

[First Reprint]

**SENATE, No. 3295**

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**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

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INTRODUCED DECEMBER 16, 2020

**Sponsored by:**

**Senator M. TERESA RUIZ**

**District 29 (Essex)**

**Senator PAUL A. SARLO**

**District 36 (Bergen and Passaic)**

**SYNOPSIS**

"New Jersey Economic Recovery Act of 2020"; provides for administration of programs and policies related to jobs, property development, food deserts, community partnerships, small and early stage businesses, State procurement, wind energy, and film production, and makes an appropriation.

**CURRENT VERSION OF TEXT**

As reported by the Senate Budget and Appropriations Committee on December 18, 2020, with amendments.



**(Sponsorship Updated As Of: 12/17/2020)**

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

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

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

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

16 3. (New section) As used in sections 2 through 8 of P.L. , c.  
17 (C. ) (pending before the Legislature as this bill):

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

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

24 "Cost of rehabilitation" means the consideration given, valued in  
25 money, whether given in money or otherwise, for the materials and  
26 services which constitute the rehabilitation.

27 "Director" means the Director of the Division of Taxation in the  
28 Department of the Treasury.

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

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

33 "Officer" means the State Historic Preservation Officer or the  
34 official within the State designated by the Governor or by statute in  
35 accordance with the provisions of chapter 3023 of Title 54, United  
36 States Code (54 U.S.C. s.302301 et seq), to act as liaison for the  
37 purpose of administering historic preservation programs in the  
38 State.

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

41 "Project financing gap" means the part of the total cost of  
42 rehabilitation, including reasonable and appropriate return on  
43 investment, that remains to be financed after all other sources of  
44 capital have been accounted for, including, but not limited to,  
45 developer contributed capital, which shall not be less than 20

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SBA committee amendments adopted December 18, 2020.

1 percent of the total cost of rehabilitation, and investor or financial  
2 entity capital or loans for which the developer, after making all  
3 good faith efforts to raise additional capital, certifies that additional  
4 capital cannot be raised from other sources.

5 "Property" means a structure, including its site improvements  
6 and landscape features, assessed as real property, and used for: a  
7 commercial purpose; a residential rental purpose, provided the  
8 structure contains at least four dwelling units; or any combination  
9 thereof.

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

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

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

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

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

35 "Rehabilitation" means the repair or reconstruction of the  
36 exterior or interior of a qualified property or transformative project  
37 to make an efficient contemporary use possible while preserving the  
38 portions or features of the property that have significant historical,  
39 architectural, and cultural values.

40 "Rehabilitation of the interior of the qualified property or  
41 transformative project" means the repair or reconstruction of the  
42 structural or substrate components and electrical, plumbing, and  
43 heating components within the interior of a qualified property or  
44 transformative project.

45 "Selected rehabilitation period" means a period of 24 months if  
46 the beginning of such period is chosen by the business entity during  
47 which, or parts of which, a rehabilitation is occurring, or a period of  
48 60 months if a rehabilitation is reasonably expected to be completed

1 in distinct phases set forth in written architectural plans and  
2 specifications completed before or during the physical work on the  
3 rehabilitation.

4 “Transformative project” means a property that is:

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

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

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

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

21

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

45 (2) The prevailing wage requirements <sup>1</sup> shall apply to projects  
46 that are allowed a tax credit in excess of \$500,000, and <sup>1</sup> shall  
47 apply at a qualified property or transformative project during the  
48 selected rehabilitation period. In the event a qualified property or

1 transformative project, or the aggregate of all qualified properties  
2 and transformative projects approved for awards under the program,  
3 constitute a lease of more than <sup>1</sup>~~55~~ 35<sup>1</sup> percent of a facility, the  
4 prevailing wage requirements shall apply to the entire facility.

5 (3) Prior to approval of an application by the authority, the  
6 Department of Labor and Workforce Development, the Department  
7 of Environmental Protection, and the Department of the Treasury  
8 shall each report to the authority whether the business entity is in  
9 substantial good standing with the respective department <sup>1</sup>~~], or]~~ in  
10 lieu of submitting certificates of good standing for the business  
11 entity, the business entity may demonstrate that it<sup>1</sup> has entered into  
12 an agreement with the respective department that includes a  
13 practical corrective action plan for the business entity. The  
14 authority may also contract with an independent third party to  
15 perform a background check on the business entity. Following  
16 approval of an application by the authority, but prior to the start of  
17 any construction or rehabilitation at the qualified property or  
18 transformative project, the authority shall enter into a rehabilitation  
19 agreement with the business entity. The authority shall negotiate  
20 the terms and conditions of the rehabilitation agreement on behalf  
21 of the State <sup>1</sup>~~], but~~ the terms shall require the business entity to  
22 consent to the disclosure of tax expenditure information as  
23 described in paragraph (8) of subsection b. of section 1 of  
24 P.L.2009, c.189 (C.52:27B-20a)<sup>1</sup>.

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

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

30 (b) a project financing gap exists.

31 b. A business entity may claim a credit under this section  
32 during the accounting or privilege period: (1) in which it makes the  
33 final payment for the cost of the rehabilitation if the business entity  
34 has chosen a selected rehabilitation period of 24 months; or (2) in  
35 which a distinct project phase of the rehabilitation is completed if  
36 the business entity has chosen a selected rehabilitation period of 60  
37 months. The credit may be claimed against any State tax, listed in  
38 paragraph (1) of subsection a. of this section, liability otherwise due  
39 after any other credits permitted pursuant to law have been applied.  
40 The amount of credit claimed in an accounting or privilege period  
41 that cannot be applied for that accounting or privilege period due to  
42 limitations in this section may be transferred pursuant to section 5  
43 of P.L. , c. (C. ) (pending before the Legislature as this bill) or  
44 carried over, if necessary, to the nine accounting or privilege  
45 periods following the accounting or privilege period for which the  
46 credit was allowed.

1 c. A business entity shall submit to the authority satisfactory  
2 evidence of the actual cost of rehabilitation, as certified by a  
3 certified public accountant, evidence of completion of the  
4 rehabilitation or phase, and a certification that all information  
5 provided by the business entity to the authority is true, including  
6 information contained in the application, the rehabilitation  
7 agreement, any amendment to the rehabilitation agreement, and any  
8 other information submitted by the business entity to the authority  
9 pursuant to sections 2 through 8 of P.L. , c. (C. ) (pending  
10 before the Legislature as this bill). The business entity, or an  
11 authorized agent of the business entity, shall certify under the  
12 penalty of perjury that the information provided pursuant to this  
13 subsection is true.

14

15 5. (New section) a. The authority shall, in cooperation with the  
16 director, establish and administer a corporation business tax credit  
17 transfer certificate program and an insurance premiums tax credit  
18 transfer certificate program to enable business entities with unused,  
19 otherwise allowable amounts of tax credits issued pursuant to  
20 sections 2 through 8 of P.L. , c. (C. ) (pending before the  
21 Legislature as this bill) to exchange these credits, in whole or in  
22 part, for private financial assistance prior to the expiration of the tax  
23 credit.

24 A certificate issued by the director <sup>1</sup>and the authority<sup>1</sup> shall  
25 include a statement waiving the rights of the business entity to  
26 which the tax credit has been granted to claim any amount of  
27 remaining credit against any tax liability.

28 b. A business entity holding an unused, otherwise allowable tax  
29 credit issued pursuant to sections 2 through 8 of P.L. , c.  
30 (C. ) (pending before the Legislature as this bill) may apply to  
31 the director <sup>1</sup>and the authority<sup>1</sup> for a tax credit transfer certificate  
32 pursuant to subsection a. of this section. Upon receipt thereof, the  
33 business entity may sell or assign, in full or in part, the tax credit  
34 transfer certificate to another taxpayer in exchange for private  
35 financial assistance to be provided by the purchaser or assignee of  
36 the tax credit transfer certificate to the seller thereof. The developer  
37 shall not sell a tax credit transfer certificate allowed under this  
38 section for consideration received by the developer of less than 85  
39 percent of the transferred credit amount before considering any  
40 further discounting to present value which shall be permitted,  
41 except a developer of a residential project consisting of newly-  
42 constructed residential units that has received federal low income  
43 housing tax credits under 26 U.S.C. s.42(b)(2)(B)(i) may assign a  
44 tax credit transfer certificate for consideration of no less than 75  
45 percent subject to the submission of a plan to the authority and the  
46 New Jersey Housing and Mortgage Finance Agency to use the  
47 proceeds derived from the assignment of tax credits to complete the  
48 residential project. The purchaser or assignee of the tax credit

1 transfer certificate may apply the face value of the tax credit  
2 transfer certificate acquired against the purchaser's or assignee's  
3 applicable tax liability by claiming the tax credit on the purchaser's  
4 or assignee's corporation business tax or insurance premiums tax  
5 return with the corresponding tax credit transfer certificate  
6 accompanying the tax return. A purchaser or assignee of a tax  
7 credit transfer certificate pursuant to this section shall not make any  
8 subsequent transfers, assignments, or sales of the tax credit transfer  
9 certificate.

