34:1B-251 et al.

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2014 **CHAPTER:** 63

NJSA: 34:1B-251 et. al. ("Economic Opportunity Act of 2014, Part 3")

BILL NO: A3213 (Substituted for S1551)

SPONSOR(S) Greenwald and others

DATE INTRODUCED: May 15, 2014

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

SENATE: ---

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** September 29, 2014

SENATE: October 14, 2014

DATE OF APPROVAL: October 24, 2014

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Fifth reprint enacted)

A3213

SPONSOR'S STATEMENT: (Begins on page 30 of introduced bill)		Yes	
COMMITTEE STATEMENT:	**ASSEMBLY**:	Yes	Commerce Appropriations
	SENATE:	No	

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

FLOOR AMENDMENT STATEMENT:		Yes	6-23-14 6-26-14
LEGISLATIVE FISCAL ESTIMATE:		Yes	8-15-14 10-1-14

S1551

SPONSOR'S STATEMENT: (Begins on page 30 of introduced bill)		Yes	
COMMITTEE STATEMENT:	**ASSEMBLY**:	No	
	SENATE:	Yes	Economic Budget
FLOOR AMENDMENT STATEMENT:		No	
LEGISLATIVE FISCAL ESTIMATE:		Yes	

(continued)

VETO MESSAGE: Yes

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

"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)***

AN ACT concerning incentives for certain economic development projects and designated as the Economic Opportunity Act of 2014, Part 3, [4][[2]supplementing P.L.1974, c.80 (C.34:1B-1 et seq.),[2] and][4] amending [3][[2]P.L.2008, c.46,[2]][3] P.L.2009, c.90 [1][and],[1] P.L.2011, c.149[1], and P.L.2013, c.161[1] [4], and supplementing P.L.1974, c.80 (C.34:1B-1 et seq.)[4].

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

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

33. A business may apply to the Director of the Division of Taxation in the Department of the Treasury and the executive director of the authority for a tax credit transfer certificate, covering one or more years, in lieu of the business being allowed any amount of the credit against the tax liability of the business. The tax credit transfer certificate, upon receipt thereof by the business from the director and the executive director of the authority, may be sold or assigned, in full or in part, in an amount not less than [$100,000] $25,000 of tax credits [, although one transfer in each tax period may be in an amount less than $100,000] to any other person that may have a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), pursuant to section 1 of P.L.1950, c.231 (C.17:32-15), or pursuant to N.J.S.17B:23-5. The certificate provided to the business shall include a statement waiving the business's right to claim that amount of the credit against the taxes that the business has elected to sell or assign. The sale or 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:
[1]Assembly ACE committee amendments adopted June 5, 2014.
[2]Assembly AAP committee amendments adopted June 23, 2014.
[3]Assembly floor amendments adopted June 23, 2014.
[4]Senate floor amendments adopted June 26, 2014.
[5]Assembly amendments adopted in accordance with Governor's recommendations September 11, 2014.

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

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

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

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

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

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

"Aviation district" means 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).

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

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

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

a partnership;

an S corporation;

a limited liability company; or

a non-profit corporation.

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

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

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

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

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

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

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

d. any of the foregoing.

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

In addition to the foregoing, if a business acquires or leases a qualified business facility, the capital investment made or acquired by the seller or owner, as the case may be, if pertaining primarily to the premises of the qualified business facility, shall be considered a capital investment by the business and, if pertaining generally to the qualified business facility being acquired or leased, shall be allocated to the premises of the qualified business facility on the basis of the gross leasable area of the premises in relation to the total gross leasable area in the qualified business facility. The capital investment described herein may include any capital investment made or acquired within 24 months prior to the date of application so long as the amount of capital investment made or acquired by the business, any affiliate of the business, or any owner after the date of application equals at least 50 percent of the amount of capital investment, allocated to the premises of the qualified business facility being acquired or leased on the basis of the gross leasable area of such premises in relation to the total gross leasable area in the qualified business facility made or acquired prior to the date of application.

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

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

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

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

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

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

"Full-time employee" means a person:

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

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

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

d. who [5], except for purposes of the Statewide workforce,[5] is provided, by the business, with employee health benefits under a health benefits plan authorized pursuant to State or federal law.

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

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

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

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

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

"Full-time employee" shall not include any person who works as an independent contractor or on a consulting basis for the business. [5]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.[5]

"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) [5]; 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[5].

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

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

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

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

"Mega project" means:

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

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

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

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

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

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

c. a qualified business facility located in an urban transit hub housing a business of any kind, having a capital investment in excess of $50,000,000, and at which more than 250 full-time employees of a business are created or retained[1]; [4]or[4]

d. [4]⟦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 [2]⟦such⟧ the[2] business are created; or

e.⟧[4] a project located in an area designated in need of redevelopment [4], pursuant to P.L.1992, c.79 (C.40A:12A-1 et al.)[4] prior to the enactment of P.L. , c. (C.) (pending before the Legislature as 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 [2]⟦such⟧ a[2] business are created or retained[1].

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

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

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

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

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

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

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

a. the [4]⟦port district⟧ “Port of New York District”[4] of the Port Authority of New York and New Jersey, as defined in Article II of the Compact Between the States of New York and New Jersey of 1921; or

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

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

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

b. intersect with portions of: a deep poverty pocket, a port district, or federally-owned land approved for closure under a federal [4]Commission on[4] Base Realignment [4]⟦Closing Commission⟧ and Closure[4] action;

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

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

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

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

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

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

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

"Qualified incentive area" means:

a. an aviation district;

b. a port district;

c. a distressed municipality or urban transit hub municipality;

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

(a) Planning Area 1 (Metropolitan);

(b) Planning Area 2 (Suburban); or

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

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

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

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

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

(6) located within a Garden State Growth Zone;

(7) located within land approved for closure under any federal [4]Commission on[4] Base [4][Closure and][4] Realignment [4][Commission] and Closure[4] 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.

"Qualified incentive area" shall not include any property located within the preservation area of the Highlands Region as defined in [4][the "Highlands Water Protection and Planning Act,"] section 3 of[4] P.L.2004, c.120 [4][(C.13:20-1 et al.)] (C.13:20-3)[4].

"Qualified incubator facility" means a commercial building located within a qualified incentive area: which contains [1][100,000] 50,000[1] 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 [1][75] 50[1] percent of the gross leasable area is restricted for use by one or more technology startup companies during the commitment period.

