any desired expansion of the footprint of the existing or
27 previously existing structure provided such expansion otherwise
28 complies with all applicable federal, State, county, and local
29 permits and approvals;

30 (e) the planning area of the Highlands Region as defined in
31 section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands
32 development credit receiving area or redevelopment area; or

33 (f) any area on which an existing tourism destination project is
34 located.

35 "Qualified incentive area" shall not include any property located
36 within the preservation area of the Highlands Region as defined in
37 the "Highlands Water Protection and Planning Act," P.L.2004,
38 c.120 (C.13:20-1 et al.).

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

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, is at risk of
2 being lost to another state or country, or eliminated. For the
3 purposes of determining a number of retained full-time jobs, the
4 eligible positions of an affiliate shall be considered eligible
5 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 situate.

10 "Targeted industry" means any industry identified from time to
11 time by the authority including initially, a transportation,
12 manufacturing, defense, energy, logistics, life sciences, technology,
13 health, and finance business, but excluding a primarily warehouse
14 or distribution business.

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

20 "Tourism destination project" means a qualified business facility
21 that will be among the most visited privately owned or operated
22 tourism or recreation sites in the State, and which is located within
23 the qualified incentive area and has been determined by the
24 authority to be in an area appropriate for development and in need
25 of economic development incentive assistance.

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

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

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

46 (cf: P.L.2013, c.161, s.7)

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

3 3. a. The Grow New Jersey Assistance Program is hereby
4 established as a program under the jurisdiction of the New Jersey
5 Economic Development Authority and shall be administered by the
6 authority. The purpose of the program is to encourage economic
7 development and job creation and to preserve jobs that currently
8 exist in New Jersey but which are in danger of being relocated
9 outside of the State. To implement this purpose, the program may
10 provide tax credits to eligible businesses for an eligibility period not
11 to exceed 10 years.

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

16 (1) the business, expressly including its landlord or seller, will
17 make, acquire, or lease a capital investment equal to, or greater
18 than, the applicable amount set forth in subsection b. of this section
19 at a qualified business facility at which it will:

20 (a) retain full-time jobs in an amount equal to or greater than the
21 applicable number set forth in subsection c. of this section;

22 (b) create new full-time jobs in an amount equal to or greater
23 than the applicable number set forth in subsection c. of this section;

24 or

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

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

31 (3) the capital investment resultant from the award of tax credits
32 and the resultant retention and creation of full-time jobs will yield a
33 net positive benefit to the State **【.】** and to the municipality equaling
34 at least 110 percent of the requested tax credit allocation amount,
35 which determination is calculated prior to taking into account the
36 value of the requested tax credit and shall be based on the benefits
37 generated during the first 20 years following the completion of the
38 project, except that:

39 (a) for a mega project or a project located in a Garden State
40 Growth Zone, the determination shall be based on the benefits
41 generated during a period of up to 30 years following the
42 completion of the project, as determined by the authority, and
43 **【except that,】**

44 (b) for a project located in a Garden State Growth Zone which
45 qualified for the "Municipal Rehabilitation and Economic Recovery
46 Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), the net positive benefit
47 determination shall be based on the benefits generated during a
48 period of up to 35 years following completion of the project, as

1 determined by the authority, and shall equal at least 100 percent of
2 the requested tax credit allocation amount and may utilize the value
3 of those property taxes subject to the provisions of section 24 of
4 P.L.2013 c.161 (C.52:27D-489r) and incremental sales and excise
5 taxes that are derived from activities within the area and which are
6 rebated or retained by the municipality pursuant to the "New Jersey
7 Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et
8 seq.) or any other law providing for such rebate or retention, and

9 (c) for a project undertaken by a non-profit corporation, the net
10 positive benefit determination shall be calculated prior to taking
11 into account the value of the requested tax credit and the value of
12 exemptions pursuant to R.S.54:4-3.6, subsection (b) of section 9 of
13 P.L.1966, c.30 (C.54:32B-9), and section 3 of P.L.1945, c.162
14 (C.54:10A-3); and

15 (4) except as provided in subsection f. of this section, the award
16 of tax credits will be a material factor in the business's decision to
17 create or retain the minimum number of new or retained full-time
18 jobs for eligibility under the program.

19 With respect to the provisions of paragraph (3) of this
20 subsection, in the case of a project located in a Garden State
21 Growth Zone, the authority, in its discretion, may award bonuses in
22 its net positive benefit calculation.

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

25 (1) for the rehabilitation, improvement, fit-out, or retrofit of an
26 existing industrial premises for continued industrial use by the
27 business, a minimum investment of \$20 per square foot of gross
28 leasable area;

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

32 (3) for the rehabilitation, improvement, fit-out, or retrofit of an
33 existing non-industrial premises for continued non-industrial use by
34 the business, a minimum investment of \$40 per square foot of gross
35 leasable area; and

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

39 The minimum capital investment required by this subsection
40 shall be reduced by one-third for projects located in a Garden State
41 Growth Zone or projects located within Atlantic, Burlington,
42 Camden, Cape May, Cumberland, Gloucester, Ocean, or Salem
43 counties.

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

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

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

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

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

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

1 would actually leave the State, or, with respect to projects located in
2 a Garden State Growth Zone that qualifies under the "Municipal
3 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
4 (C.52:27BBB-1 et al.), the business's assertion that the provision of
5 tax credits under the program is a material factor in the business's
6 decision to make a capital investment and locate in a Garden State
7 Growth Zone that qualifies under the "Municipal Rehabilitation and
8 Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.),
9 before a business may be awarded any tax credits under this section.

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

32 f. The authority may determine as eligible for tax credits under
33 the program any business that is required to respond to a request for
34 proposals and to fulfill a contract with the federal government
35 although the business's chief executive officer or equivalent officer
36 has not demonstrated to the authority that the award of tax credits
37 will be a material factor in the business's decision to retain the
38 minimum number of retained full-time jobs, as otherwise required
39 by this section. The authority may, in its discretion, consider the
40 economic benefit of the retained jobs servicing the contract in
41 conducting a net benefit analysis required by paragraph (4) of
42 subsection a. of this section. For the purposes of this subsection,
43 "retained full-time jobs" includes jobs that are at risk of being
44 eliminated. Applications to the authority for eligibility under the
45 program pursuant to the criteria set forth in this subsection shall be
46 completed by December 31, 2013. Submission of a proposal to the
47 federal government prior to authority approval shall not disqualify a
48 business from the program.

1 g. Nothing shall preclude a business from applying for tax
2 credits under the program for more than one project pursuant to one
3 or more applications.

4 (cf: P.L.2013, c.161, s.8)

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

8 5. a. The total amount of tax credit for an eligible business for
9 each new or retained full-time job shall be as set forth in
10 subsections b. through f. of this section. The total tax credit amount
11 shall be calculated and credited to the business annually for each
12 year of the eligibility period. Notwithstanding any other provisions
13 of P.L.2013, c.161 (C.52:27D-489p et al.), a business may assign its
14 ability to apply for the tax credit under this subsection to a non-
15 profit organization with a mission dedicated to attracting investment
16 and completing development and redevelopment projects in a
17 Garden State Growth Zone. The non-profit organization may make
18 an application on behalf of the business which meets the
19 requirements for the tax credit, or a group of non-qualifying
20 businesses, such that these will be considered a unified project for
21 the purposes of the incentives provided under this section. For any
22 project located in a Garden State Growth Zone that qualifies under
23 the "Municipal Rehabilitation and Economic Recovery Act,"
24 P.L.2002, c.43 (C.52:27BBB-1 et al.) and which will include a
25 retail facility of at least 150,000 square feet, of which at least 50
26 percent will be occupied by either a full-service supermarket or
27 grocery store, a business may assign its ability to apply for the tax
28 credit under this subsection to the developer of the facility. The
29 developer may make an application on behalf of the business which
30 meets the requirements for the tax credit, or a group of non-
31 qualifying businesses located at the business facility, such that these
32 will be considered a unified project for the purposes of the
33 incentives provided under this section, and the developer may apply
34 for tax credits available based on the number of jobs provided by
35 the business or businesses and the total capital investment of the
36 business or businesses and the developer.

37 b. The base amount of the tax credit for each new or retained
38 full-time job shall be as follows:

39 (1) for a qualified business facility located within an urban
40 transit hub municipality or Garden State Growth Zone or is a mega
41 project, \$5,000 per year;

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

45 (3) for a project in a priority area, \$3,000 per year; and

46 (4) for a project in other eligible areas, \$500 per year.

47 c. In addition to the base amount of the tax credit, the amount
48 of the tax credit to be awarded for each new or retained full-time

1 job shall be increased if the qualified business facility meets any of
2 the following priority criteria or other additional or replacement
3 criteria determined by the authority from time to time in response to
4 evolving economic or market conditions:

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

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

11 (3) for a qualified business facility located in a mixed-use
12 development that incorporates sufficient moderate income housing
13 on site to accommodate a minimum of 20 percent of the full-time
14 employees of the business, an increase of \$500 per year;

15 (4) for a qualified business facility located within a transit
16 oriented development, an increase of \$2,000 per year;

17 (5) for a qualified business facility, other than a mega project, at
18 which the capital investment in industrial premises for industrial
19 use by the business is in excess of the minimum capital investment
20 required for eligibility pursuant to subsection b. of section 3 of
21 P.L.2011, c.149 (C.34:1B-244), an increase of \$1,000 per year for
22 each additional amount of investment that exceeds the minimum
23 amount required for eligibility by 20 percent, with a maximum
24 increase of \$3,000 per year;

25 (6) for a business with new full-time jobs and retained full-time
26 jobs at the project with an average salary in excess of the existing
27 average salary for the county in which the project is located, or, in
28 the case of a project in a Garden State Growth Zone, a business that
29 employs full-time positions at the project with an average salary in
30 excess of the average salary for the Garden State Growth Zone, an
31 increase of \$250 per year during the commitment period for each 35
32 percent by which the project's average salary levels exceeds the
33 county or Garden State Growth Zone average salary, with a
34 maximum increase of \$1,500 per year;

35 (7) for a business with large numbers of new full-time jobs and
36 retained full-time jobs during the commitment period, the increases
37 shall be in accordance with the following schedule:

38 (a) if the number of new full-time jobs and retained full-time
39 jobs is between 251 and 400, \$500 per year;

40 (b) if the number of new full-time jobs and retained full-time
41 jobs is between 401 and 600, \$750 per year;

42 (c) if the number of new full-time jobs and retained full-time
43 jobs is between 601 and 800, \$1000 per year;

44 (d) if the number of new full-time jobs and retained full-time
45 jobs is between 801 and 1,000, \$1,250 per year;

46 (e) if the number of new full-time jobs and retained full-time
47 jobs is in excess of 1,000, \$1,500 per year;

- 1 (8) for a business in a targeted industry, an increase of \$500 per
2 year;
 - 3 (9) for a qualified business facility exceeding the Leadership in
4 Energy and Environmental Design's "Silver" rating standards or
5 completes substantial environmental remediation, an additional
6 increase of \$250 per year;
 - 7 (10) for a mega project or a project located within a Garden State
8 Growth Zone at which the capital investment in industrial premises
9 for industrial use by the business is in excess of the minimum
10 capital investment required for eligibility pursuant to subsection b.
11 of section 3 of P.L.2011, c.149 (C.34:1B-244), an increase of
12 \$1,000 per year for each additional amount of investment that
13 exceeds the minimum amount by 20 percent, with a maximum
14 increase of \$5,000 per year;
 - 15 (11) for a project in which a business retains at least 400 jobs
16 and is located within the municipality in which it was located
17 immediately prior to the filing of the application hereunder and is
18 the United States headquarters of an automobile manufacturer, an
19 increase of \$1,500 per year;
 - 20 (12) for a project located in a municipality in Atlantic,
21 Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean,
22 and Salem counties with a 2007 Municipality Revitalization Index
23 greater than 465, an increase of \$1,000 per year;
 - 24 (13) for a project located within a half-mile of any light rail
25 station constructed after the effective date of P.L.2013, c.161
26 (C.52:27D-489p et al.), an increase of \$1,000 per year;
 - 27 (14) for a marine terminal project in a municipality located
28 outside the Garden State Growth Zone, but within the geographical
29 boundaries of the South Jersey Port District, an increase of \$1,500
30 per year;
 - 31 (15) for a project located within an area determined to be in need
32 of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79
33 (C.40A:12A-5 and C.40A:12A-6), and which is located within a
34 quarter mile of at least one United States Highway and at least two
35 New Jersey State Highways, an increase of \$1,500 per year; and
 - 36 (16) for a project that generates solar energy on site for use
37 within the project of an amount that equals at least 50 percent of the
38 project's electric supply service needs, an increase of \$250 per year.
- 39 d. The gross amount of the tax credit for an eligible business
40 for each new or retained full-time job shall be the sum of the base
41 amount as set forth pursuant to subsection b. of this section and the
42 various additional bonus amounts for which the business is eligible
43 pursuant to subsection c. of this section, subject to the following
44 limitations:
- 45 (1) for a mega project or a project in a Garden State Growth
46 Zone, the gross amount for each new or retained full-time job shall
47 not exceed \$15,000 per year;

1 (2) for a qualified business facility located within an urban
2 transit hub municipality, the gross amount for each new or retained
3 full-time job shall not exceed \$12,000 per year;

4 (3) for a qualified business facility in a distressed municipality
5 the gross amount for each new or retained full-time job shall not
6 exceed \$11,000 per year;

7 (4) for a qualified business facility in other priority areas, the
8 gross amount for each new or retained full-time job shall not exceed
9 \$10,500 per year;

10 (5) for a qualified business facility in other eligible areas, the
11 gross amount for each new or retained full-time job shall not exceed
12 \$6,000 per year; and

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

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

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

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

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

44 (d) for a project which creates 150 or more new or retained full-
45 time jobs and makes a capital investment of at least \$20,000,000,
46 the total tax credit amount per full-time job shall be the greater of:
47 (i) the total tax credit amount for a qualifying project in a Garden
48 State Growth Zone as calculated pursuant to subsections a. through

1 f. of this section; or (ii) the total capital investment of the project
2 divided by the total number of full-time jobs at that project but not
3 greater than \$50,000,000 over the grant term; or

4 (e) for a project which creates 250 or more new or retained full-
5 time jobs and makes a capital investment of at least \$30,000,000,
6 the total tax credit amount per full-time job shall be the greater of:
7 (i) the total tax credit amount for a qualifying project in a Garden
8 State Growth Zone as calculated pursuant to subsections a. through
9 f. of this section; or (ii) the total capital investment of the project
10 divided by the total number of full-time jobs as defined herein at
11 that project.

12 e. After the determination by the authority of the gross amount
13 of tax credits for which a business is eligible pursuant to subsection
14 d. of this section, the final total tax credit amount shall be
15 calculated as follows: (1) for each new full-time job, the business
16 shall be allowed tax credits equaling 100 percent of the gross
17 amount of tax credits for each new full-time job; and (2) for each
18 retained full-time job, the business shall be allowed tax credits
19 equaling 50 percent of the gross amount of tax credits for each
20 retained full-time job, unless the jobs are part of a mega project
21 which is the United States headquarters of an automobile
22 manufacturer located within a priority area or in a Garden State
23 Growth Zone, in which case the business shall be entitled to tax
24 credits equaling 100 percent of the gross amount of tax credits for
25 each retained full-time job, or unless the new qualified business
26 facility would replace a facility that has been wholly or
27 substantially damaged as a result of a federally-declared disaster, in
28 which case the business shall be entitled to tax credits equaling 100
29 percent of the gross amount of tax credits for each retained full-time
30 job.

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

35 (1) \$35,000,000 and provides a net benefit to the State as
36 provided herein with respect to a qualified business facility in a
37 Garden State Growth Zone which qualifies under the "Municipal
38 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
39 (C.52:27BBB-1 et al.);

40 (2) \$30,000,000 and provides a net benefit to the State as
41 provided herein with respect to a mega project or a qualified
42 business facility in a Garden State Growth Zone;

43 (3) \$10,000,000 and provides a net benefit to the State as
44 provided herein with respect to a qualified business facility in an
45 urban transit hub municipality;

46 (4) \$8,000,000 and provides a net benefit to the State as
47 provided herein with respect to a qualified business facility in a
48 distressed municipality;

1 (5) \$4,000,000 and provides a net benefit to the State as
2 provided herein with respect to a qualified business facility in other
3 priority areas, but not more than 90 percent of the withholdings of
4 the business from the qualified business facility; and

5 (6) \$2,500,000 and provides a net benefit to the State as
6 provided herein with respect to a qualified business facility in other
7 eligible areas, but not more than 90 percent of the withholdings of
8 the business from the qualified business facility.

9 Notwithstanding the foregoing provisions of paragraphs (5) and
10 (6) of this subsection, the limitations on tax credits relating to 90
11 percent of the withholdings of the business from the qualified
12 business facility shall not apply to projects located in an area
13 determined to be in need of redevelopment pursuant to the "Local
14 Development and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et
15 seq.) or an "area in need of rehabilitation" as defined in section 3 of
16 P.L.1991, c.441 (C.40A:21-3).

17 Under paragraphs (1) through (6) of this subsection, for each
18 application for tax credits in excess of \$4,000,000 annually, the
19 amount of tax credits available to be applied by the business
20 annually shall be the lesser of the maximum amount under the
21 applicable subsection or an amount determined by the authority
22 necessary to complete the project, with such determination made by
23 the authority's utilization of a full economic analysis of all locations
24 under consideration by the business; all lease agreements,
25 ownership documents, or substantially similar documentation for
26 the business's current in-State locations, as applicable; and all lease
27 agreements, ownership documents, or substantially similar
28 documentation for the potential out-of-State location alternatives, to
29 the extent they exist. Based on this information, and any other
30 information deemed relevant by the authority, the authority shall
31 independently verify and confirm the amount necessary to complete
32 the project.

33 (cf: P.L.2013, c.161, s.10)

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

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

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

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

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

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

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

8 (2) A business shall submit its documentation indicating that it
9 has met the capital investment and employment requirements
10 specified in the incentive agreement for certification of its tax credit
11 amount within three years following the date of approval of its
12 application by the authority. The authority shall have the discretion
13 to grant two six-month extensions of this deadline. In no event
14 shall the incentive effective date occur later than four years
15 following the date of approval of an application by the authority.

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

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

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

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

31 The credit amount that may be taken for a tax period of the
32 **【business】 tax certificate holder** that exceeds the final liabilities of
33 the **【business】 tax certificate holder** for the tax period may be
34 carried forward for use by the **【business】 tax certificate holder** in
35 the next 20 successive tax periods, and shall expire thereafter.

36 (2) **【A business that is】 Credits granted to** a partnership shall
37 **【not be allowed a credit under this section directly, but the amount**
38 **of credit of an owner of a business shall be determined by allocating**
39 **to each owner of the partnership that proportion of the credit of the**
40 **business that is equal to the owner of the partnership's share,**
41 **whether or not distributed, of the total distributive income or gain**
42 **of the partnership for its tax period ending within or with the**
43 **owner's tax period, or that proportion that is allocated by an**
44 **agreement, if any, among the owners of the partnership that has**
45 **been】 be passed through to the partners, members, or owners,**
46 **respectively, pro-rata or pursuant to an executed agreement among**
47 **the partners, members, or owners documenting an alternate**

1 distribution method provided to the Director of the Division of
2 Taxation in the Department of the Treasury **【by such time and】**
3 accompanied by **【such】** any additional information as the director
4 may require.

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

11 (b) (i) For any project located in a Garden State Growth Zone or
12 any mega project conducted by a corporation, if the corporation has
13 made a valid election as a New Jersey S corporation pursuant to
14 section 3 of P.L.1993, c.173 (C.54:10A-5.22), the amount of credit
15 that may be used by a shareholder of the corporation shall be
16 determined by allocating to each shareholder of the S corporation
17 that proportion of the tax credit of the corporation that is equal to
18 the shareholder's proportionate share of the corporation, whether or
19 not distributed, or the total distributive income or gain of the S
20 corporation for its tax period ending with or within the
21 shareholder's tax period, and the credit may be applied by the
22 shareholders against the tax liability otherwise due pursuant to
23 N.J.S.54A:1-1 et seq.

24 (ii) For purposes of this subparagraph (b), in the case of a
25 corporation that has made a valid election as a New Jersey S
26 corporation pursuant to section 3 of P.L.1993, c.173 (C.54:10A-
27 5.22) and is recognized as a New Jersey Qualified Subchapter S
28 Subsidiary (NJ-QSSS), as defined in N.J.A.C.18:7-20.2, as may be
29 amended, the credit will be allocated to the parent shareholder
30 corporation which shall allocate the credit among its shareholders in
31 the manner described in subsubparagraph (i) above.

32 (iii) For purposes of this subparagraph (b), if a parent
33 shareholder corporation of a New Jersey Qualified Subchapter S
34 Subsidiary (NJ-QSSS) is itself also a New Jersey Qualified
35 Subchapter S Subsidiary (NJ-QSSS), the parent shareholder
36 corporation shall allocate the credit to its parent shareholder
37 corporation that is a New Jersey S corporation, which may then
38 allocate the credit among its shareholders in the manner described
39 in subsubparagraph (i) above.

40 d. (1) If, in any tax period, the business reduces the total
41 number of full-time employees in its Statewide workforce by more
42 than 20 percent from the number of full-time employees in its
43 Statewide workforce in the last tax period prior to the credit amount
44 approval under section 3 of P.L.2011, c.149 (C.34:1B-244), then
45 **【the business shall forfeit its】** there shall be a pro rata reduction of
46 the business's credit amount for that tax period and each subsequent
47 tax period, until the first tax period for which documentation
48 demonstrating **【the restoration of】** the business' Statewide

1 workforce **【the threshold levels required by this paragraph】** has
2 been restored to at least 80 percent of the number of full-time
3 employees in its Statewide workforce in the last tax period prior to
4 the credit amount approval has been reviewed and approved by the
5 authority, for which tax period and each subsequent tax period the
6 full amount of the credit shall be allowed.

7 (2) If, in any tax period, the number of full-time employees
8 employed by the business at the qualified business facility located
9 within a qualified incentive area drops below 80 percent of the
10 number of new and retained full-time jobs specified in the incentive
11 agreement, then **【 the business shall forfeit its】** there shall be a pro
12 rata reduction of the business's tax credit amount for that tax period
13 and each subsequent tax period, until the first tax period for which
14 documentation demonstrating 【the restoration of】 the number of
15 full-time employees employed by the business at the qualified
16 business facility has been restored to at least 80 percent of the
17 number of jobs specified in the incentive agreement has been
18 reviewed and approved by the authority, for which tax period and
19 each subsequent tax period the full amount of the tax credit shall be
20 allowed.

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

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

1 to forfeiture of the credits. For the purposes of this section, leasing
2 shall include subleasing and tenants shall include subtenants.