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

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

19  
20 6. (New section) a. The authority shall, in consultation with  
21 the officer and the director, promulgate rules and regulations in  
22 accordance with the "Administrative Procedure Act," P.L.1968,  
23 c.410 (C.52:14B-1 et seq.), as the officer deems necessary to  
24 administer the provisions of sections 2 through 8 of P.L. ,  
25 c. (C. ) (pending before the Legislature as this bill), including  
26 but not limited to rules establishing administrative fees to  
27 implement the provisions of sections 2 through 8 of P.L. , c.  
28 (C. ) (pending before the Legislature as this bill), setting of an  
29 annual application submission date, requiring annual reporting by  
30 each business entity that receive a tax credit pursuant to sections 2  
31 through 8 of P.L. , c. (C. ) (pending before the Legislature  
32 as this bill), and requiring those reports to include certifications by  
33 the Department of Labor and Workforce Development, the  
34 Department of Environmental Protection, and the Department of the  
35 Treasury that the business entity, and any contractors or  
36 subcontractors performing work at the qualified property or  
37 transformative project, are in substantial good standing with the  
38 respective department has entered into an agreement with the  
39 respective department that includes a practical corrective action  
40 plan for the business entity. The rules and regulations adopted  
41 pursuant to this section shall also include a provision to require that  
42 business entities forfeit all tax credits awarded in any year in which  
43 any such report is not received, and to allow the authority to extend,  
44 in individual cases, the deadline for any annual reporting or  
45 certification requirement established pursuant to this section.

46 b. For every tax credit allowed pursuant to section 4 of P.L. ,  
47 c. (C. ) (pending before the Legislature as this bill), the  
48 authority, in consultation with the officer, shall certify to the

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

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

21 (2) Notwithstanding the provisions of paragraph (1) of this  
22 subsection and section 98 of P.L. , c. (C. ) (pending before  
23 the legislature as this bill) to the contrary, the authority may  
24 approve tax credits, pursuant to sections 2 through 8 of P.L. , c.  
25 (C. ) (pending before the Legislature as this bill), for the  
26 rehabilitation of a transformative project in an amount that causes  
27 the total amount of credits approved during the fiscal year to exceed  
28 the limitations set forth in section 98 of P.L. , c. (C. )  
29 (pending before the legislature as this bill), provided that the  
30 amount of the excess shall be subtracted from the total amount of  
31 credits that may be approved by the authority in the subsequent  
32 fiscal year, and the amount of the excess shall not exceed 50 percent  
33 of the total tax credits otherwise authorized for the fiscal year.

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

43  
44 7. (New section) a. The authority, in collaboration with the  
45 director, shall adopt rules for the recapture of an entire or partial tax  
46 credit amount allowed under sections 2 through 8 of P.L. , c.  
47 (C. ) (pending before the Legislature as this bill). The rules  
48 shall require the authority to notify the director of the recapture of



1 an entire or partial tax credit amount. <sup>1</sup>【The recapture of funds  
2 shall be subject to the State Uniform Tax Procedure Law,  
3 R.S.54:48-1 et seq. and recaptured】 Recaptured<sup>1</sup> funds shall be  
4 deposited in the General Fund of the State.

5 b. If, before the end of five full years after the completion of  
6 the rehabilitation of the qualified property or transformative project,  
7 a developer that has received a tax credit pursuant to section 4 of  
8 P.L. , c. (C. ) (pending before the Legislature as this bill)  
9 modifies the qualified property or transformative project so that it  
10 ceases to meet the requirements for the rehabilitation of a qualified  
11 property or transformative project as defined under the program or  
12 ceases to meet the requirement of the rehabilitation agreement then  
13 the tax credit allowed under the program shall be recaptured in  
14 accordance with the rules adopted pursuant to subsection a. of this  
15 section.

16 c. In the case of a business entity that has chosen a selected  
17 rehabilitation period of 60 months, if the architectural plans change  
18 in the course of the phased rehabilitation project so that the  
19 rehabilitation of the qualified property or transformative project  
20 would, upon the rehabilitation's completion, no longer qualify for a  
21 tax credit pursuant to the requirements of sections 2 through 8 of  
22 P.L. , c. (C. ) (pending before the Legislature as this bill),  
23 then the business entity's tax liability for that accounting or  
24 privilege period shall be increased by the full amount of the tax  
25 credit that the authority had previously granted upon the completion  
26 of a distinct prior project phase that the business entity has applied  
27 against its tax liability in a prior accounting or privilege period.  
28 Any portion of the tax credit that the business entity has not yet  
29 used at the time of the disallowance by the officer shall be deemed  
30 void.

31  
32 8. (New section) On or before December 31 of the fourth year  
33 following the effective date of sections 2 through 8 of P.L. , c.  
34 (C. ) (pending before the Legislature as this bill), the authority,  
35 in consultation with the officer and the director, shall prepare and  
36 submit a written report regarding the number and total monetary  
37 amount of tax credits granted for the rehabilitation of qualified  
38 properties or transformative projects pursuant to section 4 of  
39 P.L. , c. (C. ) (pending before the Legislature as this bill),  
40 the geographical distribution of the credits granted, a summary of  
41 the tax credit transfer program established pursuant to section 5 of  
42 P.L. , c. (C. ) (pending before the Legislature as this bill),  
43 an evaluation of the effectiveness of the tax credits provided  
44 pursuant to sections 2 through 8 of P.L. , c. (C. ) (pending  
45 before the Legislature as this bill) in promoting the rehabilitation of  
46 historic properties, recommendations for administrative or  
47 legislative changes to increase the effectiveness of the program, and  
48 any other information that the authority, the officer, or the director

1 may deem useful or appropriate. This report shall be submitted to  
2 the Governor and, pursuant to section 2 of P.L.1991, c.164  
3 (C.52:14-19.1), to the Legislature.

4

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

9

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

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

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

17 "Brownfield site" means any former or current commercial or  
18 industrial site that is currently vacant or underutilized and on which  
19 there has been, or there is suspected to have been, a discharge of a  
20 contaminant or on which there is <sup>1</sup>**[a]** contaminated building  
21 material<sup>1</sup>.

22 "Contaminated building material" means components of<sup>1</sup> a  
23 structure <sup>1</sup>**[upon which]** where<sup>1</sup> abatement or removal of asbestos,  
24 <sup>1</sup>**[polychlorinated biphenyls, contaminated wood or paint, or other**  
25 **infrastructure remedial activities is necessary]** or remediation of  
26 materials containing hazardous substances defined pursuant to  
27 section 3 of P.L.1976, 12 c.141 (C.58:10-23.11b), is required by  
28 applicable federal, state, or local rules or regulations<sup>1</sup>.

29 "Contamination" or "contaminant" means any discharged  
30 hazardous substance as defined pursuant to section 3 of P.L.1976,  
31 c.141 (C.58:10-23.11b), hazardous waste as defined pursuant to  
32 section 1 of P.L.1976, c.99 (C.13:1E-38), pollutant as defined  
33 pursuant to section 3 of P.L.1977, c.74 (C.58:10A-3), or  
34 <sup>1</sup>**[hazardous building material, including, but not limited to,**  
35 **asbestos, lead paint, and polychlorinated biphenyl]** contaminated  
36 building material<sup>1</sup>.

37 "Department" means the Department of Environmental  
38 Protection.

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

43 "Director" means the Director of the Division of Taxation in the  
44 Department of the Treasury.