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

"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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) 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 net positive benefit determination shall be based on the benefits generated during a period of up to 35 years following completion of the project, as determined by the authority, and shall equal at least 100 percent of the requested tax credit allocation amount and may utilize the value of those property taxes subject to the provisions of section 24 of P.L.2013 c.161 [4][(C.52:27D-489r)] (C.52:27D-489s)[4] [5], 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,[5] and incremental sales and excise taxes that are derived from activities within the area and which are rebated or retained by the municipality pursuant to the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) or any other law providing for such rebate or retention [1][, and

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

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

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

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

(1) for the rehabilitation, improvement, fit-out, or retrofit of an existing industrial[1], warehousing, logistics, [2]or[2] research [2][, or] and[2] development[1] premises for continued [1][industrial] similar[1] use by the business [2]in at least [4][51%] 51 percent[4] of the gross leasable area of the premises[2], a minimum investment of $20 per square foot of gross leasable area;

(2) for the new construction of an industrial [1], warehousing, logistics, [2]or[2] research [2][, or] and[2] development[1] premises for [1][industrial] similar[1] use by the business [2]in at least [4][51%] 51 percent[4] of the gross leasable area of the premises[2], a minimum investment of $60 per square foot of gross leasable area;

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

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

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

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

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

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

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

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

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

d. To assist the authority in determining whether a proposed capital investment will yield a net positive benefit, the business's chief executive officer, or equivalent officer, shall submit a certification to the authority indicating: (1) that any existing full-time jobs are at risk of leaving the State or being eliminated; (2) that any projected creation or retention, as applicable, of new full-time jobs would not occur but for the provision of tax credits under the program; and (3) that the business's chief executive officer, or equivalent officer, has reviewed the information submitted to the authority and that the representations contained therein are accurate, provided however, that in satisfaction of the provisions of paragraphs (1) and (2) of this subsection, the certification with respect to a project in a Garden State Growth Zone that qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), [5]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,[5] shall indicate that**[**,**]** the provision of tax credits under the program is a material factor in the business decision to make a capital investment and locate in a Garden State Growth Zone that qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.) [5], 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[5]. In the event that this certification by the business's chief executive officer, or equivalent officer, is found to be willfully false, the authority may revoke any award of tax credits in their entirety, which revocation shall be in addition to any other criminal or civil penalties that the business and the officer may be subject to. When considering an application involving intra-State job transfers, the authority shall require the business to submit the following information as part of its application: a full economic analysis of all locations under consideration by the business; all lease agreements, ownership documents, or substantially similar documentation for the business's current in-State locations; and all lease agreements, ownership documents, or substantially similar documentation for the potential out-of-State location alternatives, to the extent they exist. Based on this information, and any other information deemed relevant by the authority, the authority shall independently verify and confirm, by way of making a factual finding by separate vote of the authority's board, the business's assertion that the jobs are actually at risk of leaving the State, and as to the date or dates at which the authority expects that those jobs would actually leave the State, or, with respect to projects located in a Garden State Growth Zone that qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), [5]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,[5] the business's assertion that the provision of tax credits under the program is a material factor in the business's decision to make a capital investment and locate in a Garden State Growth Zone that qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), [5]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,[5] before a business may be awarded any tax credits under this section.

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

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

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

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

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

5. a. The total amount of tax credit for an eligible business for each new or retained full-time job shall be as set forth in subsections b. through f. of this section. The total tax credit amount shall be calculated and credited to the business annually for each year of the eligibility period. Notwithstanding any other provisions of P.L.2013, c.161 (C.52:27D-489p et al.), a business may assign its ability to apply for the tax credit under this subsection to a non-profit organization with a mission dedicated to attracting investment and completing development and redevelopment projects in a Garden State Growth Zone. The non-profit organization [1]or organization operating a qualified incubator facility[1] may make an application on behalf of [2]⟦the⟧ a[2] business which meets the requirements for the tax credit, or a group of non-qualifying businesses [1]or positions[1] , [5]located at a qualified business facility,[5] [2]⟦such⟧[2] that [2]⟦these will⟧ shall[2] be considered a unified project for the purposes of the incentives provided under this section. For any project located in a Garden State Growth Zone that qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.) [5], 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,[5] and which will include a retail facility of at least 150,000 square feet, of which at least 50 percent will be occupied by either a full-service supermarket or grocery store, a business may assign its ability to apply for the tax credit under this subsection to the developer of the facility. The developer may make an application on behalf of the

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

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

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

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

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

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

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

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

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

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

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

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

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

excess of the average salary for the Garden State Growth Zone, an increase of $250 per year during the commitment period for each 35 percent by which the project's average salary levels exceeds the county or Garden State Growth Zone average salary, with a maximum increase of $1,500 per year;

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

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

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

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

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

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

(8) for a business in a targeted industry, an increase of $500 per year;

(9) for a qualified business facility exceeding the Leadership in Energy and Environmental Design's "Silver" rating standards or completes substantial environmental remediation, an additional increase of $250 per year;

(10) for a mega project or a project located within a Garden State Growth Zone at which the capital investment in industrial premises for industrial use by the business is in excess of the minimum capital investment required for eligibility pursuant to subsection b. of section 3 of P.L.2011, c.149 (C.34:1B-244), an increase of $1,000 per year for each additional amount of investment that exceeds the minimum amount by 20 percent, with a maximum increase of $5,000 per year;

(11) for a project in which a business retains at least 400 jobs and is located within the municipality in which it was located immediately prior to the filing of the application hereunder and is the United States headquarters of an automobile manufacturer, an increase of $1,500 per year;

(12) for a project located in a municipality in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, and Salem counties with a 2007 Municipality Revitalization Index greater than 465, an increase of $1,000 per year;

(13) for a project located within a half-mile of any light rail station constructed after the effective date of P.L.2013, c.161 (C.52:27D-489p et al.), an increase of $1,000 per year;

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

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

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

(17) 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[2].

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

(1) for a mega project or a project in a Garden State Growth Zone, the gross amount for each new or retained full-time job shall not exceed $15,000 per year;

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

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

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

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

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

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

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

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

(c) for a project which creates 100 or more [1]**[**new or retained**]**[1] full-time jobs [1]new to the municipality[1] and makes a capital investment of at least $15,000,000, the total tax credit amount per full-time job shall be the greater of: (i) the total tax credit amount for a qualifying project in a Garden State Growth Zone as calculated pursuant to subsections a. through f. of this section; or (ii) the total capital investment of the project divided by the total number of full-time jobs at that project but not greater than [1]**[**$40,000,000**]** $4,000,000 per year[1] over the grant term [1]of ten years[1];

(d) for a project which creates 150 or more [1]**[**new or retained**]**[1] full-time jobs [1]new to the municipality[1] and makes a capital investment of at least $20,000,000, the total tax credit amount per full-time job shall be the greater of: (i) the total tax credit amount for a qualifying project in a Garden State Growth Zone as calculated pursuant to subsections a. through f. of this section; or (ii) the total capital investment of the project divided by the total number of full-time jobs at that project but not greater than [1]**[**$50,000,000**]** $5,000,000 per year[1] over the grant term [1]of ten years[1]; or

(e) for a project which creates 250 or more [1]**[**new or retained**]**[1] full-time jobs [1]new to the municipality[1] and makes a capital investment of at least $30,000,000, the total tax credit amount per full-time job shall be the greater of: (i) the total tax credit amount for a qualifying project in a Garden State Growth Zone as calculated pursuant to subsections a. through f. of this section; or (ii) the total capital investment of the project divided by the total number of full-time jobs as defined herein at that project [1]divided by the ten-year grant term[1].

e. After the determination by the authority of the gross amount of tax credits for which a business is eligible pursuant to subsection d. of this section, the final total tax credit amount shall be calculated as follows: (1) for each new full-time job, the business shall be allowed tax credits equaling 100 percent of the gross amount of tax credits for each new full-time job; and (2) for each retained full-time job, the business shall be allowed tax credits equaling [2]the lesser of[2] 50 percent of the gross amount of tax credits for each retained full-time job, [2]**[**[1]but not greater than**]** or[2] one-tenth of the capital investment divided by the number of [2]**[**each**]** retained and new[2] full-time [2]**[**job**]** jobs per year over the grant term of ten years[2],[1] unless the jobs are part of a mega project which is the United States headquarters of an automobile manufacturer located within a priority area or in a Garden State Growth Zone, in which case the business shall be entitled to tax credits equaling 100 percent of the gross amount of tax credits for each retained full-time job, or unless the new qualified business facility would replace a facility that has been wholly or substantially damaged as a result of a federally-declared disaster, in which case the business shall be entitled to tax credits equaling 100 percent of the gross amount of tax credits for each retained full-time job.