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

16 (b) For a project located within a Garden State Growth Zone
17 which qualifies under the "Municipal Rehabilitation and Economic
18 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), and which
19 qualifies for a tax credit pursuant to subparagraphs (a) through (e)
20 of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149
21 (C.34:1B-246), if, in any tax period the number of full-time
22 employees employed by the business at the qualified business
23 facility located within a qualified incentive area increases above the
24 number of full-time employees specified in the incentive agreement
25 such that the business will then meet the minimum number of
26 employees required in subparagraph (b), (c), (d), or (e) of paragraph
27 (6) of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246),
28 then the authority shall recalculate the total tax credit amount per
29 full-time job by using the total certified capital investment of the
30 project and the number of full-time jobs certified on the date of the
31 recalculation and applying those numbers to subparagraphs (b), (c),
32 (d), or (e) of paragraph (6) of subsection d. of section 5 of
33 P.L.2011, c.149 (C.34:1B-246). From the date of the recalculation
34 through the end of the eligibility period, the annual tax credit for the
35 business shall be the amount determined after the recalculation.

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

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

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

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

11
12 6. Section 7 of P.L.2011, c.149 (C.34:1B-248) is amended to
13 read as follows:

14 7. A business may apply to the Director of the Division of
15 Taxation in the Department of the Treasury and the chief executive
16 officer of the authority for a tax credit transfer certificate, covering
17 one or more years, in lieu of the business being allowed any amount
18 of the credit against the tax liability of the business. The tax credit
19 transfer certificate, upon receipt thereof by the business from the
20 director and the chief executive officer of the authority, may be sold
21 or assigned, in full or in part, in an amount not less than \$25,000, to
22 any other person that may have a tax liability pursuant to section 5
23 of P.L.1945, c.162 (C.54:10A-5), pursuant to sections 2 and 3 of
24 P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), pursuant to section 1
25 of P.L.1950, c.231 (C.17:32-15), or pursuant to N.J.S.17B:23-5.
26 The certificate provided to the business shall include a statement
27 waiving the business's right to claim that amount of the credit
28 against the taxes that the business has elected to sell or assign. The
29 sale or assignment of any amount of a tax credit transfer certificate
30 allowed under this section shall not be exchanged for consideration
31 received by the business of less than 75 percent of the transferred
32 credit amount before considering any further discounting to present
33 value which shall be permitted. Any amount of a tax credit transfer
34 certificate used by a purchaser or assignee against a tax liability
35 shall be subject to the same limitations and conditions that apply to
36 the use of the credit by the business that originally applied for and
37 was allowed the credit.
38 (cf: P.L.2011, c.149, s.7)

39
40 7. Section 6 of P.L.2009, c.90 (C.52:27D-489f) is amended to
41 read as follows:

42 6. a. Up to the limits established in subsection b. of this
43 section and in accordance with a redevelopment incentive grant
44 agreement, beginning upon the receipt of occupancy permits for any
45 portion of the redevelopment project, or upon such other event
46 evidencing project completion as set forth in the incentive grant
47 agreement, the State Treasurer shall pay to the developer
48 incremental State revenues directly realized from businesses

1 operating on or at the site of the redevelopment project from the
2 following taxes: the Corporation Business Tax Act (1945),
3 P.L.1945, c.162 (C.54:10A-1 et seq.), the tax imposed on marine
4 insurance companies pursuant to R.S.54:16-1 et seq., the tax
5 imposed on insurers generally, pursuant to P.L.1945, c.132
6 (C.54:18A-1 et seq.), the public utility franchise tax, public utilities
7 gross receipts tax and public utility excise tax imposed on sewerage
8 and water corporations pursuant to P.L.1940, c.5 (C.54:30A-49 et
9 seq.), those tariffs and charges imposed by electric, natural gas,
10 telecommunications, water and sewage utilities, and cable television
11 companies under the jurisdiction of the New Jersey Board of
12 Utilities, or comparable entity, except for those tariffs, fees, or taxes
13 related to societal benefits charges assessed pursuant to section 12
14 of P.L.1999, c.23 (C.48:3-60), any charges paid for compliance
15 with the "Global Warming Response Act," P.L.2007, c.112
16 (C.26:2C-37 et seq.), transitional energy facility assessment unit
17 taxes paid pursuant to section 67 of P.L.1997, c.162 (C.48:2-21.34),
18 and the sales and use taxes on public utility and cable television
19 services and commodities, the tax derived from net profits from
20 business, a distributive share of partnership income, or a pro rata
21 share of S corporation income under the "New Jersey Gross Income
22 Tax Act," N.J.S.54A:1-1 et seq., the tax derived from a business at
23 the site of a redevelopment project that is required to collect the tax
24 pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-
25 1 et seq.), the tax imposed pursuant to P.L.1966, c.30 (C.54:32B-1
26 et seq.) from the purchase of furniture, fixtures and equipment, or
27 materials for the remediation, the construction of new structures at
28 the site of a redevelopment project, the hotel and motel occupancy
29 fee imposed pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1),
30 or the portion of the fee imposed pursuant to section 3 of P.L.1968,
31 c.49 (C.46:15-7) derived from the sale of real property at the site of
32 the redevelopment project and paid to the State Treasurer for use by
33 the State, that is not credited to the "Shore Protection Fund" or the
34 "Neighborhood Preservation Nonlapsing Revolving Fund" ("New
35 Jersey Affordable Housing Trust Fund") pursuant to section 4 of
36 P.L.1968, c.49 (C.46:15-8). Any developer shall be allowed to
37 assign their ability to apply for the tax credit under this subsection
38 to a non-profit organization with a mission dedicated to attracting
39 investment and completing development and redevelopment
40 projects in a Garden State Growth Zone. The non-profit
41 organization may make an application on behalf of a developer
42 which meets the requirements for the tax credit, or a group of non-
43 qualifying developers, such that these will be considered a unified
44 project for the purposes of the incentives provided under this
45 section.

46 b. (1) Up to an average of 75 percent of the projected annual
47 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 (2) In the case of a qualified residential project, if the authority
4 determines that the estimated amount of incremental revenues
5 pledged towards the State portion of an incentive grant is
6 inadequate to fully fund the amount of the State portion of the
7 incentive grant, then in lieu of an incentive grant based on such
8 incremental revenue, the developer shall be awarded tax credits
9 equal to the full amount of the incentive grant. The value of all
10 credits approved by the authority pursuant to this paragraph shall
11 not exceed \$600,000,000, of which:

12 (a) \$250,000,000 shall be restricted to qualified residential
13 projects within Atlantic, Burlington, Camden, Cape May,
14 Cumberland, Gloucester, Ocean, and Salem counties, of which
15 \$175,000,000 of credits shall be restricted to qualified residential
16 projects in a Garden State Growth Zone located within the
17 aforementioned counties, and \$75,000,000 of credits shall be
18 restricted to qualified residential projects in municipalities with a
19 2007 Municipal Revitalization Index of 400 or higher as of the date
20 of enactment of the "New Jersey Economic Opportunity Act of
21 2013," P.L.2013, c.161 (C.52:27D-489p et al.) and located within
22 the aforementioned counties;

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

33 (c) \$75,000,000 shall be restricted to qualified residential
34 projects in distressed municipalities, deep poverty pockets,
35 highlands development credit receiving areas or redevelopment
36 areas, otherwise not qualifying pursuant to subparagraph (a) or (b)
37 of this paragraph; and

38 (d) \$25,000,000 shall be restricted to qualified residential
39 projects that are located within a qualifying economic
40 redevelopment and growth grant incentive area otherwise not
41 qualifying under subparagraph (a), (b), or (c) of this paragraph.

42 (e) For subparagraphs (a) through (d) of this paragraph, not
43 more than \$40,000,000 of credits shall be awarded to any qualified
44 residential project in a deep poverty pocket or distressed
45 municipality and not more than \$20,000,000 of credits shall be
46 awarded to any other qualified residential project. The developer of
47 a qualified residential project seeking an award of credits towards
48 the funding of its incentive grant shall submit an incentive grant

1 application prior to July 1, 2015 and if approved shall submit a
2 temporary certificate of occupancy for such project no later than
3 July 28, ~~2015~~ 2018. Applications for tax credits pursuant to this
4 subsection relating to an ancillary infrastructure project or
5 infrastructure improvement in the public right of way, or both, shall
6 be accompanied with a letter of support relating to the project or
7 improvement by the governing body or agency in which the project
8 is located. Credits awarded to a developer pursuant to this
9 subsection shall be subject to the same financial and related analysis
10 by the authority and shall be utilized or transferred by the developer
11 as if such credits had been awarded to the developer pursuant to
12 section 35 of P.L.2009, c.90 (C.34:1B-209.3) for qualified
13 residential projects thereunder. No portion of the revenues pledged
14 pursuant to the "New Jersey Economic Opportunity Act of 2013,"
15 P.L.2013, c.161 (C.52:27D-489p et al.) shall be subject to
16 withholding or retainage for adjustment, in the event the developer
17 or taxpayer waives its rights to claim a refund thereof.

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

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

45 d. The incremental revenue for the revenues listed in
46 subsection a. of this section shall be calculated as the difference
47 between the amount collected in any fiscal year from any eligible
48 revenue source included in the State redevelopment incentive grant

1 agreement, less the revenue increment base for that eligible
2 revenue.

3 e. The municipality is authorized to collect any and all
4 information necessary to facilitate grants under this program and
5 remit that information, as may be required from time to time, in
6 order to assist in the calculation of incremental revenue.
7 (cf: P.L.2013, c.161, s.17)

8

9 8. This act shall take effect immediately.

10

11

12

STATEMENT

13

14 This bill modifies laws governing New Jersey's economic
15 development programs.

16 The bill makes tax credit transfer certificates under the "Urban
17 Transit Hub Tax Credit Act" and the "Grow New Jersey Assistance
18 Act" (GROWNJ) more widely available by reducing the minimum
19 amount of the credits that may be transferred to \$25,000.

20 The bill makes several changes to GROWNJ to better reflect the
21 realities of the marketplace in order to attract businesses to create
22 new jobs and retain current employees. The bill clarifies a
23 provision of the law concerning the standard of service generally
24 accepted by custom or practice as full-time employment in a
25 supermarket, grocery, or other similar retail industry in order to
26 encourage food purveyors to locate within Camden and Atlantic
27 City.

28 The bill modifies the net positive benefit test under GROWNJ to
29 require a business to demonstrate that a capital investment would
30 benefit both the State and the municipality in which the capital
31 investment will be made.

32 The bill makes several changes to GROWNJ that are designed to
33 encourage non-profit corporations to undertake projects. The bill
34 modifies the net positive benefit test for non-profits by excluding
35 from the calculation the value of tax exemptions and of the
36 requested tax credit. GROWNJ currently allows a business to
37 assign its ability to apply for a tax credit to a non-profit
38 organization with a mission dedicated to attracting investment and
39 completing development and redevelopment projects in a Garden
40 State Growth Zone. The bill expands upon this provision by
41 allowing a non-profit organization to make an application for tax
42 credits on behalf of a group of businesses that would not, on their
43 own, qualify for tax credits, and to consider the application as a
44 unified project that may be eligible for incentives. The bill allows
45 the developer of a project that will bring a large full-service
46 supermarket to Camden to apply for tax credits on behalf of the
47 business, if so assigned by the business, and to also apply for tax
48 credits on behalf of a group of businesses that would not qualify for

1 tax credits individually, and to consider the application as a unified
2 project that may be eligible for incentives.

3 The bill also amends GROWNJ to address the allocation of tax
4 credits to the shareholders of New Jersey S corporations and New
5 Jersey Qualified Subchapter S Subsidiaries that undertake a project
6 in a Garden State Growth Zone.

7 The bill adjusts provisions of the law that address the
8 consequences to a business that reduces the number of employees
9 State-wide, and at a particular facility, in a given tax period in order
10 to provide, that rather than forfeiting tax credits, the business would
11 suffer a pro rata reduction of the amount of credits. The bill also
12 modifies the law applicable to businesses that exceed the
13 employment requirements set forth in their incentive agreements to
14 encourage and reward the creation and retention of additional jobs.

15 Finally, the bill makes several technical changes to clarify
16 provisions of the “New Jersey Economic Opportunity Act of 2013”
17 and to correct errors in that law. One correction is a change to the
18 date by which the developer of a qualified residential project
19 seeking an award of tax credits under the State Economic
20 Redevelopment and Growth Grant Program towards the funding of
21 an incentive grant must submit a temporary certificate of occupancy
22 for the project from July 28, 2015 to July 28, 2018.

ASSEMBLY COMMERCE AND ECONOMIC DEVELOPMENT
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 3213

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 5, 2014

The Assembly Commerce and Economic Development Committee reports favorably and with committee amendments Assembly Bill No. 3213.

As amended, this bill would modify laws governing New Jersey's economic development programs.

The bill makes tax credit transfer certificates under the "Urban Transit Hub Tax Credit Act" and the "Grow New Jersey Assistance Act" (GROWNJ) more widely available by reducing the minimum amount of the credits that may be transferred to \$25,000.

The bill makes several changes to GROWNJ to better reflect the realities of the marketplace in order to attract businesses to create new jobs and retain current employees. The bill clarifies a provision of the law concerning the standard of service generally accepted by custom or practice as full-time employment in a supermarket, grocery, or other similar retail industry in order to encourage food purveyors to locate within the cities of Camden and Atlantic City.

The bill makes several changes to GROWNJ that are designed to encourage non-profit corporations to undertake projects. GROWNJ currently allows a business to assign its ability to apply for a tax credit 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 bill expands upon this provision by allowing a non-profit organization to make an application for tax credits on behalf of a group of businesses that would not, on their own, qualify for tax credits, and to consider the application as a unified project that may be eligible for incentives. The bill allows the developer of a project that will bring a large full-service supermarket to the City of Camden to apply for tax credits on behalf of the business, if so assigned by the business, and to also apply for tax credits on behalf of a group of businesses that would not qualify for tax credits individually, and to consider the application as a unified project that may be eligible for incentives.

The bill also amends GROWNJ to address the allocation of tax credits to the shareholders of New Jersey S corporations and New Jersey Qualified Subchapter S Subsidiaries that undertake a project in a Garden State Growth Zone.

The bill also modifies, with respect to projects that are located within a Garden State Growth Zone and which qualify for tax credits under the “Municipal Rehabilitation and Economic Recovery Act,” P.L.2002, c.43 (C.52:27BBB-1 et al.), the law applicable to businesses that exceed the employment requirements set forth in their incentive agreements to encourage and reward the creation and retention of additional jobs in those areas. Currently, such projects may only be located within the City of Camden.

Finally, the bill makes several technical changes to clarify provisions of the “New Jersey Economic Opportunity Act of 2013” and to correct errors in that law. One correction is a change to the date by which the developer of a qualified residential project seeking an award of tax credits under the State Economic Redevelopment and Growth Grant Program towards the funding of an incentive grant must submit a temporary certificate of occupancy for the project from July 28, 2015 to July 28, 2018.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- revise the definition of “capital investment” under GROWNJ to include development in a Garden State Growth Zone and to exclude the cost of acquiring property if purchased prior to submitting an application;
- revise the definition of “mega project” under GROWNJ to include a qualified business facility housing the corporate headquarters of 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 such business are created, and a project located in an area designated in need of redevelopment prior to enactment of this bill 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 such business are created or retained;
- revise the definition of “qualified incubator facility” under GROWNJ to lower the minimum required square footage and restricted gross leasable area;
- revise the definition of “retained full-time job” under GROWNJ to provide that if a position identified for retention in an incentive agreement no longer exists, then, for the purposes of annual reports and certifications, 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 new position is included in the order of date of hire and is not the basis for any other incentive award;

- revise the definition of “retained full-time job” under GROWNJ to provide that, 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.), a retained full-time job includes any employee previously employed in New Jersey and transferred to the new location in such area;
- delete a provision from the bill that would have amended the net positive benefit test under GROWNJ to require an applicant to demonstrate that the capital investment and jobs that would result from the award of tax credits would be a net positive benefit to the municipality (in addition to being a net positive benefit to the State, as required under current law);
- delete a provision from the bill that would have required the net positive benefit determination for non-profit applicants to exclude the value of tax exemptions and of the requested tax credit;
- provide that the minimum capital investment required to be eligible under GROWNJ that currently exists for industrial premises, would be extended to warehousing, logistics, research, and development premises;
- clarify the 7.5 percent “cap” on retail facilities in a GROWNJ application for a mixed-use project in a Garden State Growth Zone or the Atlantic City Tourism District to provide that 7.5 percent of the retail facilities, and a pro-rata number of retail employees, may be included in the application;
- allow an organization operating a qualified incubator facility to make an application on behalf of the business which meets the requirements for certain tax credits, or a group of non-qualifying businesses or positions, so they can be considered a unified project under GROWNJ;
- provide that, 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.), the total tax credit be calculated based on full-time jobs new to the municipality, and to spread such grants over ten-year terms;
- delete a provision from the bill that would have relaxed the consequences for a business that reduces the number of employees State-wide, and at a particular facility, in a given tax period to provide, that rather than forfeiting tax

credits (as required under current law), the business would have suffered a pro rata reduction of the amount of credits.

- change the date by which the developer of a qualified residential project seeking an award of tax credits under the State Economic Redevelopment and Growth Grant Program towards the funding of an incentive grant must submit an incentive grant application from July 1, 2015 to July 1, 2016;
- provide that certain exemptions available to a Garden State Growth Zone Development Entity that owns real property within a Garden State Growth Zone and that undertakes the clearance, re-planning, development, or redevelopment of such property must be fully transferable upon the sale of real property, as long as, in the case of a sale of a residential unit, the new owner occupies the unit as a primary residence.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 3213

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 23, 2014

The Assembly Appropriations Committee reports favorably Assembly Bill No. 3213 (1R), with committee amendments.

As amended, this bill modifies laws governing New Jersey's economic development programs.

The bill makes tax credit transfer certificates under the "Urban Transit Hub Tax Credit Act" and the "Grow New Jersey Assistance Act" (GROWNJ) more widely available by reducing the minimum amount of the credits that may be transferred to \$25,000.

The bill makes several changes to GROWNJ to better reflect the realities of the marketplace in order to attract businesses to create new jobs and retain current employees. The bill clarifies a provision of the law concerning the standard of service generally accepted by custom or practice as full-time employment in a supermarket, grocery, or other similar retail industry in order to encourage food purveyors to locate within the cities of Camden and Atlantic City.

The bill makes several changes to GROWNJ that are designed to encourage non-profit corporations to undertake projects. GROWNJ currently allows a business to assign its ability to apply for a tax credit 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 bill expands upon this provision by allowing a non-profit organization to make an application for tax credits on behalf of a group of businesses that would not, on their own, qualify for tax credits, and to consider the application as a unified project that may be eligible for incentives. The bill allows the developer of a project that will bring a large full-service supermarket to the City of Camden to apply for tax credits on behalf of the business, if so assigned by the business, and to also apply for tax credits on behalf of a group of businesses that would not qualify for tax credits individually, and to consider the application as a unified project that may be eligible for incentives.

The bill also amends GROWNJ to address the allocation of tax credits to the shareholders of New Jersey S corporations and New Jersey Qualified Subchapter S Subsidiaries that undertake a project in

a Garden State Growth Zone which is also a municipality which qualifies under the Municipal Rehabilitation and Economic recovery Act.”

The bill also modifies, with respect to projects that are located within a Garden State Growth Zone and which qualify for tax credits under the “Municipal Rehabilitation and Economic Recovery Act,” P.L.2002, c.43 (C.52:27BBB-1 et al.), the law applicable to businesses that exceed the employment requirements set forth in their incentive agreements to encourage and reward the creation and retention of additional jobs in those areas. Currently, such projects may only be located within the City of Camden.

The bill makes several technical changes to clarify provisions of the “New Jersey Economic Opportunity Act of 2013” and to correct errors in that law. One correction is a change to the date by which the developer of a qualified residential project seeking an award of tax credits under the State Economic Redevelopment and Growth Grant Program towards the funding of an incentive grant must submit a temporary certificate of occupancy for the project from July 28, 2015 to July 28, 2018.

The bill establishes a new program of incentives for the donation of substantial public infrastructure. The bill authorizes the New Jersey Economic Development Authority, for five years, to accept applications for the granting of a 100 percent tax credit or rebate of realty transfer fees for the cost of substantial public infrastructure, donated or built (and donated) after January 1, 2013, by a redeveloper designated under the "Local Redevelopment and Housing Law." The redeveloper would be able to apply the approved realty transfer fee rebate or tax against gross income tax and corporation business tax liabilities associated with redevelopment projects, or the tax credits could be transferred in the same manner as tax credits are transferred under the "New Jersey Economic Opportunity Act of 2013.” This program is an incentive for designated redevelopers to provide public infrastructure when working on a redevelopment project. The bill requires that the government entity receiving ownership of the infrastructure consent to the rebate or tax credit by filing a resolution with the New Jersey Economic Development Authority. Qualifying public infrastructure includes (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) open space with improvements such as athletic fields; playgrounds; planned parks; and (3) open space without improvements; and (4) public transportation facilities such as train stations and public parking facilities.

Redevelopers that receive tax credits under the GROW NJ program, ERG grants, incentives under the "New Jersey Economic Opportunity Act of 2013" (N.J.S.A.52:27D-489p et al.), or that partner with the New Jersey Sports and Exposition Authority for the

redevelopment project would not be eligible to receive public infrastructure tax credits under this program.

FISCAL IMPACT:

The Office of Legislative Services (OLS) expects the bill to have a negative fiscal net impact of indeterminate magnitude on the State and to produce a potential indeterminate revenue gain to affected local governments. The quantification of the fiscal effects eludes the OLS because of imperfect information on the number and attributes of projects that, under the bill, might 1) either newly qualify for or earn larger Grow New Jersey Assistance (GROW NJ) tax credits, or 2) newly qualify for Economic Redevelopment and Growth (ERG) tax credits for residential redevelopment projects, or 3) newly qualify for tax credits and realty transfer fee rebates under a new program the bill establishes for redevelopers who donate certain completed public infrastructure projects to governmental entities.

The State fiscal net impact is calculated by adding the indeterminate direct revenue loss from awarding additional tax credit and realty transfer fee rebate 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 generated by additional capital projects that are directly caused by the bill's additional tax credit and realty transfer fee rebate amounts.

The OLS expects the bill's indirect State revenue gain to be less than the State's direct cost of providing additional tax credit and realty transfer fee rebate amounts. This is so because the new tax credit and realty transfer fee rebate program for certain public infrastructure projects that redevelopers donate to governmental entities and the ERG tax credit program for residential redevelopment projects do not require that tax credits and realty transfer fee rebates be instrumental to the execution of recipient projects or that recipient projects yield incremental receipts to the State and local governments in excess of tax credit and realty transfer fee rebate amounts. The GROW NJ tax credit program, to the contrary, retains its net fiscal benefit requirement, whereby an eligible project must generate estimated indirect State revenues equal to at least 110 percent of a tax credit's direct State cost.