45 "Licensed site remediation professional" means an individual  
46 who is licensed by the Site Remediation Professional Licensing

1 Board pursuant to section 7 of P.L.2009, c.60 (C.58:10C-7) or the  
2 department pursuant to section 12 of P.L.2009, c.60 (C.58:10C-12).

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

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

15 "Redevelopment agreement" means an agreement between the  
16 authority and a developer under which the developer agrees to  
17 perform any work or undertaking necessary for the remediation of a  
18 contaminated site located at the site of the redevelopment project,  
19 and for the clearance, development or redevelopment, construction,  
20 reconstruction,<sup>1</sup> or rehabilitation of any structure or improvement  
21 of commercial, industrial, or public structures or improvements  
22 within an area of land whereon a brownfield site is located.

23 "Redevelopment project" means a specific construction project  
24 or improvement undertaken, pursuant to the terms of a  
25 redevelopment agreement, by a developer within an area of land  
26 whereon a brownfield site is located. A redevelopment project may  
27 involve construction or improvement upon lands, buildings,  
28 improvements, or real and personal property, or any interest therein,  
29 including lands under water, riparian rights, space rights, and air  
30 rights, acquired, owned, developed or redeveloped, constructed,  
31 reconstructed, rehabilitated, or improved.

32 "Remediation" or "remediate" means all necessary actions to  
33 investigate and clean up or respond to any known, suspected, or  
34 threatened discharge of contaminants, including, as necessary, the  
35 preliminary assessment, site investigation, remedial investigation,  
36 and remedial action, or any portion thereof,<sup>1</sup> as those terms are  
37 defined in section 23 of P.L.1993, c.139 (C.58:10B-1); and  
38 hazardous materials abatement; hazardous materials or waste  
39 disposal; building and structural remedial activities, including, but  
40 not limited to, demolition, asbestos abatement, polychlorinated  
41 biphenyl removal, contaminated wood or paint removal, or other  
42 infrastructure remedial activities;<sup>1</sup> provided, however,  
43 "remediation" or "remediate" shall not include the payment of  
44 compensation for damage to, or loss of, natural resources.

45 "Remediation costs" means all reasonable costs associated with  
46 the remediation of a contaminated site, except any costs incurred in  
47 financing the remediation.

1        11. (New section) The Brownfields Redevelopment Incentive  
2 Program is established as a program under the jurisdiction of the  
3 New Jersey Economic Development Authority. The purpose of the  
4 program is to compensate developers of redevelopment projects  
5 located on brownfield sites for remediation costs. To implement  
6 this purpose, the authority shall issue tax credits. The total value of  
7 tax credits approved by the authority shall not exceed the  
8 limitations set forth in section 98 of P.L. , c. (C. ) (pending  
9 before the legislature as this bill);. For the purpose of determining  
10 the aggregate value of tax credits approved in a fiscal year, a tax  
11 credit shall be deemed to have been approved at the time the  
12 authority approves an application for an award of a tax credit. If  
13 the authority approves less than the total amount of tax credits  
14 authorized pursuant to this section in a fiscal year, the remaining  
15 amount, plus any amounts remaining from previous fiscal years,  
16 shall be added to the limit of subsequent fiscal years until that  
17 amount of tax credits are claimed or allowed. Any unapproved,  
18 uncertified, or recaptured portion of tax credits during any fiscal  
19 year may be carried over and reallocated in succeeding years.

20  
21        12. (New section) a. A developer seeking a tax credit for a  
22 redevelopment project shall submit an application to the authority  
23 and the department in a form and manner prescribed in regulations  
24 adopted by the authority, in consultation with the department,  
25 pursuant to the provisions of the "Administrative Procedure Act,"  
26 P.L.1968, c.410 (C.52:14B-1 et seq.).

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

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

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

37        (3) without the tax credit, the redevelopment project is not  
38 economically feasible;

39        (4) a project financing gap exists;

40        (5) the developer has obtained and submitted to the authority a  
41 letter evidencing support for the redevelopment project from the  
42 governing body of the municipality in which the redevelopment  
43 project is located; and

44        (6) each worker employed to perform remediation, or  
45 construction at the redevelopment project shall be paid not less than  
46 the prevailing wage rate for the worker's craft or trade, as  
47 determined by the Commissioner of Labor and Workforce  
48 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.).

1 The prevailing wage requirements shall apply <sup>1</sup>【to redevelopment  
2 projects that are allowed a tax credit in excess of \$500,000】<sup>1</sup> for  
3 construction work through the completion of the redevelopment  
4 project. In the event a redevelopment project, or the aggregate of  
5 all redevelopment project approved for an award under the program,  
6 constitute a lease of more than <sup>1</sup>【55】 35<sup>1</sup> percent of a facility, the  
7 prevailing wage requirements shall apply to the entire facility.

8 c. A redevelopment project that received a reimbursement  
9 pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26  
10 through 58:10B-31) shall not be eligible to apply for a tax credit  
11 under the program. If the authority receives an application and  
12 supporting documentation for approval of a reimbursement pursuant  
13 to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through  
14 58:10B-31) prior to the effective date of sections 9 through 19 of  
15 P.L. , c. (C. ) (pending before the Legislature as this bill),  
16 then the authority may consider the application and award a tax  
17 credit to a developer, provided that the authority shall take final  
18 action on all applications for approval of a reimbursement pursuant  
19 to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through  
20 58:10B-31) no later than July 1, 2019. No applications shall be  
21 submitted pursuant to sections 34 through 39 of P.L.1997, c.278  
22 (C.58:10B-26 through 58:10B-31) after the effective date sections 9  
23 through 19 of P.L. , c. (C. ) (pending before the Legislature  
24 as this bill).

25 d. (1) Prior to approval of an application, the Department of  
26 Labor and Workforce Development, the Department of  
27 Environmental Protection, and the Department of the Treasury shall  
28 each report to the chief executive officer of the authority whether  
29 the developer is in substantial good standing with the respective  
30 department, or has entered into an agreement with the respective  
31 department that includes a practical corrective action plan for the  
32 developer. The authority may also contract with an independent  
33 third party to perform a background check on the developer.  
34 Provided that the developer is in substantial good standing, or has  
35 entered into such an agreement, and following approval of an  
36 application by the board, the authority shall enter into a  
37 redevelopment agreement with the developer, as provided for in  
38 section 13 of P.L. , c. (C. ) (pending before the Legislature  
39 as this bill).

40 (2) The authority, in consultation with the department, may  
41 impose additional requirements upon an applicant through rule or  
42 regulation adopted pursuant to the provisions of the "Administrative  
43 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), if the  
44 authority or the department determines the additional requirements  
45 to be necessary and appropriate to effectuate the purposes of  
46 sections 9 through 19 of P.L. , c. (C. ) (pending before the  
47 Legislature as this bill).

1 e. The authority, in consultation with the department, shall  
2 conduct a review of the applications through a competitive  
3 application process whereby the authority and the department shall  
4 evaluate all applications submitted by a date certain, as if all  
5 received applications were submitted on that date. In addition to  
6 the eligibility criteria set forth in subsection b. of this section, the  
7 authority <sup>1</sup>, in consultation with the department,<sup>1</sup> may consider  
8 additional factors that may include, but shall not be limited to: the  
9 economic feasibility of the <sup>1</sup>**[remediation] redevelopment**<sup>1</sup> project;  
10 the benefit of the <sup>1</sup>**[remediation] redevelopment**<sup>1</sup> project to the  
11 community in which the remediation project is located; the degree  
12 to which the <sup>1</sup>**[remediation] redevelopment**<sup>1</sup> project enhances and  
13 promotes job creation and economic development and <sup>1</sup>**[addresses**  
14 **environmental concerns of communities that have been historically**  
15 **and disproportionately impacted by environmental hazards]** reduces  
16 environmental or public health stressors in an overburdened  
17 community as those terms are defined by section 2 of P.L.  
18 (C.13:1D-157) and attendant department regulations<sup>1</sup>; and, if the  
19 developer has a board of directors, the extent to which that board of  
20 directors is diverse and representative of the community in which  
21 the <sup>1</sup>**[remediation] redevelopment**<sup>1</sup> project is located. The  
22 authority, in consultation with the department, shall submit  
23 applications that comply with the eligibility criteria set forth in this  
24 section, fulfill the additional factors considered by the authority  
25 pursuant to this subsection, satisfy the submission requirements,  
26 and provide adequate information for the subject application, to the  
27 board for final approval.