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

(1) $35,000,000 and provides a net benefit to the State as provided herein with respect to a qualified business facility in a Garden State Growth Zone which qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.) [5], 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[5] ;

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

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

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

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

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

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

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

Under paragraphs (1) through (6) of this subsection, [1]with the exception of a project located within a Garden State Growth Zone which qualifies for the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.) [5], 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,[5] that divides the total capital investment of the project by the total number of full-time jobs at that project,[1] for each application for tax credits in excess of $4,000,000 annually, the amount of tax credits available to be applied by the business annually shall be the lesser of the maximum amount under the applicable subsection or an amount determined by the authority necessary to complete the project, with such determination made by the authority's utilization of a full economic analysis of all locations under consideration by the business; all lease agreements, ownership documents, or substantially similar documentation for the business's current in-State locations, as applicable; and all lease agreements, ownership documents, or substantially similar documentation for the potential out-of-State location alternatives, to the extent they exist. Based on this information, and any other information deemed relevant by the authority, the authority shall independently verify and confirm the amount necessary to complete the project.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The credit amount [2][that][2] may be taken [2][for a tax period of] by[2] the [business] [2][tax certificate holder that exceeds the final liabilities of the][2] [business] tax certificate holder for the tax period [2]for which it was issued or[2] may be carried forward for use by the [business] tax certificate holder in [2]any of[2] the next 20 successive tax periods, and shall expire thereafter. [2]The tax certificate holder may transfer the tax credit amount on or after the date of issuance or at any time [5][prior to its expiration] within three years of the date of issuance[5] for use by the transferee in the tax period [5][for] during[5] which it was [5][issued] transferred[5] or in any of the next [5][20] three[5] successive tax periods.

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

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

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

[5]⟦(b) (i) For any project located in a Garden State Growth Zone [2]⟦or any mega project conducted⟧ which is also a municipality which qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), and undertaken[2] by a [2]partnership or[2] corporation, if the corporation has made a valid election as a New Jersey S corporation pursuant to section 3 of P.L.1993, c.173 (C.54:10A-5.22), [2]the credit may be applied by the partners of the partnership or shareholders of the corporation against the tax liability otherwise due pursuant to N.J.S.54A:1-1 et seq., provided that[2] the amount of credit that may be used by [2]a partner of a partnership or[2] a shareholder of the corporation shall be determined by allocating to each [2]partner or[2] shareholder of the S corporation that proportion of the tax credit of the [2]partnership or[2] corporation that is equal to the [2]partner's or[2] shareholder's proportionate share of the [2]partnership or[2] corporation, whether or not distributed, or the total distributive income or gain of the [2]partnership or[2] S corporation for its tax period ending with or within the [2]partner's or[2] shareholder's tax period, and the credit may be applied by the [2]partners or[2] shareholders against the tax liability otherwise due pursuant to N.J.S.54A:1-1 et seq.

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

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

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

(2) If, in any tax period, the number of full-time employees employed by the business at the qualified business facility located within a qualified incentive area drops below 80 percent of the number of new and retained full-time jobs specified in the incentive agreement, then [the business shall forfeit its] [1][there shall be a pro rata reduction of the business's tax] the business shall forfeit its[1] credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating [the restoration of] [1]the restoration of [1] the number of full-time employees employed by the business at the qualified business facility [1][has been restored][1] to [1][at least][1] 80 percent of the number of jobs specified in the incentive agreement [1][has been reviewed and approved by the authority, for which tax period and

each subsequent tax period the full amount of the tax credit shall be allowed][1].

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

(b) In connection with a regional distribution facility of foodstuffs, the business entity or entities which own or lease such facility shall qualify as a business regardless of: (i) the type of the business entity or entities which own or lease such facility; (ii) the ownership or leasing of such facility by more than one business entity; or (iii) the ownership of the business entity or entities which own or lease such facility. Such ownership or leasing, whether by members, shareholders, partners, or other owners of the business entity or entities, shall be treated as ownership or leasing by affiliates. Such members, shareholders, partners, or other ownership or leasing participants and others that are tenants in the facility shall be treated as affiliates for the purpose of counting the full-time employees and capital investments in the facility. The business entity or entities may distribute credits to members, shareholders, partners, or other ownership or leasing participants in accordance with their respective interests. If the business entity or entities or their members, shareholders, partners, or other ownership or leasing participants lease space in the facility to members, shareholders, partners, or other ownership or leasing participants or others as tenants in the facility, the leases shall be treated as a lease to an affiliate, and the business entity or entities shall not be subject to forfeiture of the credits. For the purposes of this section, leasing shall include subleasing and tenants shall include subtenants.

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

(b) For a project located within a Garden State Growth Zone which qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), [5]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,[5] and which qualifies for a tax credit pursuant to [1]subsubparagraph (ii) of[1] subparagraphs (a) through (e) of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246), if, in any tax period the number of full-time employees employed by the business at the qualified business facility located within a qualified incentive area increases above the number of full-time employees specified in the incentive agreement such that the business [2]**[**will**]** shall[2] then meet the minimum number of employees required in [4]**[**subparagraph**]** subparagraphs[4] (b), (c), (d), or (e) of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246), then the authority shall recalculate the total tax credit amount per full-time job by using the [1]**[**total**]**[1] certified capital investment of the project [1]allowable under the applicable subsubparagraph[1] and the number of full-time jobs certified on the date of the recalculation and applying those numbers to subparagraphs (b), (c), (d), or (e) of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246) [1], until the first tax period for which documentation demonstrating a reduction of the number of full-time employees employed by the business at the qualified business facility, at which time the tax credit amount [2]**[**will**]** shall[2] be adjusted accordingly pursuant to this section[1]. [1]**[**From the date of the recalculation through the end of the eligibility period, the annual tax credit for the business shall be the amount determined after the recalculation.**]**[1]

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

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

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

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

(cf: P.L.2013, c.161, s.11)

6. Section 7 of P.L2011, c.149 (C.34:1B-248) is amended to read as follows:

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

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

[5]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)<u>; 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</u>.

"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.[5]

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

[5]**[**7.**]** 8.[5] Section 6 of P.L.2009, c.90 (C.52:27D-489f) is amended to read as follows:

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

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

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

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

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

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

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

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

(e) For subparagraphs (a) through (d) of this paragraph, not more than $40,000,000 of credits shall be awarded to any qualified residential project in a deep poverty pocket or distressed municipality and not more than $20,000,000 of credits shall be awarded to any other qualified residential project. The developer of a qualified residential project seeking an award of credits towards the funding of its incentive grant shall submit an incentive grant application prior to July 1, [1]⟦2015⟧ 2016[1] and if approved [1]after the effective date of P.L.2013, c.161[1] shall submit a temporary certificate of occupancy for such project no later than July 28, ⟦2015⟧ 2018. Applications for tax credits pursuant to this subsection relating to an ancillary infrastructure project or infrastructure improvement in the public right of way, or both, shall be accompanied with a letter of support relating to the project or improvement by the governing body or agency in which the project is located. Credits awarded to a developer pursuant to this subsection shall be subject to the same financial and related analysis by the authority [1], the same term of the grant, and the same mechanism for administering the credits,[1] and shall be utilized or transferred by the developer as if such credits had been awarded to the developer pursuant to section 35 of P.L.2009, c.90 (C.34:1B-209.3) for qualified residential projects thereunder. No portion of the revenues pledged pursuant to the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.) shall be subject to withholding or retainage for adjustment, in the event the developer or taxpayer waives its rights to claim a refund thereof.