COMMITTEE AMENDMENTS:

The amendments:

- omit a revision to the definition of "business" used in GROWNJ that would have included the owner of a partnership or an S corporation that is a business in the definition of "business";

- clarify that, for purposes of GROWNJ, the minimum capital investment criteria apply to projects approved after the effective date of P.L.2013, c.161;
- add, for purposes of the GROWNJ credit amount, an additional priority criterion for a qualified business facility that includes a vacant commercial building having over 1,000,000 square feet of office or laboratory space available for occupancy for a period of over one year, an increase of \$1,000 per year in addition to the base amount;
- clarify that, for purposes of the total credit amount 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.), the total tax credit be the lesser of 50 percent of the gross amount of tax credits for each retained full-time job or one-tenth of the capital investment divided by the number of retained and new full-time jobs (with certain exceptions);
- omit a provision that would have created an exception to the requirement that certain maximum credit amounts not exceed 90 percent of the withholdings of the business for projects located in an area determined to be in need of redevelopment pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.) or an "area in need of rehabilitation" as defined in section 3 of P.L.1991, c.441 (C.40A:21-3);
- clarify that the 20-year carryforward of unused credit is allowed to transferees as well as the original issues, but that in any case 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;
- refine the allocation of tax credits to the shareholders of New Jersey S corporations and New Jersey Qualified Subchapter S Subsidiaries that undertake a project in a Garden State Growth Zone by requiring that the project also be in a municipality which qualifies under the "Municipal Rehabilitation and Economic Recovery Act";
- increase the maximum amount of a redevelopment incentive grant under the Economic Redevelopment and Growth Grant program from 30 percent of the total project costs to 40 percent of the project costs for projects located in an urban transit hub;
- amends section 18 of P.L.2008, c.46 (C.52:27D-329.9) to clarify that the reservation for occupancy by low or moderate income households need not be required to be constructed within the project area, whenever newly-constructed residential units are built within a "project area," as that term is defined by section 3 of P.L.2010, c.51 (C.52:27I-20); and

- establish the new program of incentives for the donation of substantial public infrastructure.

STATEMENT TO
[Second Reprint]
ASSEMBLY, No. 3213

with Assembly Floor Amendments
(Proposed by Assemblyman GREENWALD)

ADOPTED: JUNE 23, 2014

This amendment omits an amendment to section 18 of P.L.2008, c.46 (C.52:27D-329.9) that would have provided that the reservation for occupancy by low or moderate income households need not be required to be constructed within the project area, whenever newly-constructed residential units are built within a “project area,” as that term is defined by section 3 of P.L.2010, c.51 (C.52:27I-23).

STATEMENT TO
[Third Reprint]
ASSEMBLY, No. 3213

with Senate Floor Amendments
(Proposed by Senator LESNIAK)

ADOPTED: JUNE 26, 2014

The floor amendments remove from the definition of Mega Project, a corporate headquarters where a minimum investment of \$50 million is made and where 250 or more full-time jobs are created, and makes citation and entity name corrections.

LEGISLATIVE FISCAL ESTIMATE

[Fourth Reprint]

ASSEMBLY, No. 3213

STATE OF NEW JERSEY 216th LEGISLATURE

DATED: AUGUST 15, 2014

SUMMARY

- Synopsis:** "Economic Opportunity Act of 2014, Part 3."
- Type of Impact:** Negative fiscal net impact on State General Fund and Property Tax Relief Fund; potential revenue increase to affected local governments.
- Agencies Affected:** Department of the Treasury.
New Jersey Economic Development Authority.
Certain Local Governments.

Office of Legislative Services Estimate

Fiscal Impact	Multi-Year Lifespan of Tax Credit Programs
Direct <u>State</u> Revenue Loss	Indeterminate — See comments below
Indirect <u>State</u> Revenue Gain	Indeterminate — See comments below
<u>State</u> Opportunity Cost	Indeterminate — See comments below
Indirect <u>Local</u> Revenue Gain	Indeterminate — See comments below
<u>Local</u> Opportunity Cost	Indeterminate — See comments below

- The Office of Legislative Services (OLS) finds the bill is likely to have a negative fiscal net impact of indeterminate magnitude on the State. The quantification of the fiscal effects is not possible because of imperfect information on the number and attributes of projects that, under the bill, might 1) either newly qualify for or earn larger Grow New Jersey Assistance (GROW NJ) tax credits, Economic Redevelopment and Growth (ERG) reimbursements for commercial redevelopment projects or ERG tax credits for residential redevelopment projects or 2) newly qualify for tax credits and realty transfer fee rebates under the bill's new incentive program for redevelopers that donate certain public infrastructure to governmental entities.
- 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 awards will catalyze.

- The OLS expects the bill's indirect fiscal State benefits to fall below its direct State cost, given the characteristics of the concerned economic development incentive programs and the bill's likely disproportionate impact thereupon. Notably, the OLS anticipates the EDA to issue the greatest amount of additional incentive awards under the ERG tax credit program for residential redevelopments, considering the expected broad applicability of the bill's deferral from July 1, 2015 to July 1, 2016 of the program's application deadline and from July 28, 2015 to July 28, 2018 of the date by which eligible residential redevelopment projects must have obtained temporary certificates of occupancy. The program does not require that tax credits be instrumental to the execution of recipient projects nor that recipient projects yield incremental receipts to the State in excess of credit amounts.
- The legislation might accrue an indeterminate revenue gain to affected local governments in the form of indirect fiscal benefits.

BILL DESCRIPTION

Assembly Bill No. 3213 (4R) of 2014 establishes a new tax incentive program for redevelopers that donate substantial public infrastructure to governmental entities, and makes several changes to three existing economic development incentive programs operated by the New Jersey Economic Development Authority (EDA): the Urban Transit Hub Tax Credit Program, the ERG program, and the GROW NJ tax credit program.

Tax Incentive Program for Redevelopers Donating Public Infrastructure: The bill establishes a new five-year tax incentive program for redevelopers that donate to a governmental entity public infrastructure with a minimum \$5 million fair market value or open space without improvements with a minimum \$1 million fair market value. Redevelopers may apply for either a tax credit equal to the cost of providing the public infrastructure or a refund of realty transfer fee amounts paid on the underlying redevelopment project. To qualify for the incentives the public infrastructure must be a) donated or built and donated after January 1, 2013; b) part of a redevelopment project that provides new ratables with a minimum value of \$50 million or creates at least 100 new or rehabilitated housing units or creates a minimum 100,000 square feet of retail, commercial or office space; and c) part of a redevelopment project that has not received a GROW NJ tax credit or an ERG tax credit or grant. Incentive awards are available statewide and are not contingent upon the incentives being vital to the execution of a redevelopment project or its public infrastructure components. Moreover, redevelopment projects and their attendant public infrastructure components are not required to generate indirect fiscal benefits to the State in excess of the cost of the tax incentive.

Urban Transit Hub Tax Credit Program: The bill reduces from \$100,000 to \$25,000 the general minimum Urban Transit Hub tax credit amount that recipients may sell to other taxpayers and eliminates the existing authority for recipients to make one transfer of less than \$100,000 per year.

P.L.2013, c.161 closed the program to new applicants effective on September 18, 2013 but honors any previously approved tax credit awards, which are authorized for taxpayer use in up to ten annual installments following project completion. As of January 10, 2014, the EDA had awarded \$1.32 billion in Urban Transit Hub tax credits.

ERG Program: The bill increases the maximum ERG incentive amount from 30 percent of a project's total cost to 40 percent for projects located in a designated urban transit hub. Currently, the general minimum is 30 percent. Only projects located in a Garden State Growth Zone; a designation comprising the cities of Camden, Passaic, Paterson, and Trenton; are eligible for incentives of 40 percent of total project cost.

In addition, the bill defers from July 1, 2015 to July 1, 2016 the application deadline under the ERG tax credit program for residential redevelopment projects and from July 28, 2015 to July 28, 2018 the date by which eligible residential redevelopment projects must have obtained temporary certificates of occupancy.

At present, State ERG reimbursements are available for commercial redevelopment projects undertaken in "qualifying economic redevelopment and growth grant incentive areas," as N.J.S.A.52:27D-489c defines the term, that meet two financial criteria. First, the financial assistance must close a project financing gap that otherwise would prevent a project's realization. Second, the project must yield fiscal benefits to the State over a period of up to 20 years that equal or exceed 110 percent of the tax credit amount. There are no capital investment and job creation or retention thresholds. State ERG awards: a) equal up to 75 percent of the annual incremental State tax revenue attributable to a project (or up to 85 percent in a Garden State Growth Zone municipality); b) cannot exceed 30 percent of total project cost in conjunction with any municipal ERG award (or 40 percent in a Garden State Growth Zone municipality); and c) are paid in up to 20 annual installments. Aggregate State ERG reimbursement payments for commercial redevelopment projects are uncapped, but the EDA may only consider applications received prior to July 1, 2019. All ERG recipients obtain their reimbursements only after project completion.

A separate \$600 million State ERG tax credit program applies to residential redevelopment projects undertaken in "qualifying economic redevelopment and growth grant incentive areas," as N.J.S.A.52:27D-489c defines the term. Projects may receive tax credits if they meet two financial conditions. First, the financial assistance must close a project financing gap that otherwise would be likely to thwart a project's realization. Second, the project must have minimum project costs ranging from \$5.0 million to \$17.5 million, depending on its specific location. In addition, 20 percent of the newly constructed residential units must be low- or moderate-income housing, unless the municipality in which the property is located has satisfied its affordable housing obligations. Tax credit awards are authorized for taxpayer use in up to ten annual installments following project completion and cannot exceed 30 percent of total project cost in conjunction with any municipal ERG award (or 40 percent in a Garden State Growth Zone municipality). The application deadline for residential redevelopment projects is July 1, 2015, and a temporary certificate of occupancy must be issued by July 28, 2015.

GROW NJ Program: The GROW NJ tax credit program is intended to encourage job creation and retention. There is no cap on the aggregate dollar amount of tax credit awards, but the EDA may only consider applications submitted prior to July 1, 2019.

Tax credits are available for eligible projects located in certain geographic areas that meet two financial conditions. First, the financial assistance must be a material factor in a project's realization. Second, the project must yield fiscal benefits to the State over a period of up to 20 years (or up to 30 years in the case of a "mega project" or a project in a Garden State Growth Zone municipality, or up to 35 years if a project is located in the city of Camden) that equal or exceed 110 percent of the tax credit amount (or 100 percent in the case of the city of Camden). Minimum capital investment and full-time employment requirements vary depending on project characteristics. The EDA may grant individual tax credits for up to ten years in amounts ranging from \$500 to \$15,000 per year for each job created, depending on project attributes. Credit amounts for retained jobs are generally 50 percent of those for new jobs (except that certain

limited projects earn job retention tax credits equal to the 100-percent rate of new full-time positions). Tax credit recipients must maintain the project and related employment for 1.5 times the period in which they receive tax credits. Businesses forfeit outstanding tax credit amounts if their full-time workforce falls below certain thresholds. Tax credits are only certified for taxpayer use after project completion.

The legislation makes the following revisions to the GROW NJ tax credit program that the OLS deems potentially significant to the number and dollar value of tax credit awards:

1. The bill newly bestows “mega project” status, which qualifies projects for larger tax credit amounts than they would otherwise receive, to eligible capital investments of at least \$20 million in a business facility located in an area designated in need of redevelopment in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean or Salem counties that will create or retain more than 150 full-time positions.
2. The bill halves the minimum capital investment requirement for the rehabilitation and improvement of warehousing, logistics, and research and development premises for the continued use of the premises as such from \$40 to \$20 per square foot of gross leasable area, and for the new construction of such premises from \$120 to \$60 per square foot of gross leasable area.
3. The bill creates a new annual \$1,000 bonus award per full-time job created or retained for investments in business facilities that include over 100,000 square feet of office or laboratory space that has been vacant for over a year. The base award for such projects ranges from \$500 to \$5,000 per full-time job created or retained per year, depending on project characteristics. Projects may also qualify for additional bonus awards.
4. The bill softens the eligibility criteria for incubator facilities located near a research institution, teaching hospital, college or university in a GROW NJ incentive area in lowering the minimum required square footage of office, laboratory, and industrial space from 100,000 square feet to 50,000 square feet, and the percentage of the gross leasable area that must be for technology startup company use from 75 percent to 50 percent.
5. The bill newly includes development expenses in Garden State Growth Zone municipalities as creditable capital investments.
6. The bill no longer treats as a creditable capital investment the acquisition costs of real property located in any GROW NJ incentive area, with the exception of the four Garden State Growth Zone municipalities, that was purchased within 24 months prior to the submission of a GROW NJ application.
7. The bill changes the calculation of the annual tax credit amount per retained job from 50 percent of the base amount plus any applicable bonuses to the lesser of 50 percent of the base amount plus any applicable bonuses or one-tenth of the capital investment divided by the number of retained and new full-time jobs (except that certain limited projects will continue to earn job retention tax credits equal to 100 percent of the base amount plus any applicable bonuses).
8. The bill allows for the upward revision of tax credit amounts for City of Camden-based businesses that exceed the full-time employment targets stipulated in their incentive agreements. Such businesses may also newly count as retained full-time jobs employees previously employed elsewhere in New Jersey and transferred to the Camden location.
9. The bill newly allows non-profit organizations in Garden State Growth Zone municipalities and qualified incubator facilities in any GROW NJ incentive area to file consolidated tax credit applications for projects comprised of several individual businesses that would not, on their own, qualify for tax credits.
10. The bill allows the developer of a project that will bring a large full-service supermarket to the City of Camden to apply for tax credits on behalf of the supermarket and file a

consolidated tax credit application on behalf of several individual businesses that would not, on their own, meet tax credit eligibility criteria.

11. The bill exempts City of Camden-based projects for which applicants seek annual tax credits exceeding \$4 million from the general provision that projects for which applicants seek annual tax credits exceeding \$4 million earn the lesser of the statutory annual maximum amounts for such projects or the amounts the EDA deems necessary for project completion. City of Camden-based projects for which applicants seek annual tax credits exceeding \$4 million will receive statutory annual maximum amounts.
12. The bill clarifies a previously unspecified definition of creditable full-time employment in a supermarket or grocery store to be located in the City of Camden or Atlantic City.
13. The bill imposes a new \$25,000 minimum amount on tax credits that recipients may sell to other taxpayers; there is currently no minimum.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds the bill is likely to produce a negative fiscal net impact of indeterminate magnitude on the State and a potential revenue gain to affected local governments. The inability to quantify the fiscal net impact is rooted in a dearth of reliable information on the number and attributes of projects that, under the bill, might 1) either newly qualify for or earn larger GROW NJ tax credits, ERG reimbursements for commercial redevelopment projects or ERG tax credits for residential redevelopment projects or 2) newly qualify for tax credits and realty transfer fee rebates under the bill's new incentive program for redevelopers that donate certain public infrastructure to governmental entities.

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: The OLS cannot quantify the direct revenue loss the bill will impose on the State General Fund and Property Tax Relief Fund because of imperfect information on the number and attributes of projects that, under the bill, might either newly qualify for or earn larger incentive awards. Any revenue loss, however, will be a) temporally limited, for the EDA will only consider applications received before July 1, 2016 for ERG tax credits for residential redevelopment projects, applications received prior to July 1, 2019 for GROW NJ tax credits and ERG reimbursements for commercial redevelopment projects, and applications received within five years of the bill's enactment for tax credits or realty transfer fee refunds for public infrastructure donations by redevelopers; and b) spread out over several years, for ERG and GROW NJ incentive awards are only to be used in up to 20 annual installments following project completion.

In all, four economic development incentive programs aggregate the bill's State revenue loss.

Tax Incentive Program for Redevelopers Donating Public Infrastructure: The bill establishes a new five-year tax incentive program for redevelopers that donate substantial public infrastructure to governmental entities. Every tax credit or realty transfer fee refund that the EDA will award will accrue direct State costs.

Urban Transit Hub Tax Credit Program: The bill lowers from \$100,000 to \$25,000 the general minimum Urban Transit Hub tax credit amount that recipients may sell to other taxpayers and eliminates the existing authority for recipients to make one transfer of less than \$100,000 per year. Although the revision will not affect the amount of tax credits awarded under the program, it is likely to raise the program's direct State cost in increasing the amount of awarded tax credits that taxpayers will actually use. This is so because the current transfer rules prevent some taxpayers who do not have sufficient tax liabilities against which to apply tax credits of less than \$100,000 from selling the entirety of their unused credits to other taxpayers prior to the tax credits' expiration. The lower transfer minimum will therefore enable taxpayers to sell more unused tax credits and their purchasers to use the credits at the State's expense.

ERG Program: The bill extends the existing ERG tax credit program for residential redevelopment projects by deferring the application deadline from July 1, 2015 to July 1, 2016 and the date by which eligible residential redevelopment projects must have obtained temporary certificates of occupancy from July 28, 2015 to July 28, 2018. To the extent that the loosened eligibility criteria allow more projects to qualify for tax credits, and assuming that the \$600 million program cap will not be reached under current law, the loosened criteria will cause the State to incur additional tax credit awards.

The bill also increases the maximum ERG incentive amount for commercial and residential redevelopment projects from 30 percent of a project's total cost to 40 percent for projects located in a designated urban transit hub. The direct State cost of the ERG program will rise if the EDA uses this new authority to award larger incentive amounts.

GROW NJ Program: Of the 13 changes to the GROW NJ tax credit program listed in the "Bill Description" section above; changes 1, 2, 3, 4, 5, 8, 9, 10, and 11 will result in the awarding of additional tax credit amounts and hence in additional direct State costs.

The effect on direct State costs of change 12 is unclear. The revision specifies the employment requirements for supermarket projects in the City of Camden and Atlantic City but it is unascertainable to what extent the new specifications will impact tax credit awards.

Changes 6, 7, and 13 will likely diminish the tax credit program's direct State cost. Change 5 restricts the definition of creditable capital investments, change 7 newly allows for retained jobs tax credit awards that are potentially less than under current law, and change 12 imposes a new \$25,000 minimum amount on tax credits that recipients may sell to other taxpayers. There is currently no minimum. This new limit will not affect the amount of tax credits awarded. But it is likely to lessen the program's direct State cost in potentially decreasing the amount of awarded tax credits that taxpayers may actually use. This is so because the new minimum will prevent taxpayers who do not have sufficient tax liabilities against which to apply tax credits of less than \$25,000 from selling the unused credits to other taxpayers prior to the credits' expiration. Consequently, more earned tax credits can be expected to expire unused.

Indirect State and Local Revenue Gain: Imperfect information on the number and attributes of projects that, under the bill, might either newly qualify for or earn larger incentive awards precludes the OLS from quantifying the legislation's indirect revenue gain to the State and local governments. But, for reasons laid out below, the OLS anticipates the bill's direct State cost to exceed its indirect fiscal State benefits.

Analytical Framework: Like any government expenditure, economic development incentive awards inject new spending into the economy. Once businesses and individuals receive

payments they would not receive 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 the business facility improvement spending their resultant income on taxable goods and services.

Indirect State fiscal effects offset the State's direct cost of 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 cost of the subsidy. The larger the proportion of the public assistance relative to the financial outlay by the subsidized party, however, the lower the probability that the subsidized activity will generate positive net returns to the State.

In contrast, the State's return on investment is negative whenever the State subsidizes a project that a taxpayer will undertake with or without the public assistance. Because the financial inducement has not caused the project's realization, none of its economic and fiscal feedback effects are attributable to the incentive, and therefore must be excluded from the tabulation of the incentive's indirect fiscal benefits.

Nevertheless, even if the State provides financial assistance to a project that would be realized anyway, some, albeit comparatively small, indirect fiscal benefits may still accrue to the State. These would occur whenever the subsidy beneficiary spends the incentive award in New Jersey on goods and services that the beneficiary would otherwise not have procured. In that event the incentive award still represents an injection of additional cash into New Jersey's economy whose ripple effects include the accumulation of indirect fiscal State benefits.

Lastly, given the high degree of integration of New Jersey's economy with the national and global economies, an addition of spending in New Jersey will eventually leak into other jurisdictions and cease to circulate within the State. Consequently, any tabulation of a subsidy payment's New Jersey feedback effects must disregard feedback effects that other jurisdictions will absorb. For example, a Pennsylvania resident who works as a carpenter on a subsidized redevelopment project in New Jersey will pay Pennsylvania, and not New Jersey, income tax on the compensation earned in accordance with the State of New Jersey and the Commonwealth of Pennsylvania Reciprocal Personal Income Tax Agreement.

Bill's State Indirect Fiscal Effects: The bill's indirect fiscal State benefits are likely to fall below its direct State cost, given the characteristics of the concerned economic development incentive programs and the bill's likely disproportionate impact thereupon.

Notably, the OLS expects the bill to prompt the EDA to issue the greatest amount of additional incentive awards under the ERG tax credit program for residential redevelopments. This is so because absent this bill, it will be challenging for many residential redevelopment projects to meet the program's eligibility requirement that projects must obtain temporary certificates of occupancy by July 28, 2015 due to the larger scale of the construction projects. By extending the deadline to July 28, 2018 many additional projects are likely to earn tax credits.

But the program does not subject residential redevelopment projects to the multiplier-based net benefit test calculation, which is intended to ensure that the EDA will award tax credits only to capital projects that are estimated to generate indirect State revenue equal to at least 110

percent of a tax credit's direct State cost. In addition, the EDA must only determine that the realization of a residential redevelopment project is likely with the provision of a tax credit at the level requested but not likely without the tax credit. By not requiring that the financial assistance be instrumental to project execution, however, the bill gives projects the benefit of a doubt and thereby allows for projects to receive tax credits that will happen irrespective of the receipt of the State assistance. The ERG tax credit program can thus be expected to generate indirect fiscal benefits to the State that are less than the direct State cost of the tax credit awards.

The new incentive program for public infrastructure donations by redevelopers is similarly likely to generate indirect fiscal State benefits below the direct State cost of the incentive awards. This is so because the program has neither a material factor nor a net benefit requirement. Moreover, it allows tax credits for infrastructure projects that are completed after January 1, 2013. But incentive awards for past projects generate no indirect fiscal benefits to the State that are ascribable to the bill.

In contrast the bill is likely to generate additional indirect fiscal benefits to the State in excess of the direct State cost of awarding the additional incentives if the bill leads to additional incentive awards under the GROW NJ tax credit program and the ERG reimbursement program for commercial redevelopment projects. This is so because under both programs the financial assistance must be a material factor in a project's realization and the project must pass the EDA's net benefit test. Therefore, to the extent that the bill allows for GROW NJ tax credits and ERG reimbursements to projects that otherwise will be ineligible and therefore unrealized, the bill will yield fiscal net benefits to the State that will offset, at least in part, the fiscal net loss that the bill's revisions to the ERG tax credit program for residential redevelopment projects and its new incentive program for public infrastructure donations by redevelopers will generate. In contrast to the broader applicability of the bill's revisions to the ERG tax credit program for residential redevelopments, however, the bill's amendments to the GROW NJ program and the ERG reimbursement program for commercial redevelopment projects are more targeted in nature. As a result, the OLS expects that only some projects will newly qualify for GROW NJ tax credits and ERG reimbursements.

Lastly, the OLS points out that it is possible that incentive-receiving projects that will not have been induced by the incentive programs may generate some indirect fiscal State benefits. This would occur whenever recipients of such tax incentives spend their incentive awards in New Jersey on goods and services that they would not have procured absent the incentive award. Given that many beneficiaries are national and global in scope, however, the expectation that such incentive recipients will expend at least a portion of their incentive awards in New Jersey seems challengeable.

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 award additional and increased GROW NJ and ERG incentives and to establish a new incentive program for redevelopers that make public infrastructure donations 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 legislation, 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 cost of awarding the additional incentives minus the additional incentives' indirect State fiscal effects—and that of the foregone road construction investment.