28 f. The authority shall award tax credits to redevelopment  
29 projects until either the available tax credits are exhausted or all  
30 redevelopment projects that are eligible for a tax credit pursuant to  
31 the provisions of sections 9 through 19 of P.L. , c. (C. )  
32 (pending before the Legislature as this bill) receive a tax credit,  
33 whichever occurs first. If insufficient funding exists to allow a tax  
34 credit to a developer in accordance with the provisions of  
35 subsection a. of section 16 of P.L. , c. (C. ) (pending before  
36 the Legislature as this bill), the authority may offer the developer a  
37 value of the tax credit below the amount provided for in subsection  
38 a. of section 16 of P.L. , c. (C. ) (pending before the  
39 Legislature as this bill).

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

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

1 i. If circumstances require a developer to amend its application  
2 to the authority, then the developer, or an authorized agent of the  
3 developer, shall certify to the authority that the information  
4 provided in its amended application is true, under the penalty of  
5 perjury.

6 j. A developer that has commenced remediation or clean up at  
7 the site <sup>1</sup>have known<sup>1</sup> the extent of the site contamination when the  
8 developer of a redevelopment project prior to application may still  
9 apply for a tax credit under the program, if the developer certifies to  
10 the authority, under the penalty of perjury, that the developer <sup>1</sup>**【**was  
11 **unaware of】** could not reasonably<sup>1</sup> commenced the redevelopment  
12 project.

13  
14 13. (New section) a. Following approval of an application by  
15 the board, but prior to the start of any remediation or clean up at the  
16 site of the redevelopment project, the authority shall enter into a  
17 redevelopment agreement with the developer. The chief executive  
18 officer of the authority shall negotiate the terms and conditions of  
19 the redevelopment agreement on behalf of the State.

20 b. The redevelopment agreement shall specify the amount of  
21 the tax credit to be awarded to the developer, the date on which the  
22 developer shall complete the remediation, and the projected project  
23 remediation cost. The redevelopment agreement shall require the  
24 developer to submit progress reports to the authority and to the  
25 department every six months pursuant to section 15 of P.L. ,  
26 c. (C. ) (pending before the Legislature as this bill). <sup>1</sup>**【**The  
27 redevelopment agreement shall also require the developer to  
28 consent to the disclosure of tax expenditure information as  
29 described in paragraph (8) of subsection b. of section 1 of  
30 P.L.2009, c.189 (C.52:27B-20a).<sup>1</sup>**】**

31 c. The authority shall not enter into a redevelopment agreement  
32 with a developer unless:

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

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

43 (3) the developer pays each worker employed to perform  
44 remediation work or construction work at the redevelopment project  
45 not less than the prevailing wage rate in accordance with the  
46 requirements of paragraph (6) of subsection b. of section 12 of  
47 P.L. , c. (C. )(pending before the Legislature as this bill) for

1 the worker's craft or trade, as determined by the Commissioner of  
2 Labor and Workforce Development pursuant to P.L.1963, c.150  
3 (C.34:11-56.25 et seq.).

4 d. The authority shall not enter into a redevelopment agreement  
5 <sup>1</sup>【with a developer who is liable, pursuant to paragraph (1) of  
6 subsection c. of section 8 of P.L.1976, c.141 (C.58:10-23.11g), for  
7 the contamination at the brownfield site proposed to be in the  
8 redevelopment agreement】 unless the developer demonstrates, to  
9 the satisfaction of the Department of Environmental Protection, that  
10 the developer did not discharge a hazardous substance at the  
11 brownfield site proposed to be in the redevelopment agreement, is  
12 not in any way responsible for the hazardous substance, and is not a  
13 corporate successor to the discharger or to any person in any way  
14 responsible for the hazardous substance or to anyone liable for  
15 cleanup and removal costs pursuant to section 8 of P.L.1976, c.141  
16 (C.58:10-23.11g)<sup>1</sup>.

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

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

38 (3) As used in this subsection, "labor harmony agreement"  
39 means an agreement between a business that serves as the owner or  
40 operator of a retail establishment or distribution center and one or  
41 more labor organizations, which requires, for the duration of the  
42 agreement: that any participating labor organization and its  
43 members agree to refrain from picketing, work stoppages, boycotts,  
44 or other economic interference against the business; and that the  
45 business agrees to maintain a neutral posture with respect to efforts  
46 of any participating labor organization to represent employees at an  
47 establishment or other unit in the retail establishment or distribution  
48 center, agrees to permit the labor organization to have access to the



1 employees, and agrees to guarantee to the labor organization the  
2 right to obtain recognition as the exclusive collective bargaining  
3 representatives of the employees in an establishment or unit at the  
4 retail establishment or distribution center by demonstrating to the  
5 New Jersey State Board of Mediation, Division of Private  
6 Employment Dispute Settlement, or a mutually agreed-upon,  
7 neutral, third-party, that a majority of workers in the unit have  
8 shown their preference for the labor organization to be their  
9 representative by signing authorization cards indicating that  
10 preference. The labor organization or organizations shall be from a  
11 list of labor organizations that have requested to be on the list and  
12 that the Commissioner of Labor and Workforce Development has  
13 determined represent substantial numbers of retail or distribution  
14 center employees in the State.

15 f. The redevelopment agreement shall provide that issuance of  
16 a tax credit under the program shall be conditioned upon the  
17 subrogation to the department of all rights of the developer to  
18 recover remediation costs from any other person who discharges a  
19 hazardous substance or is in any way responsible, pursuant to  
20 section 8 of P.L.1976, c.141 (C.58:10-23.11g), for a hazardous  
21 substance that was discharged at the brownfield site.

22 g. A developer may seek a revision to the redevelopment  
23 agreement if the developer cannot complete the remediation on or  
24 before the date set forth in the redevelopment agreement. A  
25 developer's ability to change the date on which the developer shall  
26 complete the remediation shall be subject to the availability of tax  
27 credits in the year of the revised date of completion.

28 h. A developer shall submit to the authority satisfactory  
29 evidence of the actual remediation costs, as certified by a certified  
30 public accountant, evidence of completion of the remediation, and a  
31 certification that all information provided by the developer to the  
32 authority is true, including information contained in the application,  
33 the redevelopment agreement, any amendment to the redevelopment  
34 agreement, and any other information submitted by the developer to  
35 the authority pursuant to sections 9 through 19 of P.L. ,  
36 c. (C. ) (pending before the Legislature as this bill). The  
37 developer, or an authorized agent of the developer, shall certify  
38 under the penalty of perjury that the information provided pursuant  
39 to this subsection is true.

40 i. The redevelopment agreement shall include a requirement  
41 that the chief executive officer of the authority receive annual  
42 reports from the Department of Environmental Protection, the  
43 Department of Labor and Workforce Development, and the  
44 Department of the Treasury that demonstrating the developer, and  
45 each contractors and subcontractor performing work on the  
46 redevelopment project, is in substantial good standing with the  
47 respective department, or has entered into an agreement with the  
48 respective department that includes a practical corrective action

1 plan for the developer. The redevelopment agreement shall also  
2 include a provision allowing authority to recapture the tax credits  
3 for any year in which any such report is not received. The  
4 redevelopment agreement shall also require a developer to engage  
5 in on-site consultations with the Division of Workplace Safety and  
6 Health in the Department of Health.

7  
8 14. (New section) To qualify for a tax credit under the program,  
9 a developer shall:

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

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

17  
18 15. (New section) Commencing with the date six months  
19 following the date the authority and a developer execute a  
20 redevelopment agreement and every six months thereafter until  
21 completion of the project, the developer shall submit an update of  
22 the status of the redevelopment project to the authority and to the  
23 department, including the remediation costs incurred by the  
24 developer for the remediation of the contaminated property located  
25 at the site of the redevelopment project. Unless the authority  
26 determines that extenuating circumstances exist, the authority's  
27 approval of a tax credit shall expire if the authority, the department,  
28 or both, do not timely receive the status update required under this  
29 section. The authority may rescind an award of tax credits under  
30 the program if a redevelopment project fails to advance in  
31 accordance with the redevelopment agreement.