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

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

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

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

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

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

[5][[1]8.] 9.[5] Section 24 of P.L.2013, c.161 (C.52:27D-489s) is amended to read as follows:

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

b. Notwithstanding any other law to the contrary, every Garden State Growth Zone Development Entity that owns real property [5], or leases real property for a period of not less than 30 years,[5] within a Garden State Growth Zone and that undertakes the clearance, re-planning, development, or redevelopment of such property is hereby granted an exemption on improvements to such eligible property for any new construction, improvements, or substantial rehabilitation of structures on real property for a period of 20 years from receiving a final Certificate of Occupancy, provided however, that a municipality located within the Garden State Growth Zone shall, by ordinance, opt-in to such program within 90 calendar days of the enactment of P.L.2013, c.161 (C.52:27D-489p et al.). The exemption allowed by this subsection shall be dependent upon: (1) the owner [5], or lessee,[5] of the real property making improvements to the real property after the enactment of P.L.2013, c.161 (C.52:27D-489p et al.); and (2) the Division of Codes and Standards, in consultation with the eligible municipality, issuing a final Certificate of Occupancy within 10 years of the date of enactment of P.L.2013, c.161 (C.52:27D-489p et al.). [5]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.[5]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[5]**[**[2]9. Section 9 of P.L.2009, c.90 (C.52:27D-489i) is amended to read as follows:

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

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

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

d. (1) The redevelopment incentive grant agreement shall specify the maximum amount of project costs, the amount of the incentive grant to be awarded the developer, the frequency of payments, and the eligibility period, which shall not exceed 20 years, during which reimbursement will be granted, and for a project receiving an incentive grant in excess of $50 million, the amount of the negotiated repayment amount to the State, which may include, but not be limited to, cash, equity, and warrants. Except for redevelopment incentive grant agreements with a municipal redeveloper or with the developer of a redevelopment project solely with respect to the cost of infrastructure improvements in the public right-of-way including any ancillary infrastructure project in the public right-of-way, in no event shall the base amount of the combined reimbursements under redevelopment incentive grant agreements with the State or municipality exceed 20 percent of the total project cost, except in a Garden State Growth Zone <u>or in an urban transit hub</u>, which shall not exceed 30 percent.

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

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

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

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

(d) a transit project;

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

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

(g) located in a Garden State Growth Zone;

(h) a disaster recovery project;

(i) an aviation project;

(j) a tourism destination project; or

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

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

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

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

(1) the economic feasibility of the redevelopment project;

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

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

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

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

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

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

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

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

(cf: P.L.2013, c.161, s.19)**]**[5]

[3]**[**[2]10. Section 18 of P.L.2008, c.46 (C.52:27D-329.9) is amended to read as follows:

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

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

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

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

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

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

d. Notwithstanding the provisions of subsection b. of this section, or any other law or regulation to the contrary, for purposes of mixed use projects or qualified residential projects in which a business receives a tax credit pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) or a tax credit pursuant to section 35 of P.L.2009, c.90 (C.34:1B-209.3), or both, an "eligible municipality," as defined in section 2 of P.L.2007, c.346 (C.34:1B-208), shall have the option of deciding the percentage of newly-constructed residential units within the project, up to 20 percent of the total, required to be reserved for occupancy by low or moderate income households. For a mixed use project or a qualified residential project that has received preliminary or final site plan approval prior to the effective date of P.L.2011, c.89, the percentage shall be deemed to be the percentage, if any, of units required to be reserved for low or moderate income households in accordance with the terms and conditions of such approval.

e. Notwithstanding the provisions of subsection a. of this section, or any other law or regulation to the contrary, 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), the 20 percent of units required to be reserved for occupancy by low or moderate income households shall not be required to be constructed within the project area. For any reserved units not constructed within the project area, the reserved unit requirement shall be allocated to developments constructed in other areas within the “host municipality,” as that term is defined by section 3 of P.L.2010, c.51 (C.52:27I-20).[2]⟧[3]

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

[3]⟦[2]11.⟧ 10.[3] (New section) a. For the purposes of this section:

[5]⟦"Applicant" means a designated redeveloper of a redevelopment project approved pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.), that undertakes to provide and donate public infrastructure.⟧ “Authority” means the New Jersey Economic Development Authority established pursuant to section 4 of P.L.1974, c.80 (C.34:1B-4).[5]

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

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

"Public infrastructure" means: [4]⟦a.⟧ (1)[4] buildings and structures, such as schools; fire houses; police stations; recreation centers; public works garages; and water and sewer treatment and pumping facilities; [4]⟦b.⟧ (2)[4] open space with improvements such as athletic fields; playgrounds; planned parks; [4]⟦c.⟧ (3)[4] open space without improvements; and [4]⟦d.⟧ (4)[4] public transportation facilities such as train stations and public parking facilities. To qualify as public infrastructure under this section, the facilities, land, or both, shall have a minimum fair market value of $5 million; provided, however, that multiple lands and facilities, valued individually at less than $5 million, that are part of the same redevelopment project may be aggregated to achieve the minimum $5 million requirement. In the case of open space without improvements, the land shall have a minimum fair market value of at least $1 million prior to its dedication as open space. Sidewalks, streets, roads, ramps, and jug handles shall not be deemed public infrastructure for the purposes of this section.

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

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

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

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

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

[5]⟦(1) The government entity receiving the infrastructure consents to the rebate or tax credit and either:

(a) the redevelopment project will provide new ratables with a minimum value of $50 million;

(b) the redevelopment project will create at least 100 new or rehabilitated housing units; or

(c) the redevelopment project will create retail, commercial, or office space with a square footage of at least 100,000 square feet. When a project is completed in components or phases, the ratables, housing units, and newly created square footage may be aggregated by the applicant to meet the thresholds set forth within this paragraph.⟧ (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.[5]

(2) The applicant has not received a tax credit under the "Grow New Jersey Assistance Program" established by section 3 of P.L.2011, c.149 (C.34:1B-244).

(3) The applicant has not received a grant under a 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).

(4) The applicant is not a "Garden State Growth Zone Development Entity," as defined in section 23 of P.L.2013, c.161 (C.52:27D-489r).

(5) The applicant is not partnered with the New Jersey Sports and Exposition Authority for the [5]⟦redevelopment project⟧ capital investment pursuant to this section[5].

c. The New Jersey Economic Development Authority shall grant an application for a [5]⟦rebate or tax credits⟧ tax credit[5] if the government entity receiving the public infrastructure[5]⟦,⟧[5] adopts a resolution and files it with the authority, consenting to the [5]⟦rebate or tax credits⟧ award of the tax credit[5] and the ownership of the public infrastructure is transferred to that government entity, and either: (1) the construction commences after January 1, 2013; (2) the construction is completed, as evidenced by a certificate of occupancy or other certificate of completion, after January 1, 2013; (3) the first monetary or debt service payment occurs after January 1, 2013; or (4) the land is deeded to the government entity after January 1, 2013. [5]⟦A rebate or tax credit shall not be paid or issued to an applicant until the New Jersey Economic Development Authority receives a true copy of the resolution by the government entity receiving the public infrastructure consenting to the granting of the rebate or tax credit.⟧[5]

d. (1) [5][The rebate or tax credit may to be granted to individuals] 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.[5] [5][with an ownership interest in a business that has been designated as a redeveloper by a municipality or other redevelopment entity under the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.).