Section: Revenue, Finance and Appropriations
Analyst: Thomas Koenig
Lead Fiscal Analyst
Approved: David J. Rosen
Legislative Budget and Finance Officer

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

LEGISLATIVE FISCAL ESTIMATE

[Fifth Reprint]

ASSEMBLY, No. 3213

STATE OF NEW JERSEY 216th LEGISLATURE

DATED: OCTOBER 1, 2014

SUMMARY

- Synopsis:** "Economic Opportunity Act of 2014, Part 3."
- Type of Impact:** Negative fiscal net impact on State General Fund and Property Tax Relief Fund; potential revenue increase to affected local governments.
- Agencies Affected:** Department of the Treasury.
New Jersey Economic Development Authority.
Certain Local Governments.

Office of Legislative Services Estimate

Fiscal Impact	Multi-Year Lifespan of Tax Credit Programs
Direct <u>State</u> Revenue Loss	Indeterminate — See comments below
Indirect <u>State</u> Revenue Gain	Indeterminate — See comments below
<u>State</u> Opportunity Cost	Indeterminate — See comments below
Indirect <u>Local</u> Revenue Gain	Indeterminate — See comments below
<u>Local</u> Opportunity Cost	Indeterminate — See comments below

- The Office of Legislative Services (OLS) finds the bill is likely to have a negative fiscal net impact of indeterminate magnitude on the State. The quantification of the fiscal effects is not possible because of imperfect information on the number and attributes of projects that, under the bill, might 1) either newly qualify for or earn larger Grow New Jersey Assistance (GROW NJ) tax credits, Economic Redevelopment and Growth (ERG) reimbursements for commercial redevelopment projects or ERG tax credits for residential redevelopment projects or 2) newly qualify for tax credits under the bill's new five-year incentive program for redevelopers that donate certain public infrastructure to governmental entities.
- 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 awards will catalyze.

- The OLS expects the bill's indirect fiscal State benefits to fall below its direct State cost, given the characteristics of the concerned economic development incentive programs and the bill's likely disproportionate impact thereupon. Notably, the OLS anticipates the New Jersey Economic Development Authority (EDA) to issue the greatest amount of additional incentive awards under the ERG tax credit program for residential redevelopments, considering the expected broad applicability of the bill's deferral from July 1, 2015 to July 1, 2016 of the program's application deadline and from July 28, 2015 to July 28, 2018 of the date by which eligible residential redevelopment projects must have obtained temporary certificates of occupancy. The program does not require that tax credits be instrumental to the execution of recipient projects nor that recipient projects yield incremental receipts to the State in excess of credit amounts.
- The legislation might accrue an indeterminate revenue gain to affected local governments in the form of indirect fiscal benefits.

BILL DESCRIPTION

Assembly Bill No. 3213 (5R) of 2014 establishes a new tax credit program for redevelopers that donate substantial public infrastructure to governmental entities, and makes several changes to three existing economic development incentive programs operated by the New Jersey EDA: the Urban Transit Hub Tax Credit Program, the ERG program, and the GROW NJ tax credit program.

Tax Credit Program for Redevelopers Donating Public Infrastructure: The bill establishes a new five-year tax incentive program for redevelopers that donate to a governmental entity public infrastructure with a minimum \$5 million fair market value or open space without improvements with a minimum \$1 million fair market value. Redevelopers may apply for a corporation business tax credit equal to the cost of providing the public infrastructure, but not more than \$5 million. To qualify for the credit the public infrastructure must be a) donated or built and donated after January 1, 2013; b) part of a new capital investment of more than \$10 million in a building or complex of buildings, which shall be completed within two years following tax credit approval; and c) part of a redevelopment project that has not received a GROW NJ tax credit or an ERG tax credit or grant. Incentive awards are available statewide and are not contingent upon the incentives being vital to the execution of a redevelopment project or its public infrastructure components. Moreover, redevelopment projects and their attendant public infrastructure components are not required to generate indirect fiscal benefits to the State in excess of the cost of the tax incentive. The EDA may award no more than \$25 million in total tax credit awards over the program's five-year lifespan.

Urban Transit Hub Tax Credit Program: The bill reduces from \$100,000 to \$25,000 the general minimum Urban Transit Hub tax credit amount that recipients may sell to other taxpayers and eliminates the existing authority for recipients to make one transfer of less than \$100,000 per year.

P.L.2013, c.161 closed the program to new applicants effective on September 18, 2013 but honors any previously approved tax credit awards, which are authorized for taxpayer use in up to ten annual installments following project completion. As of January 10, 2014, the EDA had awarded \$1.32 billion in Urban Transit Hub tax credits.

ERG Program: The bill defers from July 1, 2015 to July 1, 2016 the application deadline under the ERG tax credit program for residential redevelopment projects and from July 28, 2015

to July 28, 2018 the date by which eligible residential redevelopment projects must have obtained temporary certificates of occupancy.

In addition, the legislation newly designates the City of Atlantic City as the fifth Garden State Growth Zone. The designation renders qualifying projects in the City of Atlantic City newly eligible for maximum ERG incentive amounts. The cities of Camden, Passaic, Paterson, and Trenton have already acceded to that status.

At present, State ERG reimbursements are available for commercial redevelopment projects undertaken in "qualifying economic redevelopment and growth grant incentive areas," as N.J.S.A.52:27D-489c defines the term, that meet two financial criteria. First, the financial assistance must close a project financing gap that otherwise would prevent a project's realization. Second, the project must yield fiscal benefits to the State over a period of up to 20 years that equal or exceed 110 percent of the tax credit amount. There are no capital investment and job creation or retention thresholds. State ERG awards: a) equal up to 75 percent of the annual incremental State tax revenue attributable to a project (or up to 85 percent in a Garden State Growth Zone municipality); b) cannot exceed 30 percent of total project cost in conjunction with any municipal ERG award (or 40 percent in a Garden State Growth Zone municipality); and c) are paid in up to 20 annual installments. Aggregate State ERG reimbursement payments for commercial redevelopment projects are uncapped, but the EDA may only consider applications received prior to July 1, 2019. All ERG recipients obtain their reimbursements only after project completion.

A separate \$600 million State ERG tax credit program applies to residential redevelopment projects undertaken in "qualifying economic redevelopment and growth grant incentive areas," as N.J.S.A.52:27D-489c defines the term. Projects may receive tax credits if they meet two financial conditions. First, the financial assistance must close a project financing gap that otherwise would be likely to thwart a project's realization. Second, the project must have minimum project costs ranging from \$5.0 million to \$17.5 million, depending on its specific location. In addition, 20 percent of the newly constructed residential units must be low- or moderate-income housing, unless the municipality in which the property is located has satisfied its affordable housing obligations. Tax credit awards are authorized for taxpayer use in up to ten annual installments following project completion and cannot exceed 30 percent of total project cost in conjunction with any municipal ERG award (or 40 percent in a Garden State Growth Zone municipality). The application deadline for residential redevelopment projects is July 1, 2015, and a temporary certificate of occupancy must be issued by July 28, 2015.

GROW NJ Program: The GROW NJ tax credit program is intended to encourage job creation and retention. There is no cap on the aggregate dollar amount of tax credit awards, but the EDA may only consider applications submitted prior to July 1, 2019.

Tax credits are available for eligible projects located in certain geographic areas that meet two financial conditions. First, the financial assistance must be a material factor in a project's realization. Second, the project must yield fiscal benefits to the State over a period of up to 20 years (or up to 30 years in the case of a "mega project" or a project in a Garden State Growth Zone municipality, or up to 35 years if a project is located in the city of Camden) that equal or exceed 110 percent of the tax credit amount (or 100 percent in the case of the city of Camden). Minimum capital investment and full-time employment requirements vary depending on project characteristics. The EDA may grant individual tax credits for up to ten years in amounts ranging from \$500 to \$15,000 per year for each job created, depending on project attributes. Credit amounts for retained jobs are generally 50 percent of those for new jobs (except that certain limited projects earn job retention tax credits equal to the 100-percent rate of new full-time positions). Tax credit recipients must maintain the project and related employment for 1.5 times the period in which they receive tax credits. Businesses forfeit outstanding tax credit amounts if

their full-time workforce falls below certain thresholds. Tax credits are only certified for taxpayer use after project completion.

The legislation makes the following revisions to the GROW NJ tax credit program that the OLS deems potentially significant to the number and dollar value of tax credit awards:

1. The bill newly designates the City of Atlantic City as the fifth Garden State Growth Zone. The designation renders qualifying projects in the City of Atlantic City newly eligible for larger GROW NJ tax credit amounts.
2. The bill newly bestows “mega project” status, which qualifies projects for larger tax credit amounts than they would otherwise receive, to eligible capital investments of at least \$20 million in a business facility located in an area designated in need of redevelopment in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean or Salem counties that will create or retain more than 150 full-time positions.
3. The bill halves the minimum capital investment requirement for the rehabilitation and improvement of warehousing, logistics, and research and development premises for the continued use of the premises as such from \$40 to \$20 per square foot of gross leasable area, and for the new construction of such premises from \$120 to \$60 per square foot of gross leasable area.
4. The bill creates a new annual \$1,000 bonus award per full-time job created or retained for investments in business facilities that include over 100,000 square feet of office or laboratory space that has been vacant for over a year. The base award for such projects ranges from \$500 to \$5,000 per full-time job created or retained per year, depending on project characteristics. Projects may also qualify for additional bonus awards.
5. The bill softens the eligibility criteria for incubator facilities located near a research institution, teaching hospital, college or university in a GROW NJ incentive area in lowering the minimum required square footage of office, laboratory, and industrial space from 100,000 square feet to 50,000 square feet, and the percentage of the gross leasable area that must be for technology startup company use from 75 percent to 50 percent.
6. The bill newly includes development expenses in Garden State Growth Zone municipalities as creditable capital investments.
7. The bill no longer treats as a creditable capital investment the acquisition costs of real property located in any GROW NJ incentive area, with the exception of the five Garden State Growth Zone municipalities, that was purchased within 24 months prior to the submission of a GROW NJ application.
8. The bill changes the calculation of the annual tax credit amount per retained job from 50 percent of the base amount plus any applicable bonuses to the lesser of 50 percent of the base amount plus any applicable bonuses or one-tenth of the capital investment divided by the number of retained and new full-time jobs (except that certain limited projects will continue to earn job retention tax credits equal to 100 percent of the base amount plus any applicable bonuses).
9. The bill allows for the upward revision of tax credit amounts for City of Camden- and City of Atlantic City-based businesses that exceed the full-time employment targets stipulated in their incentive agreements. Such businesses may also newly count as retained full-time jobs employees previously employed elsewhere in New Jersey and transferred to the Camden or Atlantic City location.
10. The bill newly allows non-profit organizations in Garden State Growth Zone municipalities and qualified incubator facilities in any GROW NJ incentive area to file consolidated tax credit applications for projects comprised of several individual businesses that would not, on their own, qualify for tax credits.

11. The bill allows the developer of a project that will bring a large full-service supermarket to the City of Camden or the City of Atlantic City to apply for tax credits on behalf of the supermarket and file a consolidated tax credit application on behalf of several individual businesses that would not, on their own, meet tax credit eligibility criteria.
12. The bill exempts City of Camden- and City of Atlantic City-based projects for which applicants seek annual tax credits exceeding \$4 million from the general provision that projects for which applicants seek annual tax credits exceeding \$4 million earn the lesser of the statutory annual maximum amounts for such projects or the amounts the EDA deems necessary for project completion. City of Camden- and City of Atlantic City-based projects for which applicants seek annual tax credits exceeding \$4 million will receive statutory annual maximum amounts.
13. The bill clarifies a previously unspecified definition of creditable full-time employment in a supermarket or grocery store to be located in the City of Camden or the City of Atlantic City.
14. The bill imposes a new \$25,000 minimum amount on tax credits that recipients may sell to other taxpayers; there is currently no minimum.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds the bill is likely to produce a negative fiscal net impact of indeterminate magnitude on the State and a potential revenue gain to affected local governments. The inability to quantify the fiscal net impact is rooted in a dearth of reliable information on the number and attributes of projects that, under the bill, might 1) either newly qualify for or earn larger GROW NJ tax credits, ERG reimbursements for commercial redevelopment projects or ERG tax credits for residential redevelopment projects or 2) newly qualify for tax credits under the bill's new incentive program for redevelopers that donate certain public infrastructure to governmental entities.

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: The OLS cannot quantify the direct revenue loss the bill will impose on the State General Fund and Property Tax Relief Fund because of imperfect information on the number and attributes of projects that, under the bill, might either newly qualify for or earn larger incentive awards. Any revenue loss, however, will be a) temporally limited, for the EDA will only consider applications received before July 1, 2016 for ERG tax credits for residential redevelopment projects, applications received prior to July 1, 2019 for GROW NJ tax credits and ERG reimbursements for commercial redevelopment projects, and applications received within five years of the bill's enactment for tax credits for public infrastructure donations by

redevelopers; and b) spread out over several years, for ERG and GROW NJ incentive awards are only to be used in up to 20 annual installments following project completion.

In all, four economic development incentive programs aggregate the bill's State revenue loss.

Tax Credit Program for Redevelopers Donating Public Infrastructure: The bill establishes a new five-year tax credit program for redevelopers that donate substantial public infrastructure to governmental entities. Every tax credit that the EDA will award will accrue direct State costs. The five-year initiative has a \$25 million program cap.

Urban Transit Hub Tax Credit Program: The bill lowers from \$100,000 to \$25,000 the general minimum Urban Transit Hub tax credit amount that recipients may sell to other taxpayers and eliminates the existing authority for recipients to make one transfer of less than \$100,000 per year. Although the revision will not affect the amount of tax credits awarded under the program, it is likely to raise the program's direct State cost in increasing the amount of awarded tax credits that taxpayers will actually use. This is so because the current transfer rules prevent some taxpayers who do not have sufficient tax liabilities against which to apply tax credits of less than \$100,000 from selling the entirety of their unused credits to other taxpayers prior to the tax credits' expiration. The lower transfer minimum will therefore enable taxpayers to sell more unused tax credits and their purchasers to use the credits at the State's expense.

ERG Program: The bill extends the existing ERG tax credit program for residential redevelopment projects by deferring the application deadline from July 1, 2015 to July 1, 2016 and the date by which eligible residential redevelopment projects must have obtained temporary certificates of occupancy from July 28, 2015 to July 28, 2018. To the extent that the loosened eligibility criteria allow more projects to qualify for tax credits, and assuming that the \$600 million program cap will not be reached under current law, the loosened criteria will cause the State to incur additional tax credit awards.

The bill also increases the maximum ERG incentive amount for commercial and residential redevelopment projects in the City of Atlantic City from 30 percent of a project's total cost to 40 percent. The direct State cost of the ERG program will rise if the EDA uses this new authority to award larger incentive amounts.

GROW NJ Program: Of the 14 changes to the GROW NJ tax credit program listed in the "Bill Description" section above; changes 1, 2, 3, 4, 5, 6, 9, 10, 11, and 12 will result in the awarding of additional tax credit amounts and hence in additional direct State costs.

The effect on direct State costs of change 13 is unclear. The revision specifies the employment requirements for supermarket projects in the City of Camden and the City of Atlantic City but it is unascertainable to what extent the new specifications will impact tax credit awards.

Changes 7, 8, and 14 will likely diminish the tax credit program's direct State cost. Change 7 restricts the definition of creditable capital investments, change 8 newly allows for retained jobs tax credit awards that are potentially less than under current law, and change 14 imposes a new \$25,000 minimum amount on tax credits that recipients may sell to other taxpayers. There is currently no minimum. This new limit will not affect the amount of tax credits awarded. But it is likely to lessen the program's direct State cost in potentially decreasing the amount of awarded tax credits that taxpayers may actually use. This is so because the new minimum will prevent taxpayers who do not have sufficient tax liabilities against which to apply tax credits of less than \$25,000 from selling the unused credits to other taxpayers prior to the credits' expiration. Consequently, more earned tax credits can be expected to expire unused.

Indirect State and Local Revenue Gain: Imperfect information on the number and attributes of projects that, under the bill, might either newly qualify for or earn larger incentive awards precludes the OLS from quantifying the legislation's indirect revenue gain to the State and local

governments. But, for reasons laid out below, the OLS anticipates the bill's direct State cost to exceed its indirect fiscal State benefits.

Analytical Framework: Like any government expenditure, economic development incentive awards inject new spending into the economy. Once businesses and individuals receive payments they would not receive 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 the business facility improvement spending their resultant income on taxable goods and services.

Indirect State fiscal effects offset the State's direct cost of 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 cost of the subsidy. The larger the proportion of the public assistance relative to the financial outlay by the subsidized party, however, the lower the probability that the subsidized activity will generate positive net returns to the State.

In contrast, the State's return on investment is negative whenever the State subsidizes a project that a taxpayer will undertake with or without the public assistance. Because the financial inducement has not caused the project's realization, none of its economic and fiscal feedback effects are attributable to the incentive, and therefore must be excluded from the tabulation of the incentive's indirect fiscal benefits.

Nevertheless, even if the State provides financial assistance to a project that would be realized anyway, some, albeit comparatively small, indirect fiscal benefits may still accrue to the State. These would occur whenever the subsidy beneficiary spends the incentive award in New Jersey on goods and services that the beneficiary would otherwise not have procured. In that event the incentive award still represents an injection of additional cash into New Jersey's economy whose ripple effects include the accumulation of indirect fiscal State benefits.

Lastly, given the high degree of integration of New Jersey's economy with the national and global economies, an addition of spending in New Jersey will eventually leak into other jurisdictions and cease to circulate within the State. Consequently, any tabulation of a subsidy payment's New Jersey feedback effects must disregard feedback effects that other jurisdictions will absorb. For example, a Pennsylvania resident who works as a carpenter on a subsidized redevelopment project in New Jersey will pay Pennsylvania, and not New Jersey, income tax on the compensation earned in accordance with the State of New Jersey and the Commonwealth of Pennsylvania Reciprocal Personal Income Tax Agreement.

Bill's State Indirect Fiscal Effects: The bill's indirect fiscal State benefits are likely to fall below its direct State cost, given the characteristics of the concerned economic development incentive programs and the bill's likely disproportionate impact thereupon.

Notably, the OLS expects the bill to prompt the EDA to issue the greatest amount of additional incentive awards under the ERG tax credit program for residential redevelopments. This is so because absent this bill, it will be challenging for many residential redevelopment projects to meet the program's eligibility requirement that projects must obtain temporary

certificates of occupancy by July 28, 2015 due to the larger scale of the construction projects. By extending the deadline to July 28, 2018 many additional projects are likely to earn tax credits.

But the program does not subject residential redevelopment projects to the multiplier-based net benefit test calculation, which is intended to ensure that the EDA will award tax credits only to capital projects that are estimated to generate indirect State revenue equal to at least 110 percent of a tax credit's direct State cost. In addition, the EDA must only determine that the realization of a residential redevelopment project is likely with the provision of a tax credit at the level requested but not likely without the tax credit. By not requiring that the financial assistance be instrumental to project execution, however, the bill gives projects the benefit of a doubt and thereby allows for projects to receive tax credits that will happen irrespective of the receipt of the State assistance. The ERG tax credit program can thus be expected to generate indirect fiscal benefits to the State that are less than the direct State cost of the tax credit awards.

The new tax credit program for public infrastructure donations by redevelopers is similarly likely to generate indirect fiscal State benefits below the direct State cost of the incentive awards. This is so because the program has neither a material factor nor a net benefit requirement. Moreover, it allows tax credits for infrastructure projects that are completed after January 1, 2013. But incentive awards for past projects generate no indirect fiscal benefits to the State that are ascribable to the bill.

In contrast the bill is likely to generate additional indirect fiscal benefits to the State in excess of the direct State cost of awarding the additional incentives if the bill leads to additional incentive awards under the GROW NJ tax credit program and the ERG reimbursement program for commercial redevelopment projects. This is so because under both programs the financial assistance must be a material factor in a project's realization and the project must pass the EDA's net benefit test. Therefore, to the extent that the bill allows for GROW NJ tax credits and ERG reimbursements to projects that otherwise will be ineligible and therefore unrealized, the bill will yield fiscal net benefits to the State that will offset, at least in part, the fiscal net loss that the bill's revisions to the ERG tax credit program for residential redevelopment projects and its new incentive program for public infrastructure donations by redevelopers will generate. In contrast to the broader applicability of the bill's revisions to the ERG tax credit program for residential redevelopments, however, the bill's amendments to the GROW NJ program and the ERG reimbursement program for commercial redevelopment projects are more targeted in nature. As a result, the OLS expects that only some projects will newly qualify for GROW NJ tax credits and ERG reimbursements.

Lastly, the OLS points out that it is possible that incentive-receiving projects that will not have been induced by the incentive programs may generate some indirect fiscal State benefits. This would occur whenever recipients of such tax incentives spend their incentive awards in New Jersey on goods and services that they would not have procured absent the incentive award. Given that many beneficiaries are national and global in scope, however, the expectation that such incentive recipients will expend at least a portion of their incentive awards in New Jersey seems challengeable.

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 award additional and increased GROW NJ and ERG incentives and to establish a new incentive program for redevelopers that make public infrastructure donations 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 legislation, 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 cost of awarding the additional incentives minus the additional incentives' indirect State fiscal effects—and that of the foregone road construction investment.

Section: Revenue, Finance and Appropriations
Analyst: Thomas Koenig
Lead Fiscal Analyst
Approved: David J. Rosen
Legislative Budget and Finance Officer

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

SENATE, No. 1551

STATE OF NEW JERSEY
216th LEGISLATURE

INTRODUCED FEBRUARY 27, 2014

Sponsored by:
Senator RAYMOND J. LESNIAK
District 20 (Union)

SYNOPSIS

“Economic Opportunity Act of 2014, Part 3.”

CURRENT VERSION OF TEXT

As introduced.



S1551 LESNIAK

2

1 AN ACT concerning incentives for certain economic development
2 projects and designated as the Economic Opportunity Act of
3 2014, Part 3, and amending P.L.2009, c.90 and P.L.2011, c.149.

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

7
8 1. Section 33 of P.L.2009, c.90 (C.34:1B-209.1) is amended to
9 read as follows:

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

36 (cf: P.L.2013, c.161, s.5)

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

40 2. As used in P.L.2011, c.149 (C.34:1B-242 et seq.):

41 "Affiliate" means an entity that directly or indirectly controls, is
42 under common control with, or is controlled by the business.
43 Control exists in all cases in which the entity is a member of a
44 controlled group of corporations as defined pursuant to section 1563
45 of the Internal Revenue Code of 1986 (26 U.S.C.s.1563) or the

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

Matter underlined thus is new matter.

1 entity is an organization in a group of organizations under common
2 control as defined pursuant to subsection (b) or (c) of section 414 of
3 the Internal Revenue Code of 1986 (26 U.S.C.s.414). A taxpayer
4 may establish by clear and convincing evidence, as determined by
5 the Director of the Division of Taxation in the Department of the
6 Treasury, that control exists in situations involving lesser
7 percentages of ownership than required by those statutes. An
8 affiliate of a business may contribute to meeting either the qualified
9 investment or full-time employee requirements of a business that
10 applies for a credit under section 3 of P.L.2007, c.346 (C.34:1B-
11 209).

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

14 "Aviation district" means the area within a one-mile radius of the
15 outermost boundary of the "Atlantic City International Airport,"
16 established pursuant to section 24 of P.L.1991, c.252 (C.27:25A-
17 24).