32  
33 16. (New section) a. Upon completion of the redevelopment  
34 project, the developer shall seek certification from the department  
35 that:

36 (1) the redevelopment project is complete;

37 (2) the developer complied with the requirements of section 15  
38 of P.L. , c. (C. ) (pending before the Legislature as this  
39 bill), including the requirements of any memorandum of agreement  
40 or other oversight document that the developer may have executed  
41 with the Commissioner of Environmental Protection pursuant to  
42 that section; and

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

44 Upon receipt of certification, and confirmation by the authority  
45 that the developer's obligations under the redevelopment agreement  
46 have been met, a developer shall be awarded a credit against the tax  
47 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in  
48 an amount not to exceed 40 percent of the actual remediation costs,

1 or 40 percent of the projected remediation costs as set forth in the  
 2 redevelopment agreement, or \$4,000,000, whichever is least. The  
 3 developer, or an authorized agent of the developer, shall certify that  
 4 the information provided to the department and the authority  
 5 pursuant to this subsection is true under the penalty of perjury.

6 b. When filing an application for certification pursuant to  
 7 subsection a. of this section, the developer shall submit to the  
 8 **'[director] department'** the total remediation costs incurred by the  
 9 developer for the remediation of the subject property located at the  
 10 site of the redevelopment project as provided in the redevelopment  
 11 agreement and certified by a certified public accountant,  
 12 information concerning the occupancy rate of the buildings or other  
 13 work areas located on the property subject to the redevelopment  
 14 agreement, and such other information as the **'[director]**  
 15 **department'** deems necessary in order to make the certifications and  
 16 findings pursuant to this section.

17 c. A developer shall apply the credit awarded against the  
 18 developer's liability for the tax imposed pursuant to section 5 of  
 19 P.L.1945, c.162 (C.54:10A-5) for the privilege period during which  
 20 the **'[director] department'** awards the developer a tax credit  
 21 pursuant to subsection a. of this section. A developer shall not  
 22 carry forward any unused credit. **'[Credits awarded to a**  
 23 **partnership shall be passed through to the partners, members, or**  
 24 **owners, respectively, pro-rata, or pursuant to an executed agreement**  
 25 **among the partners, members, or owners documenting an alternate**  
 26 **distribution method provided to the director accompanied by any**  
 27 **additional information as the director may prescribe.]'**

28 d. The director shall prescribe the order of priority of the  
 29 application of the credit awarded under this section and any other  
 30 credits allowed by law against the tax imposed under section 5 of  
 31 P.L.1945, c.162 (C.54:10A-5). The amount of the credit applied  
 32 under this section against the tax imposed pursuant to section 5 of  
 33 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with  
 34 any other credits allowed by law, shall not reduce the tax liability to  
 35 an amount less than the statutory minimum provided in subsection  
 36 (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

37  
 38 17. (New section) a. A developer may apply to the director and  
 39 the chief executive officer of the authority for a tax credit transfer  
 40 certificate, during the privilege period in which the director awards  
 41 the developer a tax credit pursuant to section 16 of P.L. , c.  
 42 (C. ) (pending before the Legislature as this bill), in lieu of the  
 43 developer being allowed to apply any amount of the tax credit  
 44 against the developer's State tax liability. The tax credit transfer  
 45 certificate, upon receipt thereof by the developer from the director  
 46 and the chief executive officer of the authority, may be sold or  
 47 assigned, in the privilege period during which the developer

1 receives the tax credit transfer certificate from the director, to  
2 another person, who may apply the credit against a tax liability  
3 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) , sections 2  
4 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1  
5 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The tax credit  
6 transfer certificate provided to the developer shall include a  
7 statement waiving the developer's right to claim the credit that the  
8 developer has elected to sell or assign.

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

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

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

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

38  
39 18. (New section) Beginning the year next following the year in  
40 which sections 9 through 19 of P.L. , c. (C. ) (pending  
41 before the Legislature as this bill) take effect and every two years  
42 thereafter, a State college or university established pursuant to  
43 chapter 64 of Title 18A of the New Jersey Statutes shall, pursuant  
44 to an agreement executed between the State college or university  
45 and the authority, prepare a report on the implementation of the  
46 program, and submit the report to the authority, the Governor, and,  
47 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the  
48 Legislature. Each biennial report required under this section shall

1 include a description of each redevelopment project receiving a tax  
2 credit under the program, a detailed analysis of the consideration  
3 given in each project to the factors set forth in sections 12 and 13 of  
4 P.L. , c. (C. ) (pending before the Legislature as this bill),  
5 the return on investment for incentives awarded, the redevelopment  
6 project's impact on the State's economy, and any other metrics the  
7 State college or university determines are relevant based upon  
8 national best practices. The authority shall prepare a written  
9 response to the report, which the authority shall submit to the  
10 Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-  
11 19.1), to the Legislature.

12

13 19. (New section) Notwithstanding the provisions of the  
14 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
15 seq.), to the contrary, the chief executive officer of the authority, in  
16 consultation with the Commissioner of Environmental Protection,  
17 may adopt, immediately upon filing with the Office of  
18 Administrative Law, regulations that the chief executive officer and  
19 commissioner deem necessary to implement the provisions of  
20 sections 9 through 19 of P.L. , c. (C. ) (pending before the  
21 Legislature as this bill), which regulations shall be effective for a  
22 period not to exceed 180 days from the date of the filing. The chief  
23 executive officer, in consultation with the Commissioner of  
24 Environmental Protection, shall thereafter amend, adopt, or readopt  
25 the regulations in accordance with the requirements of P.L.1968,  
26 c.410 (C.52:14B-1 et seq.). The rules shall require annual reporting  
27 by developers that receive tax credits pursuant to the program, in  
28 addition to the regular progress updates **'[and]'** . Developers shall  
29 obtain certifications by the Department of Labor and Workforce  
30 Development, the Department of Environmental Protection, and the  
31 Department of the Treasury stating that the developer is in  
32 substantial good standing with the respective department, or has  
33 entered into an agreement with the respective department that  
34 includes a practical corrective action plan. The rules and  
35 regulations adopted pursuant to this section shall also include a  
36 provision to require that developers forfeit all tax credits awarded in  
37 any year in which any such report is not received, and to allow the  
38 authority to extend, in individual cases, the deadline for any annual  
39 reporting or certification requirement established pursuant to this  
40 section.

41

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

46

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

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

3 "Director" means the Director of the Division of Taxation in the  
4 Department of the Treasury.

5 "Follow-on investment" means a subsequent investment made by  
6 an investor who has a previous investment in a New Jersey high-  
7 growth business.

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

11 "High-growth business" means a business that is growing  
12 significantly faster than the average growth rate of the economy or  
13 is a start-up company that is investing in developing a product or  
14 new business model that will allow it to grow significantly faster  
15 than the average growth rate of the economy within the next three  
16 to five years.

17 "Incentive area" means an area in this State: (1) designated  
18 pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-  
19 196 et seq.), as Planning Area 1 (Metropolitan); or (2) that has been  
20 designated as a qualified opportunity zone pursuant to 26 U.S.C.  
21 s.1400Z-1.

22 "Innovation ecosystem" means funding, programs, and events  
23 that support the establishment and expansion of high-growth  
24 companies in targeted sectors. Examples of such funding,  
25 programs, and events include: mentoring programs for start-ups,  
26 meet-up or networking events, funding for locating a business in a  
27 collaborative workspace, programs that provide businesses services,  
28 and entrepreneurial education to companies.

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

33 "Principal business operations" means at least 50 percent of the  
34 business's employees, who are not primarily engaged in retail sales,  
35 reside in the State, or at least 50 percent of the business's payroll  
36 for employees not primarily engaged in retail sales is paid to  
37 individuals living in this State.

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

41 "Purchaser" means an entity registered to do business in this  
42 State with the Director of the Division of Revenue and Enterprise  
43 Services in the Department of the Treasury that purchases an  
44 allocation of tax credits under the program.