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

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

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

[5](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.[5]

e. The [5][Executive Director of the New Jersey Economic Development Authority] chief executive of the authority[5], in consultation with the Director of the Division of Taxation in the Department of the Treasury, [5][shall] may[5] adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to implement the provisions of this section.[2]

[1][8.] [2][9.[1]] [3][12.[2]] 11.[3] This act shall take effect immediately.

"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.

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

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

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

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

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

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

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

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

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 <u>thus</u> is new matter.

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

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

"Aviation district" means 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).

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

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

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

a partnership;

an S corporation;

a limited liability company; or

a non-profit corporation.

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

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

<u>A business shall include any owner of a partnership or an S corporation that is a business.</u>

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

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

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

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

d. any of the foregoing.

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

In addition to the foregoing, if a business acquires or leases a qualified business facility, the capital investment made or acquired by the seller or owner, as the case may be, if pertaining primarily to the premises of the qualified business facility, shall be considered a capital investment by the business and, if pertaining generally to the qualified business facility being acquired or leased, shall be allocated to the premises of the qualified business facility on the basis of the gross leasable area of the premises in relation to the total gross leasable area in the qualified business facility. The capital investment described herein may include any capital investment made or acquired within 24 months prior to the date of application so long as the amount of capital investment made or acquired by the business, any affiliate of the business, or any owner after the date of application equals at least 50 percent of the amount of capital investment, allocated to the premises of the qualified business facility being acquired or leased on the basis of the gross leasable area of such premises in relation to the total gross leasable area in the qualified business facility made or acquired prior to the date of application.

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

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

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

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

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

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

"Full-time employee" means a person:

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

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

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

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

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

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

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

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

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

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

"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).

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

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

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

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

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

"Mega project" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Qualified incentive area" means:

a. an aviation district;

b. a port district;

c. a distressed municipality or urban transit hub municipality;

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

(a) Planning Area 1 (Metropolitan);

(b) Planning Area 2 (Suburban); or

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

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

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

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

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

(6) located within a Garden State Growth Zone;

(7) located within land approved for closure under any federal 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.

"Qualified 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.).

"Qualified incubator facility" means a commercial building located within a qualified 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.

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

"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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) the capital investment resultant from the award of tax credits and the resultant retention and creation of full-time jobs will yield a net positive benefit to the State ⟦,⟧ <u>and to the municipality</u> equaling at least 110 percent of the requested tax credit allocation amount, which determination is calculated prior to taking into account the value of the requested tax credit and shall be based on the benefits generated during the first 20 years following the completion of the project, except that<u>:</u>

<u>(a)</u> for a mega project or a project located in a Garden State Growth Zone, the determination shall be based on the benefits generated during a period of up to 30 years following the completion of the project, as determined by the authority, and ⟦except that,⟧

<u>(b)</u> 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 net positive benefit determination shall be based on the benefits generated during a period of up to 35 years following completion of the project, as

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

g. Nothing shall preclude a business from applying for tax credits under the program for more than one project pursuant to one or more applications.
(cf: P.L.2013, c.161, s.8)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) for a business in a targeted industry, an increase of $500 per year;

(9) for a qualified business facility exceeding the Leadership in Energy and Environmental Design's "Silver" rating standards or completes substantial environmental remediation, an additional increase of $250 per year;

(10) for a mega project or a project located within a Garden State Growth Zone at which the capital investment in industrial premises for industrial use by the business is in excess of the minimum capital investment required for eligibility pursuant to subsection b. of section 3 of P.L.2011, c.149 (C.34:1B-244), an increase of $1,000 per year for each additional amount of investment that exceeds the minimum amount by 20 percent, with a maximum increase of $5,000 per year;

(11) for a project in which a business retains at least 400 jobs and is located within the municipality in which it was located immediately prior to the filing of the application hereunder and is the United States headquarters of an automobile manufacturer, an increase of $1,500 per year;

(12) for a project located in a municipality in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, and Salem counties with a 2007 Municipality Revitalization Index greater than 465, an increase of $1,000 per year;

(13) for a project located within a half-mile of any light rail station constructed after the effective date of P.L.2013, c.161 (C.52:27D-489p et al.), an increase of $1,000 per year;

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

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

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

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

(1) for a mega project or a project in a Garden State Growth Zone, the gross amount for each new or retained full-time job shall not exceed $15,000 per year;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The credit amount that may be taken for a tax period of the ⟦business⟧ tax certificate holder that exceeds the final liabilities of the ⟦business⟧ tax certificate holder for the tax period may be carried forward for use by the ⟦business⟧ tax certificate holder in the next 20 successive tax periods, and shall expire thereafter.

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

distribution method provided to the Director of the Division of Taxation in the Department of the Treasury ⟦by such time and⟧ accompanied by ⟦such⟧ any additional information as the director may require.

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

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

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

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

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

(2) If, in any tax period, the number of full-time employees employed by the business at the qualified business facility located within a qualified incentive area drops below 80 percent of the number of new and retained full-time jobs specified in the incentive agreement, then [the business shall forfeit its] there shall be a pro rata reduction of the business's tax credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating [the restoration of] the number of full-time employees employed by the business at the qualified business facility has been restored to at least 80 percent of the number of jobs specified in the incentive agreement has been reviewed and approved by the authority, for which tax period and each subsequent tax period the full amount of the tax credit shall be allowed.

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

(b) In connection with a regional distribution facility of foodstuffs, the business entity or entities which own or lease such facility shall qualify as a business regardless of: (i) the type of the business entity or entities which own or lease such facility; (ii) the ownership or leasing of such facility by more than one business entity; or (iii) the ownership of the business entity or entities which own or lease such facility. Such ownership or leasing, whether by members, shareholders, partners, or other owners of the business entity or entities, shall be treated as ownership or leasing by affiliates. Such members, shareholders, partners, or other ownership or leasing participants and others that are tenants in the facility shall be treated as affiliates for the purpose of counting the full-time employees and capital investments in the facility. The business entity or entities may distribute credits to members, shareholders, partners, or other ownership or leasing participants in accordance with their respective interests. If the business entity or entities or their members, shareholders, partners, or other ownership or leasing participants lease space in the facility to members, shareholders, partners, or other ownership or leasing participants or others as tenants in the facility, the leases shall be treated as a lease to an affiliate, and the business entity or entities shall not be subject to forfeiture of the credits. For the purposes of this section, leasing shall include subleasing and tenants shall include subtenants.

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

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

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

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

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

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

(cf: P.L.2013, c.161, s.11)

6. Section 7 of P.L2011, c.149 (C.34:1B-248) is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8. This act shall take effect immediately.

STATEMENT

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 Camden and Atlantic City.

The bill modifies the net positive benefit test under GROWNJ 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 GROWNJ 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. 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 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 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 forfeiting 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 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.

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 issuees, 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 State Revenue Loss	Indeterminate — See comments below
Indirect State Revenue Gain	Indeterminate — See comments below
State Opportunity Cost	Indeterminate — See comments below
Indirect Local Revenue Gain	Indeterminate — See comments below
Local 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)

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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.

<u>ERG Program:</u> 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.

<u>GROW NJ Program:</u> 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.

<u>Direct State Cost:</u> 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.