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

20 a corporation that is subject to the tax imposed pursuant to
21 section 5 of P.L.1945, c.162 (C.54:10A-5);

22 a corporation that is subject to the tax imposed pursuant to
23 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3),
24 section 1 of P.L.1950, c.231 (C.17:32-15) or N.J.S.17B:23-5;

25 a partnership;

26 an S corporation;

27 a limited liability company; or

28 a non-profit corporation.

29 If the business or tenant is a cooperative or part of a cooperative,
30 then the cooperative may qualify for credits by counting the full-
31 time employees and capital investments of its member
32 organizations, and the cooperative may distribute credits to its
33 member organizations. If the business or tenant is a cooperative
34 that leases to its member organizations, the lease shall be treated as
35 a lease to an affiliate or affiliates.

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

39 "Capital investment" in a qualified business facility means
40 expenses by a business or any affiliate of the business incurred after
41 application for:

42 a. site acquisition, if purchased within 24 months prior to
43 project application, site preparation and construction, repair,
44 renovation, improvement, equipping, or furnishing on real property
45 or of a building, structure, facility, or improvement to real property;

46 b. obtaining and installing furnishings and machinery,
47 apparatus, or equipment, including but not limited to material goods
48 subject to bonus depreciation under sections 168 and 179 of the

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1 federal Internal Revenue Code (26 U.S.C. s.168 and s.179), for the
2 operation of a business on real property or in a building, structure,
3 facility, or improvement to real property;

4 c. receiving Highlands Development Credits under the
5 Highlands Transfer Development Rights Program authorized
6 pursuant to section 13 of P.L.2004, c.120 (C.13:20-13); or

7 d. any of the foregoing.

8 In addition to the foregoing, in a Garden State Growth Zone, the
9 following qualify as a capital investment: any and all
10 redevelopment and relocation costs, including, but not limited to,
11 site acquisition if made within 24 months of application to the
12 authority, engineering, legal, accounting, and other professional
13 services required; and relocation, environmental remediation, and
14 infrastructure improvements for the project area, including, but not
15 limited to, on- and off-site utility, road, pier, wharf, bulkhead, or
16 sidewalk construction or repair.

17 In addition to the foregoing, if a business acquires or leases a
18 qualified business facility, the capital investment made or acquired
19 by the seller or owner, as the case may be, if pertaining primarily to
20 the premises of the qualified business facility, shall be considered a
21 capital investment by the business and, if pertaining generally to the
22 qualified business facility being acquired or leased, shall be
23 allocated to the premises of the qualified business facility on the
24 basis of the gross leasable area of the premises in relation to the
25 total gross leasable area in the qualified business facility. The
26 capital investment described herein may include any capital
27 investment made or acquired within 24 months prior to the date of
28 application so long as the amount of capital investment made or
29 acquired by the business, any affiliate of the business, or any owner
30 after the date of application equals at least 50 percent of the amount
31 of capital investment, allocated to the premises of the qualified
32 business facility being acquired or leased on the basis of the gross
33 leasable area of such premises in relation to the total gross leasable
34 area in the qualified business facility made or acquired prior to the
35 date of application.

36 "Commitment period" means the period of time that is 1.5 times
37 the eligibility period.

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

43 "Disaster recovery project" means a project located on property
44 that has been wholly or substantially damaged or destroyed as a
45 result of a federally-declared disaster which, after utilizing all
46 disaster funds available from federal, State, county, and local
47 funding sources, demonstrates to the satisfaction of the authority
48 that access to additional funding authorized pursuant to the "New

1 Jersey Economic Opportunity Act of 2013," P.L.2013, c.161
2 (C.52:27D-489p et al.), is necessary to complete such
3 redevelopment project, and which is located within the qualified
4 incentive area and has been determined by the authority to be in an
5 area appropriate for development and in need of economic
6 development incentive assistance.

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

16 "Eligibility period" means the period in which a business may
17 claim a tax credit under the Grow New Jersey Assistance Program,
18 beginning with the tax period in which the authority accepts
19 certification of the business that it has met the capital investment
20 and employment requirements of the Grow New Jersey Assistance
21 Program and extending thereafter for a term of not more than 10
22 years, with the term to be determined solely at the discretion of the
23 applicant.

24 "Eligible position" or "full-time job" means a full-time position
25 in a business in this State which the business has filled with a full-
26 time employee.

27 "Full-time employee" means a person:

28 a. who is employed by a business for consideration for at least
29 35 hours a week, or who renders any other standard of service
30 generally accepted by custom or practice as full-time employment,
31 or

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

40 c. who is a resident of another State but whose income is not
41 subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
42 et seq. or who is a partner of a business who works for the
43 partnership for at least 35 hours a week, or who renders any other
44 standard of service generally accepted by custom or practice as full-
45 time employment, and whose distributive share of income, gain,
46 loss, or deduction, or whose guaranteed payments, or any
47 combination thereof, is subject to the payment of estimated taxes, as

1 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
2 et seq., and

3 d. who is provided, by the business, with employee health
4 benefits under a health benefits plan authorized pursuant to State or
5 federal law.

6 With respect to a logistics, manufacturing, energy, defense,
7 aviation, or maritime business, excluding primarily warehouse or
8 distribution operations, located in a port district having a container
9 terminal:

10 the requirement that employee health benefits are to be provided
11 shall be deemed to be satisfied if such benefits are provided in
12 accordance with industry practice by a third party obligated to
13 provide such benefits pursuant to a collective bargaining agreement;

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

17 35 hours of employment per week at a qualified business facility
18 shall constitute one "full-time employee," regardless of whether or
19 not the hours of work were performed by one or more persons.

20 For any project located in a Garden State Growth Zone which
21 qualifies under the "Municipal Rehabilitation and Economic
22 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or any
23 project located in the Atlantic City Tourism District as established
24 pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated
25 by the Casino Reinvestment Development Authority, and which
26 will include a retail facility of at least 150,000 square feet, of which
27 at least 50 percent will be occupied by either a full-service
28 supermarket or grocery store, [the authority shall accept a standard
29 of service generally accepted by custom or practice as full-time
30 employment in a supermarket, grocery store, or other like retail
31 industry] 30 hours of employment per week at a qualified business
32 facility shall constitute one "full-time employee," regardless of
33 whether or not the hours of work were performed by one or more
34 persons, and the requirement that employee health benefits are to be
35 provided shall be deemed to be satisfied if the employees of the
36 business are covered by a collective bargaining agreement.

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

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

44 "Highlands development credit receiving area or redevelopment
45 area" means an area located within a qualified incentive area and
46 designated by the Highlands Council for the receipt of Highlands
47 Development Credits under the Highlands Transfer Development

1 Rights Program authorized pursuant to section 13 of P.L.2004,
2 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 the authority issues a
8 tax credit based on documentation submitted by a business pursuant
9 to paragraph (1) of subsection b. of section 6 of P.L.2011, c.149
10 (C.34:1B-247).

11 "Major rail station" means a railroad station located within a
12 qualified incentive area which provides access to the public to a
13 minimum of six rail passenger service lines operated by the New
14 Jersey Transit Corporation.

15 "Mega project" means:

16 a. a qualified business facility located in a port district housing
17 a business in the logistics, manufacturing, energy, defense, or
18 maritime industries, either:

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

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

24 b. a qualified business facility located in an aviation district
25 housing a business in the aviation industry, in a Garden State
26 Growth Zone, or in a priority area housing the United States
27 headquarters and related facilities of an automobile manufacturer,
28 either:

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

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

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

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

45 "Moderate-income housing" means housing affordable,
46 according to United States Department of Housing and Urban
47 Development or other recognized standards for home ownership
48 and rental costs, and occupied or reserved for occupancy by

1 households with a gross household income equal to more than 50
2 percent but less than 80 percent of the median gross household
3 income for households of the same size within the housing region in
4 which the housing is located.

5 "Municipal Revitalization Index" means the 2007 index by the
6 Office for Planning Advocacy within the Department of State
7 measuring or ranking municipal distress.

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

13 "Other eligible area" means the portions of the qualified
14 incentive area that are not located within a distressed municipality,
15 or the priority area.

16 "Partnership" means an entity classified as a partnership for
17 federal income tax purposes.

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

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

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

28 "Priority area" means the portions of the qualified incentive area
29 that are not located within a distressed municipality and which:

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

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

41 c. are the proposed site of a disaster recovery project, a
42 qualified incubator facility, a highlands development credit
43 receiving area or redevelopment area, a tourism destination project,
44 or transit oriented development; or

45 d. contain: a vacant commercial building having over 400,000
46 square feet of office, laboratory, or industrial space available for
47 occupancy for a period of over one year; or a site that has been
48 negatively impacted by the approval of a "qualified business

1 facility," as defined pursuant to section 2 of P.L.2007, c.346
2 (C.34:1B-208).

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

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

8 "Qualified business facility" means any building, complex of
9 buildings or structural components of buildings, and all machinery
10 and equipment located within a qualified incentive area, used in
11 connection with the operation of a business that is not engaged in
12 final point of sale retail business at that location unless the building,
13 complex of buildings or structural components of buildings, and all
14 machinery and equipment located within a qualified incentive area,
15 are used in connection with the operation of:

16 a. a final point of sale retail business located in a Garden State
17 Growth Zone that will include a retail facility of at least 150,000
18 square feet, of which at least 50 percent is occupied by either a full-
19 service supermarket or grocery store; **[or]**

20 b. a tourism destination project located in the Atlantic City
21 Tourism District as established pursuant to section 5 of P.L.2011,
22 c.18 (C.5:12-219); or

23 c. a construction project under section 3 of P.L.2011, c.176
24 (C.18A:36C-3) located in a Garden State Growth Zone. Any such
25 construction project shall not be subject to the requirements that the
26 application and award of any tax credits, grants, or other benefits
27 provided under P.L.2011, c.149 (C.34:1B-242 et al.) shall be
28 provided prior to the commencement of such construction project;
29 provided, however, that any such construction project shall only be
30 eligible for tax credits, grants, or other benefits provided by
31 P.L.2011, c.149 (C.34:1B-242 et al.) if such construction project
32 shall not be economically viable without the use of such tax credits,
33 grants, or other benefits provided by P.L.2011, c.149 (C.34:1B-242
34 et al.).

35 "Qualified incentive area" means:

36 a. an aviation district;

37 b. a port district;

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

39 d. an area (1) designated pursuant to the "State Planning Act,"
40 P.L.1985, c.398 (C.52:18A-196 et seq.), as:

41 (a) Planning Area 1 (Metropolitan);

42 (b) Planning Area 2 (Suburban); or

43 (c) Planning Area 3 (Fringe Planning Area);

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

- 1 adopted by the New Jersey Meadowlands Commission pursuant to
2 section 20 of P.L.1968, c.404 (C.13:17-21);
- 3 (3) located within any land owned by the New Jersey Sports and
4 Exposition Authority, established pursuant to P.L.1971, c.137
5 (C.5:10-1 et seq.), within the boundaries of the Hackensack
6 Meadowlands District as delineated in section 4 of P.L.1968, c.404
7 (C.13:17-4);
- 8 (4) located within a regional growth area, town, village, or a
9 military and federal installation area designated in the
10 comprehensive management plan prepared and adopted by the
11 Pinelands Commission pursuant to the "Pinelands Protection Act,"
12 P.L.1979, c.111 (C.13:18A-1 et seq.);
- 13 (5) located within the planning area of the Highlands Region as
14 defined in section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands
15 development credit receiving area or redevelopment area;
- 16 (6) located within a Garden State Growth Zone;
- 17 (7) located within land approved for closure under any federal
18 Base Closure and Realignment Commission action; or
- 19 (8) located only within the following portions of the areas
20 designated pursuant to the "State Planning Act," P.L.1985, c.398
21 (C.52:18A-196 et al.), as Planning Area 4A (Rural Planning Area),
22 Planning Area 4B (Rural/Environmentally Sensitive) or Planning
23 Area 5 (Environmentally Sensitive) if Planning Area 4A (Rural
24 Planning Area), Planning Area 4B (Rural/Environmentally
25 Sensitive) or Planning Area 5 (Environmentally Sensitive) is
26 located within:
- 27 (a) a designated center under the State Development and
28 Redevelopment Plan;
- 29 (b) a designated growth center in an endorsed plan until the
30 State Planning Commission revises and readopts New Jersey's State
31 Strategic Plan and adopts regulations to revise this definition as it
32 pertains to Statewide planning areas;
- 33 (c) any area determined to be in need of redevelopment pursuant
34 to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-
35 6) or in need of rehabilitation pursuant to section 14 of P.L.1992,
36 c.79 (C.40A:12A-14);
- 37 (d) any area on which a structure exists or previously existed
38 including any desired expansion of the footprint of the existing or
39 previously existing structure provided such expansion otherwise
40 complies with all applicable federal, State, county, and local
41 permits and approvals;
- 42 (e) the planning area of the Highlands Region as defined in
43 section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands
44 development credit receiving area or redevelopment area; or
- 45 (f) any area on which an existing tourism destination project is
46 located.
- 47 "Qualified incentive area" shall not include any property located
48 within the preservation area of the Highlands Region as defined in

1 the "Highlands Water Protection and Planning Act," P.L.2004,
2 c.120 (C.13:20-1 et al.).

3 "Qualified incubator facility" means a commercial building
4 located within a qualified incentive area: which contains 100,000 or
5 more square feet of office, laboratory, or industrial space; which is
6 located near, and presents opportunities for collaboration with, a
7 research institution, teaching hospital, college, or university; and
8 within which, at least 75 percent of the gross leasable area is
9 restricted for use by one or more technology startup companies
10 during the commitment period.

11 "Retained full-time job" means an eligible position that currently
12 exists in New Jersey and is filled by a full-time employee but
13 which, because of a potential relocation by the business, is at risk of
14 being lost to another state or country, or eliminated. For the
15 purposes of determining a number of retained full-time jobs, the
16 eligible positions of an affiliate shall be considered eligible
17 positions of the business.

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

20 "SDA municipality" means a municipality in which an SDA
21 district is situate.

22 "Targeted industry" means any industry identified from time to
23 time by the authority including initially, a transportation,
24 manufacturing, defense, energy, logistics, life sciences, technology,
25 health, and finance business, but excluding a primarily warehouse
26 or distribution business.

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

32 "Tourism destination project" means a qualified business facility
33 that will be among the most visited privately owned or operated
34 tourism or recreation sites in the State, and which is located within
35 the qualified incentive area and has been determined by the
36 authority to be in an area appropriate for development and in need
37 of economic development incentive assistance.

38 "Transit oriented development" means a qualified business
39 facility located within a 1/2-mile radius, or one-mile radius for
40 projects located in a Garden State Growth Zone, surrounding the
41 mid-point of a New Jersey Transit Corporation, Port Authority
42 Transit Corporation, or Port Authority Trans-Hudson Corporation
43 rail, bus, or ferry station platform area, including all light rail
44 stations.

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

1 "Urban transit hub municipality" means a municipality: a. which
2 qualifies for State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et
3 seq.), or which has continued to be a qualified municipality
4 thereunder pursuant to P.L.2007, c.111; and b. in which 30 percent
5 or more of the value of real property was exempt from local
6 property taxation during tax year 2006. The percentage of exempt
7 property shall be calculated by dividing the total exempt value by
8 the sum of the net valuation which is taxable and that which is tax
9 exempt.
10 (cf: P.L.2013, c.161, s.7)

11
12 3. Section 3 of P.L.2011, c.149 (C.34:1B-244) is amended to
13 read as follows:

14 3. a. The Grow New Jersey Assistance Program is hereby
15 established as a program under the jurisdiction of the New Jersey
16 Economic Development Authority and shall be administered by the
17 authority. The purpose of the program is to encourage economic
18 development and job creation and to preserve jobs that currently
19 exist in New Jersey but which are in danger of being relocated
20 outside of the State. To implement this purpose, the program may
21 provide tax credits to eligible businesses for an eligibility period not
22 to exceed 10 years.

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

27 (1) the business, expressly including its landlord or seller, will
28 make, acquire, or lease a capital investment equal to, or greater
29 than, the applicable amount set forth in subsection b. of this section
30 at a qualified business facility at which it will:

31 (a) retain full-time jobs in an amount equal to or greater than the
32 applicable number set forth in subsection c. of this section;

33 (b) create new full-time jobs in an amount equal to or greater
34 than the applicable number set forth in subsection c. of this section;
35 or

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

39 (2) the qualified business facility shall be constructed in
40 accordance with the minimum environmental and sustainability
41 standards;

42 (3) the capital investment resultant from the award of tax credits
43 and the resultant retention and creation of full-time jobs will yield a
44 net positive benefit to the State **[.]** and to the municipality equaling
45 at least 110 percent of the requested tax credit allocation amount,
46 which determination is calculated prior to taking into account the
47 value of the requested tax credit and shall be based on the benefits

1 generated during the first 20 years following the completion of the
2 project, except that:

3 (a) for a mega project or a project located in a Garden State
4 Growth Zone, the determination shall be based on the benefits
5 generated during a period of up to 30 years following the
6 completion of the project, as determined by the authority, and
7 **【except that,】**

8 (b) for a project located in a Garden State Growth Zone which
9 qualified for the "Municipal Rehabilitation and Economic Recovery
10 Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), the net positive benefit
11 determination shall be based on the benefits generated during a
12 period of up to 35 years following completion of the project, as
13 determined by the authority, and shall equal at least 100 percent of
14 the requested tax credit allocation amount and may utilize the value
15 of those property taxes subject to the provisions of section 24 of
16 P.L.2013 c.161 (C.52:27D-489r) and incremental sales and excise
17 taxes that are derived from activities within the area and which are
18 rebated or retained by the municipality pursuant to the "New Jersey
19 Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et
20 seq.) or any other law providing for such rebate or retention, and

21 (c) for a project undertaken by a non-profit corporation, the net
22 positive benefit determination shall be calculated prior to taking
23 into account the value of the requested tax credit and the value of
24 exemptions pursuant to R.S.54:4-3.6, subsection (b) of section 9 of
25 P.L.1966, c.30 (C.54:32B-9), and section 3 of P.L.1945, c.162
26 (C.54:10A-3); and

27 (4) except as provided in subsection f. of this section, the award
28 of tax credits will be a material factor in the business's decision to
29 create or retain the minimum number of new or retained full-time
30 jobs for eligibility under the program.

31 With respect to the provisions of paragraph (3) of this
32 subsection, in the case of a project located in a Garden State
33 Growth Zone, the authority, in its discretion, may award bonuses in
34 its net positive benefit calculation.

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

37 (1) for the rehabilitation, improvement, fit-out, or retrofit of an
38 existing industrial premises for continued industrial use by the
39 business, a minimum investment of \$20 per square foot of gross
40 leasable area;

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

44 (3) for the rehabilitation, improvement, fit-out, or retrofit of an
45 existing non-industrial premises for continued non-industrial use by
46 the business, a minimum investment of \$40 per square foot of gross
47 leasable area; and

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

4 The minimum capital investment required by this subsection
5 shall be reduced by one-third for projects located in a Garden State
6 Growth Zone or projects located within Atlantic, Burlington,
7 Camden, Cape May, Cumberland, Gloucester, Ocean, or Salem
8 counties.

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

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

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

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

19 The minimum number of new or retained full-time jobs required
20 by this subsection shall be reduced by one-quarter for projects
21 located in a Garden State Growth Zone or projects located within
22 Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester,
23 Ocean, or Salem counties.

24 d. To assist the authority in determining whether a proposed
25 capital investment will yield a net positive benefit, the business's
26 chief executive officer, or equivalent officer, shall submit a
27 certification to the authority indicating: (1) that any existing full-
28 time jobs are at risk of leaving the State or being eliminated; (2)
29 that any projected creation or retention, as applicable, of new full-
30 time jobs would not occur but for the provision of tax credits under
31 the program; and (3) that the business's chief executive officer, or
32 equivalent officer, has reviewed the information submitted to the
33 authority and that the representations contained therein are accurate,
34 provided however, that in satisfaction of the provisions of
35 paragraphs (1) and (2) of this subsection, the certification with
36 respect to a project in a Garden State Growth Zone that qualifies
37 under the "Municipal Rehabilitation and Economic Recovery Act,"
38 P.L.2002, c.43 (C.52:27BBB-1 et al.), shall indicate that **[.]** the
39 provision of tax credits under the program is a material factor in the
40 business decision to make a capital investment and locate in a
41 Garden State Growth Zone that qualifies under the "Municipal
42 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
43 (C.52:27BBB-1 et al.), and provided further that in satisfaction of
44 the provisions of paragraphs (1) and (2) of this subsection, the
45 certification with respect to a construction project under section 3
46 of P.L.2011, c.176 (C.18A:36C-3) in a Garden State Growth Zone
47 shall indicate that the provision of tax credits under the program is a
48 material factor in the business decision to make a capital

1 investment. In the event that this certification by the business's
2 chief executive officer, or equivalent officer, is found to be
3 willfully false, the authority may revoke any award of tax credits in
4 their entirety, which revocation shall be in addition to any other
5 criminal or civil penalties that the business and the officer may be
6 subject to. When considering an application involving intra-State
7 job transfers, the authority shall require the business to submit the
8 following information as part of its application: a full economic
9 analysis of all locations under consideration by the business; all
10 lease agreements, ownership documents, or substantially similar
11 documentation for the business's current in-State locations; and all
12 lease agreements, ownership documents, or substantially similar
13 documentation for the potential out-of-State location alternatives, to
14 the extent they exist. Based on this information, and any other
15 information deemed relevant by the authority, the authority shall
16 independently verify and confirm, by way of making a factual
17 finding by separate vote of the authority's board, the business's
18 assertion that the jobs are actually at risk of leaving the State, and
19 as to the date or dates at which the authority expects that those jobs
20 would actually leave the State, or, with respect to projects located in
21 a Garden State Growth Zone that qualifies under the "Municipal
22 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
23 (C.52:27BBB-1 et al.), the business's assertion that the provision of
24 tax credits under the program is a material factor in the business's
25 decision to make a capital investment and locate in a Garden State
26 Growth Zone that qualifies under the "Municipal Rehabilitation and
27 Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or
28 with respect to a construction project under section 3 of P.L.2011,
29 c.176 (C.18A:36C-3) in a Garden State Growth Zone, the business's
30 assertion that the provision of tax credits under the program is a
31 material factor in the business decision to make a capital
32 investment, before a business may be awarded any tax credits under
33 this section.

34 e. A project that consists solely of point-of-final-purchase
35 retail facilities shall not be eligible for a grant of tax credits. If a
36 project consists of both point-of-final-purchase retail facilities and
37 non-retail facilities, only the portion of the project consisting of
38 non-retail facilities shall be eligible for a grant of tax credits. In a
39 Garden State Growth Zone or the Atlantic City Tourism District as
40 established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and
41 regulated by the Casino Reinvestment Development Authority, up
42 to 7.5 percent of retail facilities included in a mixed use project
43 shall be eligible for a grant of tax credits along with the non-retail
44 facilities. If a warehouse facility is part of a point-of-final-purchase
45 retail facility and supplies only that facility, the warehouse facility
46 shall not be eligible for a grant of tax credits. For the purposes of
47 this section, a retail facility of at least 150,000 square feet, of which
48 at least 50 percent is occupied by a full-service supermarket or

1 grocery store, located in a Garden State Growth Zone which
2 qualified under the "Municipal Rehabilitation and Economic
3 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or a tourism
4 destination project in the Atlantic City Tourism District as
5 established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219), or
6 catalog distribution centers shall not be considered point-of-final-
7 purchase retail facilities.