45 "Qualified business" means a business that, at the time of the  
46 first qualified investment in the business and throughout the period  
47 of the qualified investment under the program, is registered to do  
48 business in this State with the Director of the Division of Revenue

1 and Enterprise Services in the Department of the Treasury; has its  
2 principal business operations located in the State and intends to  
3 maintain its principal business operations in the State after  
4 receiving a qualified investment under the program; is engaged in a  
5 targeted industry; and employs fewer than 250 persons at the time  
6 of the qualified investment

7 "Qualified investment" means the direct investment of money by  
8 the fund in a qualified business for the purchase of shares of stock,  
9 with an <sup>1</sup>option to make an<sup>1</sup> additional investment in an option or  
10 warrant or a follow-on investment, in the discretion of the authority,  
11 all of which is matched by an investment by a qualified venture  
12 firm.

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

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

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

30 "Venture firm" means a partnership, corporation, trust, or limited  
31 liability company that invests cash in a business during the early or  
32 expansion stages of a business in exchange for an equity stake in  
33 the business in which the investment is made. Venture firm may  
34 include a venture capital fund, a family office fund, or a corporate  
35 investor fund, provided that a professional manager administers the  
36 venture firm.

37

38 22. (New section) The New Jersey Innovation Evergreen  
39 Program is established as a program under the jurisdiction of the  
40 New Jersey Economic Development Authority. The purpose of the  
41 program is to invest in innovation as a catalyst for economic growth  
42 and to advance the competitiveness of the State's businesses in the  
43 global economy. Beginning on the effective date of sections 20  
44 through 34 of P.L. , c. (C. ) (pending before the Legislature  
45 as this bill), the authority shall auction up to \$300,000,000 in tax  
46 credits in annual amounts not to exceed the limitations set forth in  
47 section 98 of P.L. , c. (C. ) (pending before the legislature as  
48 this bill). The authority shall not undertake an auction if, exclusive

1 of reserves, including the reserve set aside for follow-on  
2 investments pursuant to subsection d. of section 23 of P.L. , c.  
3 (C. ) (pending before the Legislature as this bill), more than  
4 \$15,000,000 is available to the authority, from moneys received  
5 from any prior auction of tax credits pursuant to the program, to  
6 allocate to qualified venture firms.

7  
8 23. (New section) a. The authority shall establish and maintain a  
9 dedicated fund to be known as the "New Jersey Innovation  
10 Evergreen Fund." The authority shall use the money in the fund to  
11 carry out the purposes enumerated in subsections b. and c. of this  
12 section. The authority shall credit the fund with money paid by  
13 purchasers; distributions from payments or repayments made to the  
14 authority in accordance with subsection c. of section 31 of P.L. ,  
15 c. (C. ) (pending before the Legislature as this bill); earnings  
16 received, if any, from the investment or reinvestment of money  
17 credited to the fund; and any money which, from time to time, may  
18 otherwise become available for the purposes of the fund.

19 b. The authority shall allocate the money in the fund to  
20 qualified venture firms to make qualified investments of capital in  
21 qualified businesses through a special purpose vehicle in  
22 accordance with section 30 of P.L. , c. (C. ) (pending before  
23 the Legislature as this bill) and to pay the administrative, legal, and  
24 auditing expenses of the authority incurred in the administration of  
25 the program. In addition, the authority shall use 75 basis points of  
26 the total amounts deposited in the fund, calculated on an annual  
27 basis, for programs administered by the authority that create an  
28 innovation ecosystem that supports and promotes high-growth  
29 businesses in the State.

30 c. The authority shall deposit into the fund dividends and  
31 returns on investments paid to the authority by or on behalf of a  
32 qualified business. Upon the fund holding total deposits of  
33 \$500,000,000 and thereafter upon a qualified investment in a  
34 qualified business achieving a return on investment of twice the  
35 original and follow-on investment, 50 percent of any return on  
36 investment in excess of twice the original and follow-on investment  
37 shall be paid to the General Fund of the State.

38 d. The authority shall account for and calculate reserves for  
39 follow-on investments, programs that support the State's innovation  
40 ecosystem, and administrative, legal, and auditing expenses of the  
41 authority in administering the program. The authority shall not  
42 include these reserves when calculating the amount in the fund  
43 available for new qualified investments.

44  
45 24. (New section) a. The authority shall sell the tax credits  
46 authorized pursuant to section 22 of P.L. , c. (C. ) (pending  
47 before the Legislature as this bill) to purchasers through a  
48 competitive auction process.



1       b. The authority shall determine the form and manner in which  
2 potential purchasers may bid for tax credits available under the  
3 program. To be awarded a tax credit under the program, a potential  
4 purchaser shall:

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

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

10       (3) commit to serve on the New Jersey Innovation Evergreen  
11 Advisory Board, established pursuant to section 32 of P.L.     , c.  
12 (C.     ) (pending before the Legislature as this bill), and to  
13 otherwise provide mentorship, networking, and collaboration  
14 opportunities to qualified businesses that receive funding under the  
15 program; and

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

18       c. Prior to an auction, the authority shall establish and disclose  
19 to bidders the weighted criteria the authority will utilize, which the  
20 authority shall base on the price offered to purchase the tax credits  
21 and the quality of the mentorship and networking opportunities and  
22 other support of the State's innovation ecosystem offered by a  
23 purchaser in its bid. The authority may pro rate the amount of tax  
24 credits allocated to each purchaser. A potential purchaser that  
25 submits a bid for tax credits under this section shall receive a  
26 written notice from the authority indicating whether the authority  
27 has approved it as a purchaser of tax credits and, if so, the amount  
28 of tax credits approved.

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

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

35  
36       25. (New section) a. A purchaser that submits a successful bid  
37 for the purchase of tax credits pursuant to section 24 of P.L.     , c.  
38 (C.     ) (pending before the Legislature as this bill) shall enter  
39 into a contract with the authority that includes payment information  
40 and the commitments made by the purchaser in its auction bid. A  
41 purchaser that submits a successful bid for the purchase of tax  
42 credits pursuant to section 24 of P.L.     , c. (C.     ) (pending  
43 before the Legislature as this bill) shall pay by wire transfer the  
44 amount specified in its auction bid to the authority for deposit into  
45 the fund. Upon receipt thereof, the chief executive officer shall  
46 notify the director to issue tax credits in the amount approved.  
47 Failure by the purchaser to pay the amount agreed upon on time  
48 may disqualify the purchaser from purchasing the tax credits and

1 the authority may reassign the right to purchase the credits to  
2 another bidder. Failure by the purchaser to adhere to the  
3 commitments made in its auction bid may disqualify the purchaser  
4 from participating in future auctions and may result in the recapture  
5 of a portion of the tax credits.

6 b. The authority shall credit to the fund any money paid to the  
7 authority by a purchaser for an allocation of tax credits under the  
8 program.

9 c. The authority shall ensure that no undue financial advantage  
10 shall inure to a purchaser that also is: managing a qualified venture  
11 firm; beneficially owning, through rights, options, convertible  
12 interests, or otherwise, more than 15 percent of the voting securities  
13 or other voting ownership interests of a qualified venture firm; or  
14 controlling the direction of investments for a qualified venture firm.  
15 The chief executive officer of the authority shall certify that the  
16 authority is monitoring the activities of such purchasers and has  
17 taken appropriate steps to ensure no undue financial advantage  
18 inures to the purchasers.

19

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

29 b. The director shall prescribe the order of priority of the  
30 application of the credits awarded under sections 20 through 34 of  
31 P.L. , c. (C. ) (pending before the Legislature as this bill)  
32 and any other credits allowed by law. The amount of a credit  
33 applied under sections 20 through 34 of P.L. , c. (C. )  
34 (pending before the Legislature as this bill) against the tax imposed  
35 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for a  
36 privilege period, together with any other credits allowed by law,  
37 shall not reduce the tax liability of the purchaser to an amount less  
38 than the statutory minimum provided in subsection (e) of section 5  
39 of P.L.1945, c.162 (C.54:10A-5).

40

41 27. (New section) a. A purchaser may apply to the authority  
42 and the director for a tax credit transfer certificate, in the privilege  
43 period during which the director allows the purchaser a tax credit  
44 pursuant to sections 20 through 34 of P.L. , c. (C. )  
45 (pending before the Legislature as this bill), in lieu of the purchaser  
46 being allowed to apply any amount of the tax credit against the  
47 purchaser's State tax liability. A tax credit may be sold or assigned,  
48 in full or in part, to another person that may have a tax liability

1 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). The tax  
2 credit transfer certificate provided to the purchaser shall include a  
3 statement waiving the purchaser's right to claim the credit that the  
4 purchaser has elected to sell or assign.