<u>Bill's State Indirect Fiscal Effects:</u> 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 State Revenue Loss	Indeterminate — See comments below
Indirect State Revenue Gain	Indeterminate — See comments below
State Opportunity Cost	Indeterminate — See comments below
Indirect Local Revenue Gain	Indeterminate — See comments below
Local 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.

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- 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.

<u>Tax Credit Program for Redevelopers Donating Public Infrastructure:</u> 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.

<u>Urban Transit Hub Tax Credit Program:</u> 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.

<u>ERG Program:</u> 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.

<u>GROW NJ Program:</u> 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.

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

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

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

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

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

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

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

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

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.

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

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

"Aviation district" means 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).

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

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

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

a partnership;

an S corporation;

a limited liability company; or

a non-profit corporation.

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

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

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

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

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

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

d. any of the foregoing.

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

In addition to the foregoing, if a business acquires or leases a qualified business facility, the capital investment made or acquired by the seller or owner, as the case may be, if pertaining primarily to the premises of the qualified business facility, shall be considered a capital investment by the business and, if pertaining generally to the qualified business facility being acquired or leased, shall be allocated to the premises of the qualified business facility on the basis of the gross leasable area of the premises in relation to the total gross leasable area in the qualified business facility. The capital investment described herein may include any capital investment made or acquired within 24 months prior to the date of application so long as the amount of capital investment made or acquired by the business, any affiliate of the business, or any owner after the date of application equals at least 50 percent of the amount of capital investment, allocated to the premises of the qualified business facility being acquired or leased on the basis of the gross leasable area of such premises in relation to the total gross leasable area in the qualified business facility made or acquired prior to the date of application.

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

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

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

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

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

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

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

"Full-time employee" means a person:

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

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

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

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

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

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

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

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

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

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

"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).

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

Rights Program authorized pursuant to section 13 of P.L.2004, c.120 (C.13:20-13).

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

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

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

"Mega project" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Qualified incentive area" means:

a. an aviation district;

b. a port district;

c. a distressed municipality or urban transit hub municipality;

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

(a) Planning Area 1 (Metropolitan);

(b) Planning Area 2 (Suburban); or

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

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

adopted by the New Jersey Meadowlands Commission pursuant to section 20 of P.L.1968, c.404 (C.13:17-21);

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

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

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

(6) located within a Garden State Growth Zone;

(7) located within land approved for closure under any federal 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.

"Qualified 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.).

"Qualified incubator facility" means a commercial building located within a qualified 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.

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

"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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) the capital investment resultant from the award of tax credits and the resultant retention and creation of full-time jobs will yield a net positive benefit to the State ⟦,⟧ <u>and to the municipality</u> equaling at least 110 percent of the requested tax credit allocation amount, which determination is calculated prior to taking into account the value of the requested tax credit and shall be based on the benefits

generated during the first 20 years following the completion of the project, except that:

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

(b) 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 net positive benefit determination shall be based on the benefits generated during a period of up to 35 years following completion of the project, as determined by the authority, and shall equal at least 100 percent of the requested tax credit allocation amount and may utilize the value of those property taxes subject to the provisions of section 24 of P.L.2013 c.161 (C.52:27D-489r) and incremental sales and excise taxes that are derived from activities within the area and which are rebated or retained by the municipality pursuant to the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) or any other law providing for such rebate or retention, and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

d. To assist the authority in determining whether a proposed capital investment will yield a net positive benefit, the business's chief executive officer, or equivalent officer, shall submit a certification to the authority indicating: (1) that any existing full-time jobs are at risk of leaving the State or being eliminated; (2) that any projected creation or retention, as applicable, of new full-time jobs would not occur but for the provision of tax credits under the program; and (3) that the business's chief executive officer, or equivalent officer, has reviewed the information submitted to the authority and that the representations contained therein are accurate, provided however, that in satisfaction of the provisions of paragraphs (1) and (2) of this subsection, the certification with respect to a project in a Garden State Growth Zone that qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), shall indicate that⟦,⟧ the provision of tax credits under the program is a material factor in the business decision to make a capital investment and locate in a Garden State Growth Zone that qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.)<u>, and provided further that in satisfaction of the provisions of paragraphs (1) and (2) of this subsection, the certification with respect to a construction project under section 3 of P.L.2011, c.176 (C.18A:36C-3) in a Garden State Growth Zone shall indicate that the provision of tax credits under the program is a material factor in the business decision to make a capital</u>

investment. In the event that this certification by the business's chief executive officer, or equivalent officer, is found to be willfully false, the authority may revoke any award of tax credits in their entirety, which revocation shall be in addition to any other criminal or civil penalties that the business and the officer may be subject to. When considering an application involving intra-State job transfers, the authority shall require the business to submit the following information as part of its application: a full economic analysis of all locations under consideration by the business; all lease agreements, ownership documents, or substantially similar documentation for the business's current in-State locations; and all lease agreements, ownership documents, or substantially similar documentation for the potential out-of-State location alternatives, to the extent they exist. Based on this information, and any other information deemed relevant by the authority, the authority shall independently verify and confirm, by way of making a factual finding by separate vote of the authority's board, the business's assertion that the jobs are actually at risk of leaving the State, and as to the date or dates at which the authority expects that those jobs would actually leave the State, or, with respect to projects located in a Garden State Growth Zone that qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), the business's assertion that the provision of tax credits under the program is a material factor in the business's decision to make a capital investment and locate in a Garden State Growth Zone that qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or with respect to a construction project under section 3 of P.L.2011, c.176 (C.18A:36C-3) in a Garden State Growth Zone, the business's assertion that the provision of tax credits under the program is a material factor in the business decision to make a capital investment, before a business may be awarded any tax credits under this section.

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

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

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

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

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

5. a. The total amount of tax credit for an eligible business for each new or retained full-time job shall be as set forth in subsections b. through f. of this section. The total tax credit amount shall be calculated and credited to the business annually for each year of the eligibility period. Notwithstanding any other provisions of P.L.2013, c.161 (C.52:27D-489p et al.), a business may assign its ability to apply for the tax credit under this subsection to a non-profit organization with a mission dedicated to attracting investment and completing development and redevelopment projects in a Garden State Growth Zone. <u>The non-profit organization may make an application on behalf of the business which meets the requirements for the tax credit, or a group of non-qualifying businesses, such that these will be considered a unified project for the purposes of the incentives provided under this section. For any project located in a Garden State Growth Zone that qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.) and which will include a</u>

retail facility of at least 150,000 square feet, of which at least 50 percent will be occupied by either a full-service supermarket or grocery store, a business may assign its ability to apply for the tax credit under this subsection to the developer of the facility. The developer may make an application on behalf of the business which meets the requirements for the tax credit, or a group of non-qualifying businesses located at the business facility, such that these will be considered a unified project for the purposes of the incentives provided under this section, and the developer may apply for tax credits available based on the number of jobs provided by the business or businesses and the total capital investment of the business or businesses and the developer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) for a business in a targeted industry, an increase of $500 per year;

(9) for a qualified business facility exceeding the Leadership in Energy and Environmental Design's "Silver" rating standards or completes substantial environmental remediation, an additional increase of $250 per year;

(10) for a mega project or a project located within a Garden State Growth Zone at which the capital investment in industrial premises for industrial use by the business is in excess of the minimum capital investment required for eligibility pursuant to subsection b. of section 3 of P.L.2011, c.149 (C.34:1B-244), an increase of $1,000 per year for each additional amount of investment that exceeds the minimum amount by 20 percent, with a maximum increase of $5,000 per year;

(11) for a project in which a business retains at least 400 jobs and is located within the municipality in which it was located immediately prior to the filing of the application hereunder and is the United States headquarters of an automobile manufacturer, an increase of $1,500 per year;

(12) for a project located in a municipality in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, and Salem counties with a 2007 Municipality Revitalization Index greater than 465, an increase of $1,000 per year;

(13) for a project located within a half-mile of any light rail station constructed after the effective date of P.L.2013, c.161 (C.52:27D-489p et al.), an increase of $1,000 per year;

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

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

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

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

(1) for a mega project or a project in a Garden State Growth Zone, the gross amount for each new or retained full-time job shall not exceed $15,000 per year;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The credit amount that may be taken for a tax period of the business that exceeds the final liabilities of the business for the tax period may be carried forward for use by the business in the next 20 successive tax periods, and shall expire thereafter.