8 f. The authority may determine as eligible for tax credits under
9 the program any business that is required to respond to a request for
10 proposals and to fulfill a contract with the federal government
11 although the business's chief executive officer or equivalent officer
12 has not demonstrated to the authority that the award of tax credits
13 will be a material factor in the business's decision to retain the
14 minimum number of retained full-time jobs, as otherwise required
15 by this section. The authority may, in its discretion, consider the
16 economic benefit of the retained jobs servicing the contract in
17 conducting a net benefit analysis required by paragraph (4) of
18 subsection a. of this section. For the purposes of this subsection,
19 "retained full-time jobs" includes jobs that are at risk of being
20 eliminated. Applications to the authority for eligibility under the
21 program pursuant to the criteria set forth in this subsection shall be
22 completed by December 31, 2013. Submission of a proposal to the
23 federal government prior to authority approval shall not disqualify a
24 business from the program.

25 g. Nothing shall preclude a business from applying for tax
26 credits under the program for more than one project pursuant to one
27 or more applications.

28 (cf: P.L.2013, c.161, s.8)

29

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

32 5. a. The total amount of tax credit for an eligible business for
33 each new or retained full-time job shall be as set forth in
34 subsections b. through f. of this section. The total tax credit amount
35 shall be calculated and credited to the business annually for each
36 year of the eligibility period. Notwithstanding any other provisions
37 of P.L.2013, c.161 (C.52:27D-489p et al.), a business may assign its
38 ability to apply for the tax credit under this subsection to a non-
39 profit organization with a mission dedicated to attracting investment
40 and completing development and redevelopment projects in a
41 Garden State Growth Zone. The non-profit organization may make
42 an application on behalf of the business which meets the
43 requirements for the tax credit, or a group of non-qualifying
44 businesses, such that these will be considered a unified project for
45 the purposes of the incentives provided under this section. For any
46 project located in a Garden State Growth Zone that qualifies under
47 the "Municipal Rehabilitation and Economic Recovery Act,"
48 P.L.2002, c.43 (C.52:27BBB-1 et al.) and which will include a

1 retail facility of at least 150,000 square feet, of which at least 50
2 percent will be occupied by either a full-service supermarket or
3 grocery store, a business may assign its ability to apply for the tax
4 credit under this subsection to the developer of the facility. The
5 developer may make an application on behalf of the business which
6 meets the requirements for the tax credit, or a group of non-
7 qualifying businesses located at the business facility, such that these
8 will be considered a unified project for the purposes of the
9 incentives provided under this section, and the developer may apply
10 for tax credits available based on the number of jobs provided by
11 the business or businesses and the total capital investment of the
12 business or businesses and the developer.

13 b. The base amount of the tax credit for each new or retained
14 full-time job shall be as follows:

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

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

21 (3) for a project in a priority area, \$3,000 per year; and

22 (4) for a project in other eligible areas, \$500 per year.

23 c. In addition to the base amount of the tax credit, the amount
24 of the tax credit to be awarded for each new or retained full-time
25 job shall be increased if the qualified business facility meets any of
26 the following priority criteria or other additional or replacement
27 criteria determined by the authority from time to time in response to
28 evolving economic or market conditions:

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

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

35 (3) for a qualified business facility located in a mixed-use
36 development that incorporates sufficient moderate income housing
37 on site to accommodate a minimum of 20 percent of the full-time
38 employees of the business, an increase of \$500 per year;

39 (4) for a qualified business facility located within a transit
40 oriented development, an increase of \$2,000 per year;

41 (5) for a qualified business facility, other than a mega project, at
42 which the capital investment in industrial premises for industrial
43 use by the business is in excess of the minimum capital investment
44 required for eligibility pursuant to subsection b. of section 3 of
45 P.L.2011, c.149 (C.34:1B-244), an increase of \$1,000 per year for
46 each additional amount of investment that exceeds the minimum
47 amount required for eligibility by 20 percent, with a maximum
48 increase of \$3,000 per year;

1 (6) for a business with new full-time jobs and retained full-time
2 jobs at the project with an average salary in excess of the existing
3 average salary for the county in which the project is located, or, in
4 the case of a project in a Garden State Growth Zone, a business that
5 employs full-time positions at the project with an average salary in
6 excess of the average salary for the Garden State Growth Zone, an
7 increase of \$250 per year during the commitment period for each 35
8 percent by which the project's average salary levels exceeds the
9 county or Garden State Growth Zone average salary, with a
10 maximum increase of \$1,500 per year;

11 (7) for a business with large numbers of new full-time jobs and
12 retained full-time jobs during the commitment period, the increases
13 shall be in accordance with the following schedule:

14 (a) if the number of new full-time jobs and retained full-time
15 jobs is between 251 and 400, \$500 per year;

16 (b) if the number of new full-time jobs and retained full-time
17 jobs is between 401 and 600, \$750 per year;

18 (c) if the number of new full-time jobs and retained full-time
19 jobs is between 601 and 800, \$1000 per year;

20 (d) if the number of new full-time jobs and retained full-time
21 jobs is between 801 and 1,000, \$1,250 per year;

22 (e) if the number of new full-time jobs and retained full-time
23 jobs is in excess of 1,000, \$1,500 per year;

24 (8) for a business in a targeted industry, an increase of \$500 per
25 year;

26 (9) for a qualified business facility exceeding the Leadership in
27 Energy and Environmental Design's "Silver" rating standards or
28 completes substantial environmental remediation, an additional
29 increase of \$250 per year;

30 (10) for a mega project or a project located within a Garden State
31 Growth Zone at which the capital investment in industrial premises
32 for industrial use by the business is in excess of the minimum
33 capital investment required for eligibility pursuant to subsection b.
34 of section 3 of P.L.2011, c.149 (C.34:1B-244), an increase of
35 \$1,000 per year for each additional amount of investment that
36 exceeds the minimum amount by 20 percent, with a maximum
37 increase of \$5,000 per year;

38 (11) for a project in which a business retains at least 400 jobs
39 and is located within the municipality in which it was located
40 immediately prior to the filing of the application hereunder and is
41 the United States headquarters of an automobile manufacturer, an
42 increase of \$1,500 per year;

43 (12) for a project located in a municipality in Atlantic,
44 Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean,
45 and Salem counties with a 2007 Municipality Revitalization Index
46 greater than 465, an increase of \$1,000 per year;

1 (13) for a project located within a half-mile of any light rail
2 station constructed after the effective date of P.L.2013, c.161
3 (C.52:27D-489p et al.), an increase of \$1,000 per year;

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

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

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

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

22 (1) for a mega project or a project in a Garden State Growth
23 Zone, the gross amount for each new or retained full-time job shall
24 not exceed \$15,000 per year;

25 (2) for a qualified business facility located within an urban
26 transit hub municipality, the gross amount for each new or retained
27 full-time job shall not exceed \$12,000 per year;

28 (3) for a qualified business facility in a distressed municipality
29 the gross amount for each new or retained full-time job shall not
30 exceed \$11,000 per year;

31 (4) for a qualified business facility in other priority areas, the
32 gross amount for each new or retained full-time job shall not exceed
33 \$10,500 per year;

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 \$6,000 per year; and

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

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

44 (a) for a project which creates 35 or more new or retained full-
45 time jobs and makes a capital investment of at least \$5,000,000, the
46 total tax credit amount per full-time job shall be the greater of: (i)
47 the total tax credit amount for a qualifying project in a Garden State
48 Growth Zone as calculated pursuant to subsections a. through f. of

1 this section; or (ii) the total capital investment of the project divided
2 by the total number of full-time jobs at that project but not greater
3 than \$20,000,000 over the grant term;

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

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

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

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

36 e. After the determination by the authority of the gross amount
37 of tax credits for which a business is eligible pursuant to subsection
38 d. of this section, the final total tax credit amount shall be
39 calculated as follows: (1) for each new full-time job, the business
40 shall be allowed tax credits equaling 100 percent of the gross
41 amount of tax credits for each new full-time job; and (2) for each
42 retained full-time job, the business shall be allowed tax credits
43 equaling 50 percent of the gross amount of tax credits for each
44 retained full-time job, unless the jobs are part of a mega project
45 which is the United States headquarters of an automobile
46 manufacturer located within a priority area or in a Garden State
47 Growth Zone, in which case the business shall be entitled to tax
48 credits equaling 100 percent of the gross amount of tax credits for

1 each retained full-time job, or unless the new qualified business
2 facility would replace a facility that has been wholly or
3 substantially damaged as a result of a federally-declared disaster, in
4 which case the business shall be entitled to tax credits equaling 100
5 percent of the gross amount of tax credits for each retained full-time
6 job.

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

11 (1) \$35,000,000 and provides a net benefit to the State as
12 provided herein with respect to a qualified business facility in a
13 Garden State Growth Zone which qualifies under the "Municipal
14 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
15 (C.52:27BBB-1 et al.);

16 (2) \$30,000,000 and provides a net benefit to the State as
17 provided herein with respect to a mega project or a qualified
18 business facility in a Garden State Growth Zone;

19 (3) \$10,000,000 and provides a net benefit to the State as
20 provided herein with respect to a qualified business facility in an
21 urban transit hub municipality;

22 (4) \$8,000,000 and provides a net benefit to the State as
23 provided herein with respect to a qualified business facility in a
24 distressed municipality;

25 (5) \$4,000,000 and provides a net benefit to the State as
26 provided herein with respect to a qualified business facility in other
27 priority areas, but not more than 90 percent of the withholdings of
28 the business from the qualified business facility; and

29 (6) \$2,500,000 and provides a net benefit to the State as
30 provided herein with respect to a qualified business facility in other
31 eligible areas, but not more than 90 percent of the withholdings of
32 the business from the qualified business facility.

33 Notwithstanding the foregoing provisions of paragraphs (5) and
34 (6) of this subsection, the limitations on tax credits relating to 90
35 percent of the withholdings of the business from the qualified
36 business facility shall not apply to projects located in an area
37 determined to be in need of redevelopment pursuant to the "Local
38 Development and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et
39 seq.) or an "area in need of rehabilitation" as defined in section 3 of
40 P.L.1991, c.441 (C.40A:21-3).

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

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

9 (cf: P.L.2013, c.161, s.10)

10

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

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

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

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

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

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

28 b. (1) A business shall submit an application for tax credits prior
29 to July 1, 2019. The authority shall not approve an application for
30 tax credits unless the application was submitted prior to July 1,
31 2019.

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

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

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

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

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

9 The credit amount that may be taken for a tax period of the
10 business that exceeds the final liabilities of the business for the tax
11 period may be carried forward for use by the business in the next 20
12 successive tax periods, and shall expire thereafter.

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

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

31 (b) (i) For any project located in a Garden State Growth Zone or
32 any mega project conducted by a corporation, if the corporation has
33 made a valid election as a New Jersey S corporation pursuant to
34 section 3 of P.L.1993, c.173 (C.54:10A-5.22), the amount of credit
35 that may be used by a shareholder of the corporation shall be
36 determined by allocating to each shareholder of the S corporation
37 that proportion of the tax credit of the corporation that is equal to
38 the shareholder's proportionate share of the corporation, whether or
39 not distributed, or the total distributive income or gain of the S
40 corporation for its tax period ending with or within the
41 shareholder's tax period, and the credit may be applied by the
42 shareholders against the tax liability otherwise due pursuant to
43 N.J.S.54A:1-1 et seq.

44 (ii) For purposes of this subparagraph (b), in the case of a
45 corporation that has made a valid election as a New Jersey S
46 corporation pursuant to section 3 of P.L.1993, c.173 (C.54:10A-
47 5.22) and is recognized as a New Jersey Qualified Subchapter S
48 Subsidiary (NJ-QSSS), as defined in N.J.A.C.18:7-20.2, as may be

1 amended, the credit will be allocated to the parent shareholder
2 corporation which shall allocate the credit among its shareholders in
3 the manner described in subsubparagraph (i) above.

4 (iii) For purposes of this subparagraph (b), if a parent
5 shareholder corporation of a New Jersey Qualified Subchapter S
6 Subsidiary (NJ-QSSS) is itself also a New Jersey Qualified
7 Subchapter S Subsidiary (NJ-QSSS), the parent shareholder
8 corporation shall allocate the credit to its parent shareholder
9 corporation that is a New Jersey S corporation, which may then
10 allocate the credit among its shareholders in the manner described
11 in subsubparagraph (i) above.

12 d. (1) If, in any tax period, the business reduces the total number
13 of full-time employees in its Statewide workforce by more than 20
14 percent from the number of full-time employees in its Statewide
15 workforce in the last tax period prior to the credit amount approval
16 under section 3 of P.L.2011, c.149 (C.34:1B-244), then **【the**
17 **business shall forfeit its】** there shall be a pro rata reduction of the
18 business's credit amount for that tax period and each subsequent tax
19 period, until the first tax period for which documentation
20 demonstrating **【the restoration of】** the business' Statewide
21 workforce **【the threshold levels required by this paragraph】** has
22 been restored to at least 80 percent of the number of full-time
23 employees in its Statewide workforce in the last tax period prior to
24 the credit amount approval has been reviewed and approved by the
25 authority, for which tax period and each subsequent tax period the
26 full amount of the credit shall be allowed.

27 (2) If, in any tax period, the number of full-time employees
28 employed by the business at the qualified business facility located
29 within a qualified incentive area drops below 80 percent of the
30 number of new and retained full-time jobs specified in the incentive
31 agreement, then **【 the business shall forfeit its】** there shall be a pro
32 rata reduction of the business's tax credit amount for that tax period
33 and each subsequent tax period, until the first tax period for which
34 documentation demonstrating **【the restoration of】** the number of
35 full-time employees employed by the business at the qualified
36 business facility has been restored to at least 80 percent of the
37 number of jobs specified in the incentive agreement has been
38 reviewed and approved by the authority, for which tax period and
39 each subsequent tax period the full amount of the tax credit shall be
40 allowed.

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

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

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

37 (b) For a project located within a Garden State Growth Zone
38 which qualifies under the "Municipal Rehabilitation and Economic
39 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), and which
40 qualifies for a tax credit pursuant to subparagraphs (a) through (e)
41 of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149
42 (C.34:1B-246), if, in any tax period the number of full-time
43 employees employed by the business at the qualified business
44 facility located within a qualified incentive area increases above the
45 number of full-time employees specified in the incentive agreement
46 such that the business will then meet the minimum number of
47 employees required in subparagraph (b), (c), (d), or (e) of paragraph
48 (6) of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246),

1 then the authority shall recalculate the total tax credit amount per
2 full-time job by using the total certified capital investment of the
3 project and the number of full-time jobs certified on the date of the
4 recalculation and applying those numbers to subparagraphs (b), (c),
5 (d), or (e) of paragraph (6) of subsection d. of section 5 of
6 P.L.2011, c.149 (C.34:1B-246). From the date of the recalculation
7 through the end of the eligibility period, the annual tax credit for the
8 business shall be the amount determined after the recalculation.

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

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

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

22 f. A business which has already applied for a tax credit
23 incentive award prior to the effective date of the "New Jersey
24 Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-
25 489p et al.), but who has not yet been approved for such tax credits,
26 or has not executed an agreement with the authority, may proceed
27 under that application or seek to amend such application or reapply
28 for a tax credit incentive award for the same project or any part
29 thereof for the purpose of availing itself of any more favorable
30 provisions of the program.

31 (cf: P.L.2013, c.161, s.11)

32

33 6. Section 7 of P.L.2011, c.149 (C.34:1B-248) is amended to
34 read as follows:

35 7. A business may apply to the Director of the Division of
36 Taxation in the Department of the Treasury and the chief executive
37 officer of the authority for a tax credit transfer certificate, covering
38 one or more years, in lieu of the business being allowed any amount
39 of the credit against the tax liability of the business. The tax credit
40 transfer certificate, upon receipt thereof by the business from the
41 director and the chief executive officer of the authority, may be sold
42 or assigned, in full or in part, in an amount not less than \$25,000, to
43 any other person that may have a tax liability pursuant to section 5
44 of P.L.1945, c.162 (C.54:10A-5), pursuant to sections 2 and 3 of
45 P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), pursuant to section 1
46 of P.L.1950, c.231 (C.17:32-15), or pursuant to N.J.S.17B:23-5.
47 The certificate provided to the business shall include a statement
48 waiving the business's right to claim that amount of the credit

1 against the taxes that the business has elected to sell or assign. The
2 sale or assignment of any amount of a tax credit transfer certificate
3 allowed under this section shall not be exchanged for consideration
4 received by the business of less than 75 percent of the transferred
5 credit amount before considering any further discounting to present
6 value which shall be permitted. Any amount of a tax credit transfer
7 certificate used by a purchaser or assignee against a tax liability
8 shall be subject to the same limitations and conditions that apply to
9 the use of the credit by the business that originally applied for and
10 was allowed the credit.

11 (cf: P.L.2011, c.149, s.7)

12

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

15 6. a. Up to the limits established in subsection b. of this section
16 and in accordance with a redevelopment incentive grant agreement,
17 beginning upon the receipt of occupancy permits for any portion of
18 the redevelopment project, or upon such other event evidencing
19 project completion as set forth in the incentive grant agreement, the
20 State Treasurer shall pay to the developer incremental State
21 revenues directly realized from businesses operating on or at the
22 site of the redevelopment project from the following taxes: the
23 Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1
24 et seq.), the tax imposed on marine insurance companies pursuant to
25 R.S.54:16-1 et seq., the tax imposed on insurers generally, pursuant
26 to P.L.1945, c.132 (C.54:18A-1 et seq.), the public utility franchise
27 tax, public utilities gross receipts tax and public utility excise tax
28 imposed on sewerage and water corporations pursuant to P.L.1940,
29 c.5 (C.54:30A-49 et seq.), those tariffs and charges imposed by
30 electric, natural gas, telecommunications, water and sewage
31 utilities, and cable television companies under the jurisdiction of
32 the New Jersey Board of Utilities, or comparable entity, except for
33 those tariffs, fees, or taxes related to societal benefits charges
34 assessed pursuant to section 12 of P.L.1999, c.23 (C.48:3-60), any
35 charges paid for compliance with the "Global Warming Response
36 Act," P.L.2007, c.112 (C.26:2C-37 et seq.), transitional energy
37 facility assessment unit taxes paid pursuant to section 67 of
38 P.L.1997, c.162 (C.48:2-21.34), and the sales and use taxes on
39 public utility and cable television services and commodities, the tax
40 derived from net profits from business, a distributive share of
41 partnership income, or a pro rata share of S corporation income
42 under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et
43 seq., the tax derived from a business at the site of a redevelopment
44 project that is required to collect the tax pursuant to the "Sales and
45 Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), the tax imposed
46 pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.) from the purchase
47 of furniture, fixtures and equipment, or materials for the
48 remediation, the construction of new structures at the site of a

1 redevelopment project, the hotel and motel occupancy fee imposed
2 pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1), or the
3 portion of the fee imposed pursuant to section 3 of P.L.1968, c.49
4 (C.46:15-7) derived from the sale of real property at the site of the
5 redevelopment project and paid to the State Treasurer for use by the
6 State, that is not credited to the "Shore Protection Fund" or the
7 "Neighborhood Preservation Nonlapsing Revolving Fund" ("New
8 Jersey Affordable Housing Trust Fund") pursuant to section 4 of
9 P.L.1968, c.49 (C.46:15-8). Any developer shall be allowed to
10 assign their ability to apply for the tax credit under this subsection
11 to a non-profit organization with a mission dedicated to attracting
12 investment and completing development and redevelopment
13 projects in a Garden State Growth Zone. The non-profit
14 organization may make an application on behalf of a developer
15 which meets the requirements for the tax credit, or a group of non-
16 qualifying developers, such that these will be considered a unified
17 project for the purposes of the incentives provided under this
18 section.

19 b. (1) Up to an average of 75 percent of the projected annual
20 incremental revenues or 85 percent of the projected annual
21 incremental revenues in a Garden State Growth Zone may be
22 pledged towards the State portion of an incentive grant.

23 (2) In the case of a qualified residential project, if the authority
24 determines that the estimated amount of incremental revenues
25 pledged towards the State portion of an incentive grant is
26 inadequate to fully fund the amount of the State portion of the
27 incentive grant, then in lieu of an incentive grant based on such
28 incremental revenue, the developer shall be awarded tax credits
29 equal to the full amount of the incentive grant. The value of all
30 credits approved by the authority pursuant to this paragraph shall
31 not exceed \$600,000,000, of which:

32 (a) \$250,000,000 shall be restricted to qualified residential
33 projects within Atlantic, Burlington, Camden, Cape May,
34 Cumberland, Gloucester, Ocean, and Salem counties, of which
35 \$175,000,000 of credits shall be restricted to qualified residential
36 projects in a Garden State Growth Zone located within the
37 aforementioned counties, and \$75,000,000 of credits shall be
38 restricted to qualified residential projects in municipalities with a
39 2007 Municipal Revitalization Index of 400 or higher as of the date
40 of enactment of the "New Jersey Economic Opportunity Act of
41 2013," P.L.2013, c.161 (C.52:27D-489p et al.) and located within
42 the aforementioned counties;

43 (b) \$250,000,000 shall be restricted to qualified residential
44 projects located in: (i) urban transit hubs that are commuter rail in
45 nature that otherwise do not qualify under subparagraph (a) of this
46 paragraph, (ii) a Garden State Growth Zone not located in a county
47 mentioned in subparagraph (a) of this paragraph, (iii) disaster
48 recovery projects that otherwise do not qualify under subparagraph

1 (a) of this paragraph, or (iv) SDA municipalities located in Hudson
2 County that were awarded State Aid in State Fiscal Year 2013
3 through the Transitional Aid to Localities program and otherwise do
4 not qualify under subparagraph (a) of this paragraph;

5 (c) \$75,000,000 shall be restricted to qualified residential
6 projects in distressed municipalities, deep poverty pockets,
7 highlands development credit receiving areas or redevelopment
8 areas, otherwise not qualifying pursuant to subparagraph (a) or (b)
9 of this paragraph; and

10 (d) \$25,000,000 shall be restricted to qualified residential
11 projects that are located within a qualifying economic
12 redevelopment and growth grant incentive area otherwise not
13 qualifying under subparagraph (a), (b), or (c) of this paragraph.

14 (e) For subparagraphs (a) through (d) of this paragraph, not
15 more than \$40,000,000 of credits shall be awarded to any qualified
16 residential project in a deep poverty pocket or distressed
17 municipality and not more than \$20,000,000 of credits shall be
18 awarded to any other qualified residential project. The developer of
19 a qualified residential project seeking an award of credits towards
20 the funding of its incentive grant shall submit an incentive grant
21 application prior to July 1, 2015 and if approved shall submit a
22 temporary certificate of occupancy for such project no later than
23 July 28, ~~2015~~ 2018. Applications for tax credits pursuant to this
24 subsection relating to an ancillary infrastructure project or
25 infrastructure improvement in the public right of way, or both, shall
26 be accompanied with a letter of support relating to the project or
27 improvement by the governing body or agency in which the project
28 is located. Credits awarded to a developer pursuant to this
29 subsection shall be subject to the same financial and related analysis
30 by the authority and shall be utilized or transferred by the developer
31 as if such credits had been awarded to the developer pursuant to
32 section 35 of P.L.2009, c.90 (C.34:1B-209.3) for qualified
33 residential projects thereunder. No portion of the revenues pledged
34 pursuant to the "New Jersey Economic Opportunity Act of 2013,"
35 P.L.2013, c.161 (C.52:27D-489p et al.) shall be subject to
36 withholding or retainage for adjustment, in the event the developer
37 or taxpayer waives its rights to claim a refund thereof.