5 b. The purchaser shall not sell or assign a tax credit transfer  
6 certificate allowed under this section for consideration received by  
7 the purchaser of less than 85 percent of the transferred credit  
8 amount before considering any further discounting to present value  
9 which shall be permitted. The tax credit transfer certificate issued  
10 to a purchaser by the director shall be subject to any limitations and  
11 conditions imposed on the application of State tax credits pursuant  
12 to section 26 of P.L. , c. (C. ) (pending before the  
13 Legislature as this bill) and any other terms and conditions that the  
14 director may prescribe.

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

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

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

- 25 (1) the name of the transferor;  
26 (2) the name of the transferee;  
27 (3) the value of the tax credit transfer certificate;  
28 (4) the State tax against which the transferee may apply the tax  
29 credit; and  
30 (5) the consideration received by the transferor.

31  
32 28. (New section) a. The authority shall establish an  
33 application process and determine the form and manner through  
34 which a venture firm may make and file an application for  
35 certification as a qualified venture firm. The authority may accept  
36 applications on a rolling basis or on a date set by the authority.

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

- 42 (1) the management structure of the applicant, including:  
43 (a) quality of the leadership, including willingness to work with  
44 the authority to support targeted industries and the innovation  
45 ecosystem in the State, and to locate in the State;  
46 (b) the investment experience of the principals with qualified  
47 businesses;

- 1 (c) the knowledge, experience, and capabilities of the applicant
- 2 in subject areas relevant to high-growth businesses in the State;
- 3 (d) the tenure and turnover history of principals and senior
- 4 investment professionals of the applicant;
- 5 (e) whether the State's investment with the applicant under this
- 6 program would exceed 15 percent of the total invested in the
- 7 applicant by all investors, including investments in any special
- 8 purpose vehicles;
- 9 (f) the applicant's stage of fundraising; and
- 10 (g) whether fees, expenses, and the remuneration of the general
- 11 partner or manager are similar to those of peer investors;
- 12 (2) the applicant's investment strategy, including:
- 13 (a) the applicant's track record of investing in high-growth
- 14 businesses;
- 15 (b) whether the investment strategy of the applicant is focused
- 16 on high-growth businesses, including the percentage of the
- 17 investment identified to be invested in New Jersey or surrounding
- 18 geographic areas; and
- 19 (c) the performance history of the general partner or fund
- 20 manager based on a review of investment returns on individual
- 21 funds on an absolute basis and relative to peers; and
- 22 (3) The location of the applicant's venture firm and the
- 23 proposed structure of the applicant venture firm's investments in
- 24 qualified businesses, with preference given to applicant venture
- 25 firms that are located in incentive areas and to applicant venture
- 26 firms that agree to dedicate a greater portion of qualified
- 27 investments into qualified businesses located within incentive areas.
- 28
- 29 29. (New section) a. The authority shall certify or refuse to
- 30 certify a venture firm as a qualified venture firm based on the
- 31 criteria for certification set forth in section 28 of P.L. , c.
- 32 (C. ) (pending before the Legislature as this bill), and
- 33 subsections b. and c. of this section.
- 34 b. The authority shall not certify a venture firm as a qualified
- 35 venture firm if the venture firm has: (1) an equity capitalization, net
- 36 assets, or written commitments of less than \$10,000,000 in the form
- 37 of cash or cash equivalents on the date the determination for
- 38 certification is made; or (2) fewer than two principals or persons
- 39 employed to direct the qualified investment of capital with at least
- 40 five years of money management experience in the venture capital
- 41 or private equity sectors on the date the determination for
- 42 certification is made. The authority may adopt, pursuant to the
- 43 provisions of the "Administrative Procedure Act," P.L.1968, c.410
- 44 (C.52:14B-1 et seq.), rules setting forth additional disqualifying
- 45 criteria and adjusting the minimum equity capitalization, net assets,
- 46 or written commitments of a qualified venture firm.
- 47 c. Prior to certifying a venture firm as a qualified venture firm,
- 48 the Department of Labor and Workforce Development, the

1 Department of Environmental Protection, and the Department of the  
2 Treasury shall each report to the chief executive officer of the  
3 authority whether the venture firm is in substantial good standing  
4 with the respective department, or has entered into an agreement  
5 with the respective department that includes a practical corrective  
6 action plan for the venture firm. The authority may also contract  
7 with an independent third party to perform a background check on  
8 the venture firm.

9 d. The authority shall provide written notification to each  
10 venture firm that is certified as a qualified venture firm by the  
11 authority and shall provide written notification to each venture firm  
12 that the authority refuses to certify as a qualified venture firm,  
13 communicating in detail the grounds for the authority's refusal.  
14 The authority shall review each qualified venture firm annually for  
15 the disqualifying criteria set forth in subsection b. of this section or  
16 other reasonable industry-accepted standards as determined by the  
17 authority. The authority may decertify a qualified venture firm at  
18 any time pursuant to the disqualifying criteria set forth in  
19 subsection b. of this section. Decertification shall not affect any  
20 previously made qualified investment or the fund's commitment to  
21 make a follow-on investment in a qualified business.

22

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

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

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

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

1 (5) Within one year of the effective date of P.L. , c.  
2 (C. ) (pending before the Legislature as this bill), the authority  
3 shall undertake a disparity study of investment by venture firms in  
4 women- and minority-owned business enterprises in this State.  
5 Based on the finding of the disparity study, the authority, following  
6 board approval, may institute a set-aside plan to ensure that fund  
7 money allocated to qualified venture firms is reserved for  
8 investment in women- and minority-owned business enterprises in  
9 this State.

10 b. The authority shall make and enter into an agreement with  
11 each qualified venture firm to which the authority allocates money  
12 under the program. The agreement shall include provisions that  
13 require the qualified venture firm to:

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

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

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

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

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

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

38 (7) consent to the authority publicly disclosing the qualified  
39 venture firm on the list of qualified investment firms participating  
40 in the program; and

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

44 c. A qualified venture firm that has made and entered into an  
45 agreement with the authority in accordance with subsection b. of  
46 this section is authorized to make qualified investments of capital in  
47 one or more qualified businesses from fund money allocated to the  
48 qualified venture firm by the authority at the times, in the amounts,

1 and subject to the terms and conditions that the qualified venture  
2 firm determines to be necessary and appropriate. The authority may  
3 limit the amount of allocated fund money that a qualified venture  
4 firm invests in a qualified business based upon the size of  
5 investments the qualified business has received, the source of the  
6 investments, and the industry in which the qualified business is  
7 engaged.

8

9 31. (New section) a. A qualified venture firm shall annually  
10 report to the authority:

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

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

17 (3) for any qualified investment in which the qualified venture  
18 firm no longer has a position as of the end of the calendar year, the  
19 number of employees of the business as of the date the investment  
20 was terminated;

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

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

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

40 c. Not later than 60 days after the sale or other disposition of a  
41 qualified investment, the qualified venture firm shall provide to the  
42 authority a report on the amount of the stock sold or disposed of  
43 and the consideration received for the sale or disposition. The  
44 report shall detail the cumulative effect of sequentially introduced  
45 positive or negative values and include the gross income and details  
46 of any offsetting fees that reduce the net distribution. Any dividend  
47 or proceeds received by the authority for the sale or other  
48 disposition of a qualified investment shall be deposited into the

1 fund and used in accordance with section 23 of P.L. , c.  
2 (C. ) (pending before the Legislature as this bill).

3 d. A qualified venture firm shall, as required at the discretion  
4 of the authority, submit to the authority satisfactory evidence  
5 supporting the information detailed in the annual report and  
6 certifying that all information provided by the qualified venture  
7 firm to the authority is true, including information contained in the  
8 application for certification, the agreement between the qualified  
9 venture firm and authority, any amendment to that agreement, and  
10 any other information submitted by the qualified venture firm to the  
11 authority pursuant to sections 20 through 34 of P.L. , c.  
12 (C. ) (pending before the Legislature as this bill). The qualified  
13 venture firm, or an authorized agent of the qualified venture firm,  
14 shall certify under the penalty of perjury that the information  
15 provided pursuant to this section is true.