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

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

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

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

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

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

(2) If, in any tax period, the number of full-time employees employed by the business at the qualified business facility located within a qualified incentive area drops below 80 percent of the number of new and retained full-time jobs specified in the incentive agreement, then [the business shall forfeit its] there shall be a pro rata reduction of the business's tax credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating [the restoration of] the number of full-time employees employed by the business at the qualified business facility has been restored to at least 80 percent of the number of jobs specified in the incentive agreement has been reviewed and approved by the authority, for which tax period and each subsequent tax period the full amount of the tax credit shall be allowed.

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

(b) In connection with a regional distribution facility of foodstuffs, the business entity or entities which own or lease such facility shall qualify as a business regardless of: (i) the type of the business entity or entities which own or lease such facility; (ii) the ownership or leasing of such facility by more than one business entity; or (iii) the ownership of the business entity or entities which own or lease such facility. Such ownership or leasing, whether by members, shareholders, partners, or other owners of the business entity or entities, shall be treated as ownership or leasing by affiliates. Such members, shareholders, partners, or other ownership or leasing participants and others that are tenants in the facility shall be treated as affiliates for the purpose of counting the full-time employees and capital investments in the facility. The business entity or entities may distribute credits to members, shareholders, partners, or other ownership or leasing participants in accordance with their respective interests. If the business entity or entities or their members, shareholders, partners, or other ownership or leasing participants lease space in the facility to members, shareholders, partners, or other ownership or leasing participants or others as tenants in the facility, the leases shall be treated as a lease to an affiliate, and the business entity or entities shall not be subject to forfeiture of the credits. For the purposes of this section, leasing shall include subleasing and tenants shall include subtenants.

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

(b) For a project located within a Garden State Growth Zone which qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), and which qualifies for a tax credit pursuant to subparagraphs (a) through (e) of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246), if, in any tax period the number of full-time employees employed by the business at the qualified business facility located within a qualified incentive area increases above the number of full-time employees specified in the incentive agreement such that the business will then meet the minimum number of employees required in subparagraph (b), (c), (d), or (e) of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246),

<u>then the authority shall recalculate the total tax credit amount per full-time job by using the total certified capital investment of the project and the number of full-time jobs certified on the date of the recalculation and applying those numbers to subparagraphs (b), (c), (d), or (e) of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246). From the date of the recalculation through the end of the eligibility period, the annual tax credit for the business shall be the amount determined after the recalculation.</u>

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

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

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

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

(cf: P.L.2013, c.161, s.11)

6. Section 7 of P.L2011, c.149 (C.34:1B-248) is amended to read as follows:

7. A business may apply to the Director of the Division of Taxation in the Department of the Treasury and the chief executive officer of the authority for a tax credit transfer certificate, covering one or more years, in lieu of the business being allowed any amount of the credit against the tax liability of the business. The tax credit transfer certificate, upon receipt thereof by the business from the director and the chief executive officer of the authority, may be sold or assigned, in full or in part, <u>in an amount not less than $25,000,</u> to any other person that may have a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), pursuant to section 1 of P.L.1950, c.231 (C.17:32-15), or pursuant to N.J.S.17B:23-5. The certificate provided to the business shall include a statement waiving the business's right to claim that amount of the credit

against the taxes that the business has elected to sell or assign. The sale or assignment of any amount of a tax credit transfer certificate allowed under this section shall not be exchanged for consideration received by the business of less than 75 percent of the transferred credit amount <u>before considering any further discounting to present value which shall be permitted</u>. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability shall be subject to the same limitations and conditions that apply to the use of the credit by the business that originally applied for and was allowed the credit.
(cf: P.L.2011, c.149, s.7)

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

6. a. Up to the limits established in subsection b. of this section and in accordance with a redevelopment incentive grant agreement, beginning upon the receipt of occupancy permits for any portion of the redevelopment project, or upon such other event evidencing project completion as set forth in the incentive grant agreement, the State Treasurer shall pay to the developer incremental State revenues directly realized from businesses operating on or at the site of the redevelopment project from the following taxes: the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), the tax imposed on marine insurance companies pursuant to R.S.54:16-1 et seq., the tax imposed on insurers generally, pursuant to P.L.1945, c.132 (C.54:18A-1 et seq.), the public utility franchise tax, public utilities gross receipts tax and public utility excise tax imposed on sewerage and water corporations pursuant to P.L.1940, c.5 (C.54:30A-49 et seq.), those tariffs and charges imposed by electric, natural gas, telecommunications, water and sewage utilities, and cable television companies under the jurisdiction of the New Jersey Board of Utilities, or comparable entity, except for those tariffs, fees, or taxes related to societal benefits charges assessed pursuant to section 12 of P.L.1999, c.23 (C.48:3-60), any charges paid for compliance with the "Global Warming Response Act," P.L.2007, c.112 (C.26:2C-37 et seq.), transitional energy facility assessment unit taxes paid pursuant to section 67 of P.L.1997, c.162 (C.48:2-21.34), and the sales and use taxes on public utility and cable television services and commodities, the tax derived from net profits from business, a distributive share of partnership income, or a pro rata share of S corporation income under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., the tax derived from a business at the site of a redevelopment project that is required to collect the tax pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), the tax imposed pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.) from the purchase of furniture, fixtures and equipment, or materials for the remediation, the construction of new structures at the site of a

redevelopment project, the hotel and motel occupancy fee imposed pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1), or the portion of the fee imposed pursuant to section 3 of P.L.1968, c.49 (C.46:15-7) derived from the sale of real property at the site of the redevelopment project and paid to the State Treasurer for use by the State, that is not credited to the "Shore Protection Fund" or the "Neighborhood Preservation Nonlapsing Revolving Fund" ("New Jersey Affordable Housing Trust Fund") pursuant to section 4 of P.L.1968, c.49 (C.46:15-8). Any developer shall be allowed to assign their ability to apply for the tax credit under this subsection to a non-profit organization with a mission dedicated to attracting investment and completing development and redevelopment projects in a Garden State Growth Zone. The non-profit organization may make an application on behalf of a developer which meets the requirements for the tax credit, or a group of non-qualifying developers, such that these will be considered a unified project for the purposes of the incentives provided under this section.