38 (3) A developer may apply to the Director of the Division of
39 Taxation in the Department of the Treasury and the chief executive
40 officer of the authority for a tax credit transfer certificate, if the
41 developer is awarded a tax credit pursuant to paragraph (2) of this
42 subsection, covering one or more years, in lieu of the developer
43 being allowed any amount of the credit against the tax liability of
44 the developer. The tax credit transfer certificate, upon receipt
45 thereof by the developer from the director and the chief executive
46 officer of the authority, may be sold or assigned, in full or in part,
47 to any other person that may have a tax liability pursuant to section
48 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945,

1 c.132 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231
2 (C.17:32-15), or N.J.S.17B:23-5. The certificate provided to the
3 developer shall include a statement waiving the developer's right to
4 claim that amount of the credit against the taxes that the developer
5 has elected to sell or assign. The sale or assignment of any amount
6 of a tax credit transfer certificate allowed under this paragraph shall
7 not be exchanged for consideration received by the developer of
8 less than 75 percent of the transferred credit amount. Any amount
9 of a tax credit transfer certificate used by a purchaser or assignee
10 against a tax liability shall be subject to the same limitations and
11 conditions that apply to the use of the credit by the developer who
12 originally applied for and was allowed the credit.

13 c. All administrative costs associated with the incentive grant
14 shall be assessed to the applicant and be retained by the State
15 Treasurer from the annual incentive grant payments.

16 d. The incremental revenue for the revenues listed in
17 subsection a. of this section shall be calculated as the difference
18 between the amount collected in any fiscal year from any eligible
19 revenue source included in the State redevelopment incentive grant
20 agreement, less the revenue increment base for that eligible
21 revenue.

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

26 (cf: P.L.2013, c.161, s.17)

27

28 8. This act shall take effect immediately.

29

30

31

STATEMENT

32

33 This bill makes various changes to New Jersey's economic
34 development laws in response to recommendations from various
35 interested parties after a careful review of those laws since
36 enactment of the "New Jersey Economic Opportunity Act of 2013."

37 The bill will make tax credit transfer certificates more widely
38 available by reducing the minimum amount of the credits that may
39 be transferred to \$25,000.

40 The bill makes several changes to the "Grow New Jersey
41 Assistance Act" to better reflect the realities of the marketplace in
42 order to attract businesses to create new jobs and retain current
43 employees. The bill clarifies a provision of the law concerning the
44 standard of service generally accepted by custom or practice as full-
45 time employment in a supermarket, grocery, or other similar retail
46 industry in order to encourage food purveyors to locate within
47 Camden and Atlantic City. The bill also amends the definition of
48 qualified business facility to include a construction project under

1 section 3 of P.L.2011, c.176 (C.18A:36C-3) that is located in a
2 Garden State Growth Zone.

3 The bill modifies the net positive benefit test under GROW New
4 Jersey to require a business to demonstrate that a capital investment
5 would benefit both the State and the municipality in which the
6 capital investment will be made.

7 The bill would make several changes to GROW New Jersey that
8 are designed to encourage non-profit corporations to undertake
9 projects. The bill would modify the net positive benefit test for
10 non-profits by excluding from the calculation the value of tax
11 exemptions and of the requested tax credit. GROW New Jersey
12 currently allows a business to assign its ability to apply for a tax
13 credit to a non-profit organization with a mission dedicated to
14 attracting investment and completing development and
15 redevelopment projects in a Garden State Growth Zone. The bill
16 would expand upon this provision by allowing a non-profit
17 organization to make an application for tax credits on behalf of a
18 group of businesses that would not, on their own, qualify for tax
19 credits, and to consider the application as a unified project that may
20 be eligible for incentives. The bill also allows the developer of a
21 project that will bring a large full-service supermarket to Camden to
22 apply for tax credits on behalf of the business, if so assigned by the
23 business, and to also apply for tax credits on behalf of a group of
24 businesses that would not, on their own, qualify for tax credits, and
25 to consider the application as a unified project that may be eligible
26 for incentives.

27 The bill also amends GROW New Jersey to address the
28 allocation of tax credits to the shareholders of New Jersey S
29 corporations and New Jersey Qualified Subchapter S Subsidiaries
30 that undertake a project in a Garden State Growth Zone.

31 The bill adjusts provisions of the law that address the
32 consequences to a business that must reduce the number of
33 employees State-wide, and at a particular facility, in a given tax
34 period in order to provide, that rather than forfeiture of tax credits,
35 the business would suffer a pro rata reduction of the amount of
36 credits. The bill also modifies the law applicable to businesses that
37 exceed the employment requirements set forth in their incentive
38 agreements to encourage and reward the creation and retention of
39 additional jobs.

40 Finally, the bill would make several technical changes to clarify
41 provisions of the “New Jersey Economic Opportunity Act of 2013”
42 and to correct errors in that law. One such correction is a change to
43 the date by which the developer of a qualified residential project
44 seeking an award of tax credits towards the funding of its incentive
45 grant must submit a temporary certificate of occupancy for the
46 project from July 28, 2015 to July 28, 2018.

SENATE ECONOMIC GROWTH COMMITTEE

STATEMENT TO

SENATE, No. 1551

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 5, 2014

The Senate Economic Growth Committee reports favorably and with committee amendments Senate Bill No. 1551.

As amended and reported, this bill revises the "Grow New Jersey Assistance Act" (GROW) and the Economic Redevelopment and Growth Grant (ERG) Program. The bill clarifies a provision of the law concerning the standard of service generally accepted by custom or practice as full-time employment in a supermarket, grocery, or other similar retail industry in order to encourage food purveyors to locate within Camden and Atlantic City. The bill amends the definition of qualified business facility to include a Renaissance School construction project under section 3 of P.L.2011, c.176 (C.18A:36C-3) that is located in a Garden State Growth Zone.

The bill makes tax credit transfer certificates more widely available by reducing the minimum amount of the credits that may be transferred to \$25,000.

The bill modifies the net positive benefit test under GROW New Jersey to require a business to demonstrate that a capital investment would benefit both the State and the municipality in which the capital investment will be made.

The bill makes several changes to GROW New Jersey that are designed to encourage non-profit corporations to undertake projects. The bill modifies the net positive benefit test for non-profits by excluding from the calculation the value of tax exemptions and of the requested tax credit. GROW New Jersey currently allows a business to assign its ability to apply for a tax credit 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 bill expands upon this provision by allowing a non-profit organization to make an application for tax credits on behalf of a group of businesses that would not, on their own, qualify for tax credits, and to consider the application as a unified project that may be eligible for incentives. The bill allows the developer of a project that will bring a large full-service supermarket to Camden to apply for tax credits on behalf of the business, if so assigned by the business, and to also apply for tax credits on behalf of a group of businesses that would not

qualify for tax credits individually, and to consider the application as a unified project that may be eligible for incentives.

The bill also amends GROW New Jersey to address the allocation of tax credits to the shareholders of New Jersey S corporations and New Jersey Qualified Subchapter S Subsidiaries that undertake a project in a Garden State Growth Zone.

The bill adjusts provisions of the law that address the consequences to a business that reduces the number of employees State-wide, and at a particular facility, in a given tax period in order to provide, that rather than forfeiture of tax credits, the business would suffer a pro rata reduction of the amount of credits. The bill also modifies the law applicable to businesses that exceed the employment requirements set forth in their incentive agreements to encourage and reward the creation and retention of additional jobs.

Finally, the bill makes several technical changes to clarify provisions of the “New Jersey Economic Opportunity Act of 2013” and to correct errors in that law. One correction is a change to the date by which the developer of a qualified residential project seeking an award of tax credits under the ERG Program towards the funding of its incentive grant must submit a temporary certificate of occupancy for the project from July 28, 2015 to July 28, 2018.

The committee amended the bill to: 1) include in the definition of business, any owner of a partnership or an S corporation that is a business; 2) allow the owners of a partnership to execute an agreement for the subdivision of GROW tax credits; and 3) clarify that the minimum sales price of a tax credit transfer certificate, awarded under the ERG Program, is to be calculated before discounting to present value.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 1551 STATE OF NEW JERSEY 216th LEGISLATURE

DATED: JUNE 4, 2014

SUMMARY

- Synopsis:** "Economic Opportunity Act of 2014, Part 3."
- Type of Impact:** Negative fiscal net impact on State General Fund and Property Tax Relief Fund; potential revenue increase to affected local governments.
- Agencies Affected:** Department of the Treasury.
New Jersey Economic Development Authority.
Certain Local Governments.

Office of Legislative Services Estimate

Fiscal Impact	Multi-Year Lifespan of Tax Credit Programs
Direct <u>State</u> Revenue Loss	Indeterminate — See comments below
Indirect <u>State</u> Revenue Gain	Indeterminate — See comments below
<u>State</u> Opportunity Cost	Indeterminate — See comments below
Indirect <u>Local</u> Revenue Gain	Indeterminate — See comments below
<u>Local</u> Opportunity Cost	Indeterminate — See comments below

- The Office of Legislative Services (OLS) expects the bill to have a negative fiscal net impact of indeterminate magnitude on the State. The OLS' inability to quantify the fiscal net impact is rooted in a lack of reliable information on the number and attributes of projects that, under the bill, might either newly qualify for or earn larger Economic Redevelopment and Growth (ERG) tax credits for residential redevelopment projects and Grow New Jersey Assistance (GROW NJ) tax credits.
- The State fiscal net impact is calculated by adding the direct revenue loss from awarding additional tax credit 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 generated by the additional tax credit amounts.

- On the one side of the ledger, the OLS estimates that the bill will produce an indeterminate, temporally limited direct State revenue loss from granting additional ERG and GROW NJ tax credits plus the tax credits' indeterminate opportunity costs.
- On the other side of the ledger, additional capital projects that are *directly caused* by the bill will also generate indeterminate indirect fiscal benefits to the State and local governments that will, at least in part, offset the direct revenue loss and opportunity costs of awarding additional tax credit amounts.
- Indirect fiscal effects from economic activities that will be undertaken with or without the legislation, on the other hand, must be excluded from the analysis. This is so because whenever a tax credit award has no bearing on the decision by a business to pursue a project, it merely produces sunk costs to the State, or an expense without a benefit, as the indirect fiscal benefits will be generated irrespective of the receipt of the tax credit.
- The OLS expects the bill's indirect revenue gain to be less than the State's direct cost of providing additional tax credit amounts. This is so because the ERG tax credit program for residential redevelopment projects does not require that tax credits be instrumental to the execution of recipient projects nor that recipient projects yield incremental receipts to the State and local governments in excess of tax credit amounts. In addition, the bill revises the net benefit test for the GROW NJ tax credit program so that some projects will become newly eligible for or earn larger tax credits even if they will not generate indirect fiscal benefits to the State in excess of tax credit awards.
- The legislation might accrue an indeterminate revenue gain to affected local governments in the form of indirect fiscal benefits.

BILL DESCRIPTION

Senate Bill No. 1551 (1R) of 2014 makes several changes to three existing economic development incentive programs operated by the New Jersey Economic Development Authority (EDA): the Urban Transit Hub Tax Credit Program, the ERG tax credit program for residential redevelopment projects, and the GROW NJ tax credit program.

Urban Transit Hub Tax Credit Program: The bill reduces from \$100,000 to \$25,000 the minimum Urban Transit Hub tax credit amount that recipients may sell to other taxpayers.

P.L.2013, c.161 closed the program to new applicants effective on September 18, 2013 but honors any previously approved tax credit awards, which are authorized for taxpayer use in up to ten annual installments following project completion. As of January 10, 2014, the EDA had awarded \$1.32 billion in Urban Transit Hub tax credits.

ERG Tax Credit Program For Residential Redevelopment Projects: The bill defers from July 28, 2015 to July 28, 2018 the date by which eligible residential redevelopment projects must have obtained temporary certificates of occupancy under the ERG tax credit program for residential redevelopment projects.

At present, the EDA may award up to \$600 million in ERG tax credits to residential redevelopment projects undertaken in "qualifying economic redevelopment and growth grant incentive areas," as N.J.S.A.52:27D-489c defines the term. Projects may receive tax credits if they meet two financial conditions. First, the financial assistance must close a project financing

gap that otherwise would be likely to thwart a project's realization. Second, the project must have minimum project costs ranging from \$5.0 million to \$17.5 million, depending on its specific location. In addition, 20 percent of the newly constructed residential units must be low- or moderate-income housing, unless the municipality in which the property is located has satisfied its affordable housing obligations. Tax credit awards are authorized for taxpayer use in up to ten annual installments following project completion and cannot exceed 30 percent of total project cost in conjunction with any municipal ERG award (or 40 percent in a Garden State Growth Zone municipality). The application deadline for residential redevelopment projects is July 1, 2015, and a temporary certificate of occupancy must be issued by July 28, 2015.

GROW NJ Program: The GROW NJ tax credit program is intended to encourage job creation and retention. There is no cap on the aggregate dollar amount of tax credit awards, but the EDA may only consider applications submitted prior to July 1, 2019.

Tax credits are available for eligible projects located in certain geographic areas that meet two financial conditions. First, the financial assistance must be a material factor in a project's realization. Second, the project must yield fiscal benefits to the State over a period of up to 20 years (or up to 30 years in the case of a "mega project" or a project in a Garden State Growth Zone municipality, or up to 35 years if a project is located in the city of Camden) that equal or exceed 110 percent of the tax credit amount (or 100 percent in the case of the city of Camden). Minimum capital investment and full-time employment requirements vary depending on project characteristics. The EDA may grant individual tax credits for up to ten years in amounts ranging from \$500 to \$15,000 per year for each job created, depending on project attributes. Credit amounts for retained jobs are generally 50 percent of those for new jobs (except that certain limited projects earn job retention tax credits equal to the 100-percent rate of new full-time positions). Tax credit recipients must maintain the project and related employment for 1.5 times the period in which they receive tax credits. Businesses forfeit outstanding tax credit amounts if their full-time workforce falls below certain thresholds. Tax credits are only certified for taxpayer use after project completion.

The legislation revises the GROW NJ tax credit program as follows:

1. The bill eases tax credit clawback provisions that apply in years in which tax credit recipients fail to meet required employment minimums, notably the maintenance of at least 80 percent of the recipient's: a) total Statewide workforce as of the last tax period prior to the tax credit award or b) full-time position count specified for a facility in the incentive agreement. The current penalty is the forfeiture of the entire outstanding tax credit amount. The bill lowers the penalty to a reduction in outstanding tax credit amounts equal to the percentage by which tax credit recipients miss required employment thresholds.
2. The bill allows for the recalculation of tax credit amounts for businesses located in Camden that exceed their full-time employment projections set forth in their incentive agreements.
3. The bill eases the net fiscal benefit requirement for all taxpayers by counting a project's indirect fiscal benefits accruing to the State and the host municipality. Current law permits only the consideration of indirect fiscal benefits accruing to the State. The multiplier-based net benefit calculation is intended to ensure that the EDA will award tax credits only to capital projects that are estimated to generate indirect State and municipal revenue equal to at least 110 percent of a tax credit's direct State cost.
4. The bill alters the net benefit test so that eligible projects that non-profit corporations propose to undertake will become eligible for larger tax credit amounts. The bill does so by newly counting as part of the projects' indirect fiscal benefits to the State and their host municipalities the value of the projects' corporation business tax, property tax, and

sales and use tax exemptions. This change in the calculation method will produce larger tax credit amounts because tax credit amounts are a function, in part, of the indirect fiscal benefits that projects generate to the State and their host municipalities.

5. The bill extends GROW NJ tax credit eligibility to Renaissance School construction projects that are located in Garden State Growth Zones. (That is the cities of Camden, Passaic, Paterson, and Trenton.) Located in failing school districts, Renaissance Schools are operated by nonprofit entities and provide school district-approved educational programs to students. The bill also exempts Renaissance School construction projects in Garden State Growth Zones from the requirement that tax credit awards must precede the start of construction. But tax credits must be a “material factor” in the decision to build the Renaissance Schools.
6. The bill newly allows non-profit organizations in Garden State Growth Zones to file consolidated tax credit applications for projects comprised of several individual businesses that would not, on their own, qualify for tax credits.
7. The bill allows the developer of a project that will bring a large full-service supermarket to Camden to apply for tax credits on behalf of the supermarket and file a consolidated tax credit application on behalf of several individual businesses that would not, on their own, meet tax credit eligibility criteria.
8. The bill exempts projects located in an area determined to be in need of redevelopment or rehabilitation from the limitation that a tax credit recipient may not apply against its tax liability more than a tax credit amount equal to 90 percent of the business’ gross income tax withholdings if the project is located “in other priority areas,” as defined in the GROW NJ statute, or in tax credit-eligible areas other than those enumerated in subsection f. of N.J.S.A.34:1B-246.
9. The bill clarifies a previously unspecified definition of tax creditable full-time employment in a supermarket or grocery store to be located in Camden or Atlantic City.
10. The bill imposes a new \$25,000 minimum amount on tax credits that recipients may sell to other taxpayers; there is currently no minimum.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS anticipates that the bill will produce a negative fiscal net impact of indeterminate magnitude on the State and a potential revenue gain to affected local governments. The inability to quantify the fiscal net impact is rooted in a dearth of reliable information on the number and attributes of projects that, under the bill, might either newly qualify for or earn larger ERG tax credits for residential redevelopment projects and GROW NJ tax credits.

Conceptually, the State fiscal net impact is calculated by adding the direct revenue loss from awarding additional tax credit 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 catalyzed by the additional tax credit amounts.

Direct State Cost: The OLS cannot quantify the multi-year direct revenue loss the bill will impose on the State General Fund and Property Tax Relief Fund because of a lack of reliable information on the number and attributes of projects that, under the bill, might either newly qualify for or earn larger ERG tax credits for residential redevelopment projects and GROW NJ tax credits.

Any revenue loss, however, will be a) temporally limited, for the EDA will only consider ERG tax credit applications submitted by July 1, 2015 and GROW NJ tax credit applications received by July 1, 2019, and b) spread out over several years, for tax credit awards are only to be used in ten equal annual installments following project completion.

Three economic development incentive programs accumulate the bill's State revenue loss.

Urban Transit Hub Tax Credit Program: The bill lowers from \$100,000 to \$25,000 the minimum Urban Transit Hub tax credit amount that recipients may sell to other taxpayers. Although this reduction will not affect the amount of tax credits awarded under the program, it is likely to raise the program's direct cost to the State in increasing the amount of awarded tax credits that taxpayers will actually use. This is so because the current \$100,000 transfer minimum prevents taxpayers who do not have sufficient tax liabilities against which to apply tax credits of less than \$100,000 from selling the unused credits to other taxpayers prior to the tax credits' expiration. The lower \$25,000 minimum will therefore enable taxpayers to sell more unused tax credits and their purchasers to use the credits at the State's expense.

ERG Tax Credit Program For Residential Redevelopment Projects: The bill extends the existing ERG tax credit program for residential redevelopment projects by deferring from July 28, 2015 to July 28, 2018 the date by which a residential redevelopment project must have obtained a temporary certificate of occupancy. To the extent that the loosened eligibility criterion allows more projects to qualify for tax credits, and assuming that the \$600 million program cap will not be reached under current law, the loosened criterion will cause the State to incur additional tax credit awards.

GROW NJ Program: The legislation revises several aspects of the GROW NJ tax credit program. Of the ten changes listed in the "Bill Description" section above, the first seven will likely result in the awarding of additional tax credit amounts and hence in additional direct State costs. The modifications lessen the penalty imposed on tax credit recipients who fail to meet minimum employment requirements, extend tax credit eligibility to new project classes, and soften the net benefit requirement so that projects can more easily qualify for tax credits and receive larger credit amounts. In general, the unadulterated multiplier-based net benefit calculation allows the EDA to: a) exclude from consideration projects whose realization it determines to be unaffected by the receipt of the tax credit, and b) ascertain that the State's support for the projects is profitable to the State.

The effect on direct State costs of changes 8 and 9 is unclear. Change 8 allows certain taxpayers to apply a larger tax credit amount against their tax liabilities in any given year than current law permits. Therefore, the provision will accelerate the use of tax credit awards but will not alter the amount of any credit award. Change 9, in turn, specifies the employment requirements for supermarket projects in Camden and Atlantic City but it is unascertainable to what extent the new specifications will impact tax credit awards.

Lastly, change 10 imposes a new \$25,000 minimum amount on GROW NJ tax credits that recipients may sell to other taxpayers. There is currently no minimum. This new limit will not affect the amount of tax credits awarded. But it is likely to lessen the program's direct State cost in potentially decreasing the amount of awarded tax credits that taxpayers may actually use. This is so because the new minimum will prevent taxpayers who do not have sufficient tax liabilities against which to apply tax credits of less than \$25,000 from selling the unused credits to other

taxpayers prior to the credits' expiration. Consequently, more earned tax credits can be expected to expire unused with the new minimum.

Indirect State and Local Revenue Gain: The legislation could potentially generate an indeterminate indirect revenue gain to the State and local governments. Uncertainty concerning the scale of economic activities that the bill will directly spur, however, precludes the OLS from quantifying their ensuing indirect effect on State and local government tax receipts.

General Observations on Indirect Fiscal Effects: Any indirect revenue gain will result from the economic ramifications of behavior changes induced by additional tax credit awards. Once businesses and individuals will receive payments they would not have received absent the additional tax credit, at least a portion of these payments will newly circulate in New Jersey's economy. As these ramifications will flow through the economy, they will affect State and local revenue collections. Indirect fiscal effects encompass secondary tax collections accruing from projects induced by the tax credits themselves (such as enhanced gross income tax collections from construction workers employed to realize redevelopment projects that happen because of a tax credit award and increased property tax collections if a capital project appreciates a property's value) and from the general spending by all firms and their employees impacted by projects that the tax credits directly caused (such as employees whose positions are newly created in New Jersey because of a tax credit spending their income on taxable goods and services).

Nonetheless, not all of the economic and fiscal feedback effects of projects benefitting from the incentives may represent an additional gain to the State and affected municipalities. Only the ripple effects caused by tax credit-induced investments should enter the fiscal estimate, while those from capital investments that would also be made absent the bill must be excluded. The exclusion of projects that will happen with or without an incentive takes into account that the financial inducements have no economic impact whenever they benefit business entities that will invest in a project anyway. In such a scenario, the State will only incur the direct cost of the subsidy, while the capital investment's secondary effects cannot be attributed to the bill.

Bill's State Indirect Fiscal Effects: For four reasons the bill's indirect fiscal benefits are likely to fall below its direct State cost.

First, the ERG tax credit program requires that the EDA determine that the realization of a residential redevelopment project is likely with the provision of a tax credit at the level requested but not likely without the tax credit. By not requiring that the financial assistance be instrumental to project execution, however, the bill gives projects the benefit of a doubt and thereby allows for projects to receive tax credits that will happen irrespective of the receipt of the State assistance.

Second, the ERG tax credit program does not subject residential redevelopment projects to the net benefit test the EDA commonly uses to ensure that the size of financial incentives granted to an economic activity is inferior to the additional State and local revenue the economic activity is estimated to generate over a 20-year period.

Third, the bill revises the net benefit test for the GROW NJ tax credit program so that some projects will become newly eligible for or earn larger tax credits even if they will not generate indirect fiscal benefits to the State in excess of tax credit awards. For example, the bill alters the net benefit test so that eligible projects that non-profit corporations propose to undertake will become eligible for larger tax credit amounts. The bill does so by newly counting as part of the projects' indirect fiscal benefits to the State and their host municipalities the value of the projects' corporation business tax, property tax, and sales and use tax exemptions. This change in the calculation method will produce larger tax credit amounts because tax credit amounts are a

function, in part, of the indirect fiscal benefits that projects generate to the State and their host municipalities.

Fourth, any estimate of the bill's New Jersey feedback effects must also exclude from the total feedback effects the portion of the bill-induced spending that would leak into other jurisdictions. A Pennsylvania resident who works as a carpenter on a residential redevelopment project in New Jersey, for example, will not be liable for 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.

State Opportunity Costs: Even if a project's indirect fiscal benefits to the State exceed the cost of the tax credit, the project may still produce a net fiscal loss to the State once opportunity costs are factored in. Opportunity costs capture the economic and fiscal benefits the economy and the State forego as spending is redirected from one economic activity to another.

Given the State's finite resources and its balanced budget requirement, the decision to award additional and increased GROW NJ and ERG tax credits 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. Therefore, if, instead of this legislation, the State invested in road construction, for example, the bill would produce a *net* fiscal effect equal to the difference between the total fiscal impact of the amount spent on GROW NJ and ERG tax credits and that of the foregone road construction investment.

Section: Revenue, Finance and Appropriations

*Analyst: Thomas Koenig
Lead Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

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

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 1551**

STATE OF NEW JERSEY

DATED: JUNE 23, 2014

The Senate Budget and Appropriations Committee reports favorably a Senate Committee Substitute to Senate Bill No. 1551.

As substituted and reported, the bill modifies laws governing New Jersey's economic development programs.

The bill makes tax credit transfer certificates under the "Urban Transit Hub Tax Credit Act" and the "Grow New Jersey Assistance Act" (GROWNJ) more widely available by reducing the minimum amount of the credits that may be transferred to \$25,000.

The bill makes several changes to GROWNJ to better reflect the realities of the marketplace in order to attract businesses to create new jobs and retain current employees. The bill clarifies a provision of the law concerning the standard of service generally accepted by custom or practice as full-time employment in a supermarket, grocery, or other similar retail industry in order to encourage food purveyors to locate within the cities of Camden and Atlantic City. The bill also modifies the types of projects subject to various minimum capital investments under GROWNJ. The bill provides an additional bonus credit of \$1,000 per job per year for businesses that utilizes a vacant commercial building of over 1 million square feet of office or laboratory space.

The bill makes several changes to GROWNJ that are designed to encourage non-profit corporations to undertake projects. GROWNJ currently allows a business to assign its ability to apply for a tax credit 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 bill expands upon this provision by allowing a non-profit organization to make an application for tax credits on behalf of a group of businesses that would not, on their own, qualify for tax credits, and to consider the application as a unified project that may be eligible for incentives. The bill allows the developer of a project that will bring a large full-service supermarket to the City of Camden to apply for tax credits on behalf of the business, if so assigned by the business, and to also apply for tax credits on behalf of a group of businesses that would not qualify for

tax credits individually, and to consider the application as a unified project that may be eligible for incentives.

The bill also amends GROWNJ to address the allocation of tax credits to the partners in partnerships and shareholders of New Jersey S corporations and New Jersey Qualified Subchapter S Subsidiaries that undertake a project in a Garden State Growth Zone which is also a municipality which qualifies under the “Municipal Rehabilitation and Economic Recovery Act.”

The bill also modifies, with respect to projects that are located within a Garden State Growth Zone and which qualify for tax credits under the “Municipal Rehabilitation and Economic Recovery Act,” the law applicable to businesses that exceed the employment requirements set forth in their incentive agreements to encourage and reward the creation and retention of additional jobs in those areas.

The bill also modifies the State Economic Redevelopment and Growth Grant Program (ERG) to increase the base redevelopment incentive grant size from 20 percent to 30 percent for projects located in an urban transit hub, and the maximum incentive grant from 30 percent to 40 percent.

The bill makes several corrections to clarify provisions of the “New Jersey Economic Opportunity Act of 2013” and to correct errors in that law. One correction is a change to the date by which the developer of a qualified residential project seeking an award of tax credits under ERG towards the funding of an incentive grant must submit a temporary certificate of occupancy for the project from July 28, 2015 to July 28, 2018.

The bill establishes a new program of incentives for the donation of substantial public infrastructure. The bill authorizes the New Jersey Economic Development Authority (EDA), for five years, to accept applications for the granting of a 100 percent tax credit or rebate of realty transfer fees for the cost of substantial public infrastructure, donated or built (and donated) after January 1, 2013, by a redeveloper designated under the “Local Redevelopment and Housing Law.” The redeveloper would be able to apply the approved realty transfer fee rebate or tax against gross income tax and corporation business tax liabilities associated with redevelopment projects, or the tax credits could be transferred in the same manner as tax credits are transferred under the “New Jersey Economic Opportunity Act of 2013.” This program is an incentive for designated redevelopers to provide public infrastructure when working on a redevelopment project. The bill requires that the government entity receiving ownership of the infrastructure consent to the rebate or tax credit by filing a resolution with the EDA. Qualifying public infrastructure includes: (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) open space with improvements such as athletic fields; playgrounds; planned parks; and (3) open space

without improvements; and (4) public transportation facilities such as train stations and public parking facilities.

Redevelopers that receive tax credits under the GROWNJ program, ERG grants, incentives under the "New Jersey Economic Opportunity Act of 2013," or that partner with the New Jersey Sports and Exposition Authority for the redevelopment project would not be eligible to receive public infrastructure tax credits under this program.

FISCAL IMPACT:

The Office of Legislative Services (OLS) expects the bill to have a negative fiscal net impact of indeterminate magnitude on the State and to produce a potential indeterminate revenue gain to affected local governments. The quantification of the fiscal effects eludes the OLS because of imperfect information on the number and attributes of projects that, under the bill, might: 1) either newly qualify for or earn larger GROWNJ tax credits; 2) newly qualify for ERG tax credits for residential redevelopment projects; or 3) newly qualify for tax credits and realty transfer fee rebates under a new program the bill establishes for redevelopers who donate certain completed public infrastructure projects to governmental entities.

The State fiscal net impact is calculated by adding the indeterminate direct revenue loss from awarding additional tax credit and realty transfer fee rebate 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 generated by additional capital projects that are directly caused by the bill's additional tax credit and realty transfer fee rebate amounts.

The OLS expects the bill's indirect State revenue gain to be less than the State's direct cost of providing additional tax credit and realty transfer fee rebate amounts. This is so because the new tax credit and realty transfer fee rebate program for certain public infrastructure projects that redevelopers donate to governmental entities and the ERG tax credit program for residential redevelopment projects do not require that tax credits and realty transfer fee rebates be instrumental to the execution of recipient projects nor that recipient projects yield incremental receipts to the State and local governments in excess of tax credit and realty transfer fee rebate amounts. The GROWNJ tax credit program, in the contrary, retains its net fiscal benefit requirement, whereby an eligible project must generate estimated indirect State revenues equal to at least 110 percent of a tax credit's direct State cost.

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ASSEMBLY BILL NO. 3213
(Fourth Reprint)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Bill No. 3213 (Fourth Reprint) with my recommendations for reconsideration.

On September 18, 2013, I signed into law the landmark Economic Opportunity Act of 2013, bipartisan legislation designed to expand the Grow New Jersey ("GrowNJ") and Economic Redevelopment and Growth ("ERG") tax incentive programs, while phasing out the Business Retention and Relocation Assistance Grant, the Business Employment Incentive, and the Urban Transit Hub Tax Credit programs. The Act reallocated tax incentives to maximize economic development and private-sector job growth, while lowering eligibility requirements for those New Jersey municipalities most in need of economic redevelopment. The present bill refines those already successful initiatives, and further enhances both the GrowNJ and ERG programs to increase the availability of access to funding in order to spur further growth and economic development and redevelopment.

But since this bill reached my desk in June, it has become even clearer that gaming competition from neighboring states is taking its toll on Atlantic City. Over the last several years, through a concerted effort led by my Administration and incorporating input from public and private stakeholders, Atlantic City has begun the necessary transition from a gambling hub to a broad and exciting tourism destination. While this renewal will take time, there are positive signs of change. Non-gaming spending by Atlantic City visitors is on the rise; Atlantic City hotel occupancy for 2014 is high; and the Atlantic City retail sector has experienced strong growth. Recognizing that Atlantic City must expand beyond gambling, my

Administration has led a coordinated and aggressive effort to broaden the city's appeal, and I am recommending changes to this bill to further encourage non-gaming economic development and job growth in Atlantic City. Similar to Camden and other targeted cities in New Jersey that are in need of economic rejuvenation, I am recommending that non-gaming development projects and private-sector job growth in Atlantic City be eligible for the strongest possible incentives under New Jersey's successful GrowNJ and ERG programs.

I am also recommending several other modest programmatic changes to the bill to ensure that the resources and necessary framework for the continued success of the GrowNJ and ERG programs remain in place. Although many of the provisions of this bill are sound, others include special interests for part-time legislators. My recommendations include revising the availability of pass-through taxation and the transfer of tax credits in order to protect the integrity of the programs; clarifying eligibility for Garden State Growth Zone property tax abatements to ensure availability for projects in our most troubled cities; and maintaining the cap on residential ERG grants in certain communities to ensure availability of resources across the State. With these important modifications incorporated, I look forward to swiftly signing this bill into law.

Accordingly, I herewith return Assembly Bill No. 3213 (Fourth Reprint) and recommend that it be amended as follows:

Page 6, Section 2, Line 13: After "d. who" insert ", except for purposes of the Statewide workforce,"

Page 6, Section 2, Line 48: After "business." insert "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."

Page 7, Section 2, Line 5:

After "Level by City: 2009)" insert "; or 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"

Page 12, Section 2, Line 11:

After "qualified" insert "non-gaming"

Page 12, Section 2, Line 16:

After "incentive assistance" insert ", including a non-gaming business within an established Tourism District with a significant impact on the economic viability of that District"

Page 13, Section 3, Line 43:

After "(C.52:27D-489s)" insert ", or the value of those property taxes that would have been assessed on the new construction, improvements, or substantial rehabilitation of structures on real property if the structures were not exempt because they are on real property owned by a public entity,"

Page 15, Section 3, Line 30:

After "(C.52:27BBB-1 et al.)," insert "or a project located in a Garden State Growth Zone 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,"

Page 15, Section 3, Line 35:

After "(C.52:27BBB-1 et al.)" insert ", or a Garden State Growth Zone 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"

- Page 16, Section 3, Line 9: After "(C.52:27BBB-1 et al.)," insert "or projects located in a Garden State Growth Zone 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,"
- Page 16, Section 3, Line 13: After "(C.52:27BBB-1 et al.)," insert "or in a Garden State Growth Zone 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,"
- Page 17, Section 4, Line 33: After "positions," insert "located at a qualified business facility,"
- Page 17, Section 4, Line 38: After "(C.52:27BBB-1 et al.)" insert ", or any project located in a Garden State Growth Zone 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,"
- Page 22, Section 4, Line 29: After "(C.52:27BBB-1 et al.)" insert ", 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"
- Page 23, Section 4, Line 10: After "(C.52:27BBB-1 et al.)" insert ", 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,"
- Page 24, Section 5, Line 33: Delete "prior to its expiration" and insert "within three years of the date of issuance"
- Page 24, Section 5, Line 34: Delete "for" and insert "during"
- Page 24, Section 5, Line 34: Delete "issued" and insert "transferred"
- Page 24, Section 5, Line 35: Delete "20" and insert "three"
- Page 25, Section 5, Line 8: Delete "(a)"

- Page 25, Section 5, Lines 14-46: Delete in their entirety
- Page 26, Section 5, Lines 1-5: Delete in their entirety
- Page 27, Section 5, Line 35: After "(C.52:27BBB-1 et al.)," insert "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,"
- Page 29, Line 15: Insert new section 7 to read:
 "7. Section 3 of P.L.2009, c.90 (C.52:27D-489c) is amended to read as follows:
3. As used in sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.):
- "Applicant" means a developer proposing to enter into a redevelopment incentive grant agreement.
- "Ancillary infrastructure project" means structures or improvements that are located within the incentive area but outside the project area of a redevelopment project, including, but not limited to, docks, bulkheads, parking garages, freight rail spurs, roadway overpasses, and train station platforms, provided a developer or municipal redeveloper has demonstrated that the redevelopment project would not be economically viable or promote the use of public transportation without such improvements, as approved by the State Treasurer.
- "Authority" means the New Jersey Economic Development Authority established under section 4 of P.L.1974, c.80 (C.34:1B-4).
- "Aviation district" means the area within a one-mile radius of the outermost boundary of the "Atlantic City International Airport," established pursuant to section 24 of P.L.1991, c.252 (C.27:25A-24).
- "Deep poverty pocket" means a population census tract having a poverty level of 20 percent or more, and

which is located within the incentive area and has been determined by the authority to be an area appropriate for development and in need of economic development incentive assistance.

"Developer" means any person who enters or proposes to enter into a redevelopment incentive grant agreement pursuant to the provisions of section 9 of P.L.2009, c.90 (C.52:27D-489i), or its successors or assigns, including but not limited to a lender that completes a redevelopment project, operates a redevelopment project, or completes and operates a redevelopment project. A developer also may be a municipal government or a redevelopment agency as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3).

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

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

"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.

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

"Eligible revenue" means the property tax increment and any other incremental revenues set forth in section 11 of P.L.2009, c.90 (C.52:27D-489k), except in the case of a Garden State Growth Zone, in which such property tax increment and any other incremental revenues are calculated as those incremental revenues that would have existed notwithstanding the provisions of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.).

"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); or 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.

"Highlands development credit receiving area or redevelopment area" means an area located within an incentive area and designated by the Highlands Council for the receipt of Highlands Development Credits under the Highlands Transfer Development Rights Program authorized under section 13 of P.L.2004, c.120 (C.13:20-13).

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

"Infrastructure improvements in the public right-of-way" mean public structures or improvements located in the public right of way that are located within a project area or that constitute an ancillary infrastructure project, either of which are dedicated to or owned by a governmental body or agency upon completion, or any required payment in lieu of such structures, improvements or projects or any costs of remediation associated with such structures, improvements or projects, and that are determined by the authority, in consultation with applicable State agencies, to be consistent with and in furtherance of State public infrastructure objectives and initiatives.

"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 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.

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

"Municipal Revitalization Index" means the 2007 index by the Office for Planning Advocacy within the Department of State measuring or ranking municipal distress.

"Project area" means land or lands located within the incentive area under common ownership or control including through a redevelopment agreement with a municipality, or as otherwise established by a municipality or a redevelopment agreement executed by a State entity to implement a redevelopment project.

"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 until such other time specified by the authority, for a specific investment or improvement, including the costs relating to 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), 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, of an amount not to exceed 20 percent of the total costs, capitalized interest paid to third parties, and the cost of infrastructure improvements, including ancillary infrastructure projects, and, for projects located in a Garden State Growth Zone only, the cost of infrastructure improvements including any ancillary infrastructure project and the amount by which total project cost exceeds the cost of an alternative location for the redevelopment project, but excluding any particular costs for which the project has received federal, State, or local funding.

"Project financing gap" means: a. 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, subject to review by the State Treasurer, 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; and b. the amount by which total project cost exceeds the cost of an alternative location for the

out-of-State redevelopment project.

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

"Property tax increment" means the amount obtained by:

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

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

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

"Qualified incubator facility" means a commercial building located within an incentive area: which contains 100,000 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 during the commitment period.

"Qualified residential project" means a redevelopment project that is predominantly residential and

includes multi-family residential units for purchase or lease, or dormitory units for purchase or lease, having a total project cost of at least \$17,500,000, if the project is located in any municipality with a population greater than 200,000 according to the latest federal decennial census, or having a total project cost of at least \$10,000,000 if the project is located in any municipality with a population less than 200,000 according to the latest federal decennial census, or is a disaster recovery project, or having a total project cost of \$5,000,000 if the project is in a Garden State Growth Zone.

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

a. an aviation district;

b. a port district;

c. a distressed municipality; or

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, a 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 in 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 Base Closure and Realignment Commission 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 al.), 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 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 such 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.

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

"Redevelopment incentive grant agreement" means an agreement between, (1) the State and the New Jersey Economic Development Authority and a developer, or (2) a municipality and a developer, or a municipal ordinance authorizing a project to be undertaken by a municipal redeveloper, under which, in exchange for the proceeds of an incentive grant, the developer agrees to perform any work or undertaking necessary for a redevelopment project, including the clearance,

development or redevelopment, construction, or rehabilitation of any structure or improvement of commercial, industrial, residential, or public structures or improvements within a qualifying economic redevelopment and growth grant incentive area or a transit village.

"Redevelopment project" means a specific construction project or improvement, including lands, buildings, improvements, real and personal property or any interest therein, including lands under water, riparian rights, space rights and air rights, acquired, owned, leased, developed or redeveloped, constructed, reconstructed, rehabilitated or improved, undertaken by a developer, owner or tenant, or both, within a project area and any ancillary infrastructure project including infrastructure improvements in the public right of way, as set forth in an application to be made to the authority. The use of the term "redevelopment project" in sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.) shall not be limited to only redevelopment projects located in areas determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-6) but shall also include any work or undertaking in accordance with the "Redevelopment Area Bond Financing Law," sections 1 through 10 of P.L.2001, c.310 (C.40A:12A-64 et seq.) or other applicable law, pursuant to a redevelopment plan adopted by a State entity, or as described in the resolution adopted by a public entity created by State law with the power to adopt a redevelopment plan or otherwise determine the location, type and character of a redevelopment project or part of a redevelopment project on land owned or controlled by it or within its jurisdiction, including but not limited to, the New

Jersey Meadowlands Commission established pursuant to P.L.1968, c.404 (C.13:17-1 et seq.), the New Jersey Sports and Exposition Authority established pursuant to P.L.1971 c.137 (C.5:10-1 et seq.) and the Fort Monmouth Economic Revitalization Authority created pursuant to P.L.2010, c.51 (C.52:27I-18 et seq.).

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

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

"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.

"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 redevelopment project 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.

"Transit project" means a redevelopment project 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.

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

"Urban transit hub" means an urban transit hub, as defined in section 10 of P.L.2007, c.346 (C.34:1B-208), that is located within an eligible municipality, as defined in section 10 of P.L.2007, c.346 (C.34:1B-208), or all light rail stations and property located within a one-mile radius of the mid-point of the platform area of such a rail, bus, or ferry 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 al.).

"Vacant commercial building" means any commercial building or complex of commercial buildings having over 400,000 square feet of office, laboratory, or industrial space that is more than 70 percent unoccupied at the time of application to the

authority or is 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), or any vacant commercial building in a Garden State Growth Zone having over 35,000 square feet of office, laboratory, or industrial space, or over 200,000 square feet of office, laboratory, or industrial space in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, or Salem counties available for occupancy for a period of over one year.

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

(cf: P.L.2013, c.161,s.14)

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| <u>Page 29, Section 7, Line 16:</u> | Delete "7" and insert "8" |
| <u>Page 32, Section 8, Line 35:</u> | Delete "8" and insert "9" |
| <u>Page 32, Section 8, Line 41:</u> | After "property" insert ", or leases real property for a period of not less than 30 years," |
| <u>Page 33, Section 8, Line 4:</u> | After "owner" insert ", or lessee," |
| <u>Page 33, Section 8, Line 9:</u> | After "(C.52:27D-489p et al.)." insert "For purposes of this section, a lessee of real property shall include a Garden State Growth Zone Development Entity that is a lessee that is subject to a statutory obligation to make a payment in lieu of taxes on the improvements equal to the taxes on real and personal property." |
| <u>Page 34, Section 9, Lines 21-48:</u> | Delete in their entirety |

<u>Page 35, Section 9, Lines 1-47:</u>	Delete in their entirety
<u>Page 36, Section 9, Lines 1-48:</u>	Delete in their entirety
<u>Page 37, Section 9, Lines 1-8:</u>	Delete in their entirety
<u>Page 39, Section 10, Lines 21-24:</u>	Delete in their entirety and insert ""Authority" means the New Jersey Economic Development Authority established pursuant to section 4 of P.L.1974, c.80 (C.34:1B-4)."
<u>Page 40, Section 10, Lines 1-12:</u>	Delete in their entirety
<u>Page 40, Section 10, Line 17:</u>	Delete in its entirety
<u>Page 40, Section 10, Line 21:</u>	Delete "; provided that" and insert "."
<u>Page 40, Section 10, Line 22-30:</u>	Delete in their entirety
<u>Page 40, Section 10, Line 35:</u>	Delete "a rebate or"
<u>Page 40, Section 10, Lines 37-48:</u>	Delete in their entirety and insert "(1) The applicant makes a new capital investment in an amount equal to or greater than \$10,000,000 in, or causes another entity by contract or development agreement to construct, a building, complex of buildings or other similar structures or facilities, which shall be completed within two years following approval by the Authority, which relies on the completed public infrastructure."
<u>Page 41, Section 10, Line 12:</u>	Delete "redevelopment project" and insert "capital investment pursuant to this section"
<u>Page 41, Section 10, Line 14:</u>	Delete "rebate or tax credits" and insert "tax credit"
<u>Page 41, Section 10, Line 15:</u>	Delete ","
<u>Page 41, Section 10, Line 16:</u>	Delete "rebate or tax credits" and insert "award of the tax credit"
<u>Page 41, Section 10, Line 23:</u>	Delete "A rebate or tax credit"
<u>Page 41, Section 10, Lines 24-27:</u>	Delete in their entirety

- Page 41, Section 10, Line 28: Delete "The rebate or tax credit may to be granted to individuals" and insert "The total amount of tax credits that may be awarded to an eligible applicant for a single project shall not exceed \$5,000,000 and the total value of all tax credits approved by the authority pursuant to P.L. , c. (C.) (pending before the Legislature as this bill) shall not exceed \$25,000,000."
- Page 41, Section 10, Lines 29-42: Delete in their entirety
- Page 41, Section 10, Line 43: Delete "(4)" and insert "(2)"
- Page 41, Section 10, Line 46: Before "e." insert "(3) Nothing in this section shall prohibit an applicant from applying for and being awarded multiple tax credit awards based on separate public infrastructure projects."
- Page 41, Section 10, Lines 46-47: Delete "Executive Director of the New Jersey Economic Development Authority" and insert "chief executive of the authority"
- Page 41, Section 10, Line 48: Delete "shall" and insert "may"
- Respectfully,
- /s/ Chris Christie
- Governor

Attest:

/s/ Christopher S. Porrino
Chief Counsel to the Governor