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

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

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

(b) $250,000,000 shall be restricted to qualified residential projects located in: (i) urban transit hubs that are commuter rail in nature that otherwise do not qualify under subparagraph (a) of this paragraph, (ii) a Garden State Growth Zone not located in a county mentioned in subparagraph (a) of this paragraph, (iii) disaster recovery projects that otherwise do not qualify under subparagraph

(a) of this paragraph, or (iv) SDA municipalities located in Hudson County that were awarded State Aid in State Fiscal Year 2013 through the Transitional Aid to Localities program and otherwise do not qualify under subparagraph (a) of this paragraph;

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

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

(e) For subparagraphs (a) through (d) of this paragraph, not more than $40,000,000 of credits shall be awarded to any qualified residential project in a deep poverty pocket or distressed municipality and not more than $20,000,000 of credits shall be awarded to any other qualified residential project. The developer of a qualified residential project seeking an award of credits towards the funding of its incentive grant shall submit an incentive grant application prior to July 1, 2015 and if approved shall submit a temporary certificate of occupancy for such project no later than July 28, 【2015】 <u>2018</u>. Applications for tax credits pursuant to this subsection relating to an ancillary infrastructure project or infrastructure improvement in the public right of way, or both, shall be accompanied with a letter of support relating to the project or improvement by the governing body or agency in which the project is located. Credits awarded to a developer pursuant to this subsection shall be subject to the same financial and related analysis by the authority and shall be utilized or transferred by the developer as if such credits had been awarded to the developer pursuant to section 35 of P.L.2009, c.90 (C.34:1B-209.3) for qualified residential projects thereunder. No portion of the revenues pledged pursuant to the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.) shall be subject to withholding or retainage for adjustment, in the event the developer or taxpayer waives its rights to claim a refund thereof.

(3) A developer may apply to the Director of the Division of Taxation in the Department of the Treasury and the chief executive officer of the authority for a tax credit transfer certificate, if the developer is awarded a tax credit pursuant to paragraph (2) of this subsection, covering one or more years, in lieu of the developer being allowed any amount of the credit against the tax liability of the developer. The tax credit transfer certificate, upon receipt thereof by the developer from the director and the chief executive officer of the authority, may be sold or assigned, in full or in part, to any other person that may have a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945,

c.132 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The certificate provided to the developer shall include a statement waiving the developer's right to claim that amount of the credit against the taxes that the developer has elected to sell or assign. The sale or assignment of any amount of a tax credit transfer certificate allowed under this paragraph shall not be exchanged for consideration received by the developer of less than 75 percent of the transferred credit amount. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability shall be subject to the same limitations and conditions that apply to the use of the credit by the developer who originally applied for and was allowed the credit.

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

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

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

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

8. This act shall take effect immediately.

STATEMENT

This bill makes various changes to New Jersey’s economic development laws in response to recommendations from various interested parties after a careful review of those laws since enactment of the “New Jersey Economic Opportunity Act of 2013.”

The bill will make tax credit transfer certificates more widely available by reducing the minimum amount of the credits that may be transferred to $25,000.

The bill makes several changes to the "Grow New Jersey Assistance Act" 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 Camden and Atlantic City. The bill also amends the definition of qualified business facility to include a 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 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 would make several changes to GROW New Jersey that are designed to encourage non-profit corporations to undertake projects. The bill would modify 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 would expand 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 also 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, on their own, qualify for tax credits, 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 must reduce 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 would make several technical changes to clarify provisions of the "New Jersey Economic Opportunity Act of 2013" and to correct errors in that law. One such correction is a change to the date by which the developer of a qualified residential project seeking an award of tax credits 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.

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 State Revenue Loss	Indeterminate — See comments below
Indirect State Revenue Gain	Indeterminate — See comments below
State Opportunity Cost	Indeterminate — See comments below
Indirect Local Revenue Gain	Indeterminate — See comments below
Local 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.

<u>Urban Transit Hub Tax Credit Program:</u> 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.

<u>ERG Tax Credit Program For Residential Redevelopment Projects:</u> 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.

<u>GROW NJ Program:</u> 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.

<u>Direct State Cost:</u> 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.

<u>Urban Transit Hub Tax Credit Program:</u> 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.

<u>ERG Tax Credit Program For Residential Redevelopment Projects:</u> 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.

<u>GROW NJ Program:</u> 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.

Governor Chris Christie Takes Action on Pending Legislation

Thursday, September 11, 201 Tags: Bill Action

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Trenton, NJ - Governor Chris Christie today announced action that has been taken on the following legislation:

BILL VETOED:

A-3213/SCS for S-1551 (Greenwald, Sumter/Lesniak) - CONDITIONAL - "Economic Opportunity Act of 2014, Part 3"

Press Contact
Michael Drewniak
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Trenton, NJ 08625
609-292-6000

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:

<u>Page 6, Section 2, Line 13:</u>	After “d. who” insert “, except for purposes of the Statewide workforce,”
<u>Page 6, Section 2, Line 48:</u>	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.”
<u>Page 7, Section 2, Line 5:</u>	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”
<u>Page 12, Section 2, Line 11:</u>	After “qualified” insert “non-gaming”
<u>Page 12, Section 2, Line 16:</u>	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”
<u>Page 13, Section 3, Line 43:</u>	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,”
<u>Page 15, Section 3, Line 30:</u>	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,”
<u>Page 15, Section 3, Line 35:</u>	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)<u>; 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</u>.

“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)	
<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

Page 35, Section 9, Lines 1-47:	Delete in their entirety
Page 36, Section 9, Lines 1-48:	Delete in their entirety
Page 37, Section 9, Lines 1-8:	Delete in their entirety
Page 39, Section 10, Lines 21-24:	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)."
Page 40, Section 10, Lines 1-12:	Delete in their entirety
Page 40, Section 10, Line 17:	Delete in its entirety
Page 40, Section 10, Line 21:	Delete "; provided that" and insert "."
Page 40, Section 10, Line 22-30:	Delete in their entirety
Page 40, Section 10, Line 35:	Delete "a rebate or"
Page 40, Section 10, Lines 37-48:	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."
Page 41, Section 10, Line 12:	Delete "redevelopment project" and insert "capital investment pursuant to this section"
Page 41, Section 10, Line 14:	Delete "rebate or tax credits" and insert "tax credit"
Page 41, Section 10, Line 15:	Delete ","
Page 41, Section 10, Line 16:	Delete "rebate or tax credits" and insert "award of the tax credit"
Page 41, Section 10, Line 23:	Delete "A rebate or tax credit"
Page 41, Section 10, Lines 24-27:	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

Governor Christie Signs Measure to Encourage Economic Growth, Business Investment and Job Creation into Law

Friday, October 24, 2014 Tags: Jobs and the Economy

State of New Jersey
OFFICE OF THE GOVERNOR

Trenton, NJ - Today, Governor Chris Christie signed A-3213, "The Economic Opportunity Act of 2014, Part 3" into law. The legislation designates the City of Atlantic City as the fifth Garden State Growth Zone, an important tool in helping to attract non-gaming economic development, business investment, and job growth in Atlantic City. With that designation, qualifying projects are now eligible for maximum ERG incentive amounts. The cities of Camden, Passaic, Paterson, and Trenton currently have this status.

Equally important, the new law establishes a new tax credit program for redevelopers that donate substantial public infrastructure to governmental entities. It also makes several changes to two existing economic development incentive programs operated by the New Jersey EDA: the ERG program and the GROW NJ tax credit program.

"I am pleased the Legislature acted on the recommendations I made in my earlier conditional veto," said Governor Christie. "By implementing these changes, we are ensuring the continued success of the GrowNJ and ERG programs to bolster New Jersey's economy and at the same time, we are giving Atlantic City the strongest possible incentives to encourage non-gaming economic development and private sector growth."

Last September, Governor Christie 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. Companies such as Wenner in New Brunswick, Komar in Jersey City and Holtec in Camden are using these program to expand and grow in the Garden State.

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