16

17 32. (New section) The New Jersey Innovation Evergreen  
18 Advisory Board is established in but not of the authority for the  
19 purposes of providing guidance and networking opportunities to  
20 qualified businesses. The members of the board shall serve in a  
21 voluntary capacity, to be appointed through a process to be  
22 determined by the chief executive officer of the authority from  
23 among purchasers and other strategic partners identified by the  
24 chief executive officer, to support the State's innovation ecosystem.  
25 The terms of the voluntary members so appointed, after the initial  
26 appointments, shall be one year, and each member may be  
27 reappointed.

28

29 33. (New section) Beginning the year next following the year in  
30 which sections 20 through 34 of P.L. , c. (C. ) (pending  
31 before the Legislature as this bill) take effect and every two years  
32 thereafter, the authority shall prepare a report on the  
33 implementation of the program, and submit the report to the  
34 Governor, and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-  
35 19.1), to the Legislature. Each biennial report required under this  
36 section shall include the names and locations of qualified  
37 businesses receiving capital; the amount of each qualified  
38 investment; a report by a certified public accountant, who is  
39 licensed in accordance with the "Accountancy Act of 1997,"  
40 P.L.1997, c.259 (C.45:2B-42 et seq.), or licensed in accordance  
41 with the laws of another state, of the consolidated performance of  
42 the fund; the cumulative amount of capital committed by  
43 purchasers; the rate and amount of fees charged by each qualified  
44 venture firm, including performance-based earnings and carried  
45 interest; the classification of each qualified business, according to  
46 the industrial sector and the size of the qualified business; the  
47 State's return on investment; the total number of jobs created in the  
48 State by the qualified business after the qualified investment; the



1 average wages paid for the jobs; and any other metrics the authority  
2 determines are relevant based upon national best practices.

3  
4 34. (New section) Notwithstanding the provisions of the  
5 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
6 seq.), to the contrary, the chief executive officer of the authority  
7 may adopt, immediately, upon filing with the Office of  
8 Administrative Law, regulations that the chief executive officer  
9 deems necessary to implement the provisions of sections 20 through  
10 34 of P.L. , c. (C. ) (pending before the Legislature as this  
11 bill), which regulations shall be effective for a period not to exceed  
12 180 days from the date of the filing. The chief executive officer  
13 shall thereafter amend, adopt, or readopt the regulations in  
14 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1  
15 et seq.).

16  
17 35. (New section) Sections 35 through 42 of P.L. , c.  
18 (C. ) (pending before the Legislature as this bill) shall be  
19 known and may be cited as the "Food Desert Relief Act."

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

38 b. The Legislature therefore determines that it is both  
39 reasonable and necessary to authorize the New Jersey Economic  
40 Development Authority to establish a program that provides  
41 financial assistance to supermarkets, grocery stores, mid-sized food  
42 retailers, and small food retailers to establish and retain locations in  
43 food desert communities in order to provide a consistent, and easily  
44 accessible, source of fresh produce to residents in those  
45 communities.

46  
47 37. (New section) As used in sections 35 through 42 of P.L. , c.  
48 (C. ) (pending before the Legislature as this bill):

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

4 "Department" means the Department of Agriculture.

5 "Eligible equipment costs" means expenditures for the  
6 procurement of such equipment as is needed to allow a  
7 'supermarket, grocery store,' mid-sized food retailer <sup>1,1</sup> or small  
8 food retailer to store, refrigerate, 'transport,' or otherwise maintain  
9 nutritious foods, including fresh fruits and vegetables, for retail  
10 purposes, but within a standard range based upon industry  
11 standards, as determined by the authority.

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

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

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

26 "Mid-sized food retailer" means a medium-sized retail outlet  
27 with at least 2,500 but less than 16,000 square feet, of which at least  
28 75 percent is occupied by food and related products.

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

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

45 "Project financing gap" means the part of the total project cost,  
46 including return on investment, that remains to be financed after all  
47 other sources of capital have been accounted for, including, but not  
48 limited to, developer-contributed capital, which shall not be less

1 than 20 percent of the total project cost, which may include the  
2 value of any existing land and improvements in the project area  
3 owned or controlled by the developer, and the cost of infrastructure  
4 improvements in the public right-of-way, and investor or financial  
5 entity capital or loans for which the developer, after making all  
6 good faith efforts to raise additional capital, certifies that additional  
7 capital cannot be raised from other sources on a non-recourse basis

8 "Small food retailer" means a small retail outlet, with less than  
9 2,500 square feet, that sells a limited selection of foods and other  
10 products, such as a bodega, convenience store, corner store,  
11 neighborhood store, small grocery, or small-scale store.

12 "Supermarket or grocery store" means a retail outlet with at least  
13 16,000 square feet, of which at least 90 percent is occupied by food  
14 and related products.

15

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

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

28 b. The authority, in consultation with the Department of  
29 Agriculture and the Department of Community Affairs, shall  
30 initially designate not more than 50 separate geographic areas that  
31 are most in need of a supermarket or grocery store as food desert  
32 communities in this State. The Department of Agriculture and the  
33 Department of Community Affairs shall develop criteria for the  
34 designation of food desert communities, but each separate food  
35 desert community shall consist of a distinct geographic area with a  
36 single defined border. The criteria shall, at a minimum, incorporate  
37 analysis of municipal or census tract poverty statistics, food desert  
38 information from the Economic Research Service of the United  
39 States Department of Agriculture, and healthier food retail tract  
40 information from the federal Centers for Disease Control and  
41 Prevention. The departments may also consider data related to  
42 municipal or census tract population size and population density in  
43 making food desert community designations pursuant to this  
44 subsection. The authority, in consultation with the departments,  
45 shall continuously evaluate areas previously designated as food  
46 desert communities and assess whether they still meet the criteria  
47 for designation as a food desert community and may designate  
48 additional food desert communities once every three years

1 following the effective date of sections 35 through 42 of P.L. , c.  
2 (C. ) (pending before the Legislature as this bill).

3 c. To receive a tax credit under section 39 or 40 of P.L. , c.  
4 (C. or C. ) (pending before the Legislature as this bill), a  
5 taxpayer shall submit an application to the authority in the form and  
6 manner prescribed by the authority and in accordance with criteria  
7 established by the authority <sup>1</sup>, which at minimum will include a  
8 commitment to accept benefits from federal nutrition assistance  
9 programs, such as the Supplemental Nutrition Assistance Program  
10 (SNAP) and the Special Supplemental Nutrition Program for  
11 Women, Infants, and Children (WIC)<sup>1</sup>. Following the approval of  
12 an application, the authority may, pursuant to an award agreement,  
13 award tax credits to an eligible taxpayer that:

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

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

19 d. (1) The authority may sell all or a portion of the tax credits  
20 made available in a fiscal year pursuant to subsection a. of this  
21 section and dedicate the proceeds from such sale to provide grants  
22 and loans to qualifying supermarkets, grocery stores, mid-sized  
23 food retailers, and small food retailers. The amount of any grant or  
24 loan provided pursuant to this subsection shall be in accordance  
25 with the need of the supermarket, grocery store, mid-sized food  
26 retailer, or small food retailer, as determined by the authority. The  
27 authority shall sell tax credits pursuant to this section in the manner  
28 determined by the authority; provided, however, the authority shall  
29 not sell tax credits for less than 85 percent of the tax credit amount.  
30 Grants and loans made available pursuant to this subsection shall be  
31 awarded to entities that:

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

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

37 (2) A <sup>1</sup>supermarket, grocery store,<sup>1</sup> mid-sized food retailer<sup>1</sup>,<sup>1</sup> or  
38 small food retailer shall submit an application to the authority to  
39 receive a grant or loan pursuant to this subsection. The application  
40 shall be submitted in the form and manner prescribed by the  
41 authority and in accordance with criteria established by the  
42 authority. An entity eligible for a grant or loan under subparagraph  
43 (a) of paragraph (1) of this subsection shall not be required to  
44 submit a separate application to the authority for the grant or loan,  
45 provided that the entity has submitted an application to the authority  
46 pursuant to subsection c. of this section.

1 (3) Prior to awarding a grant or loan to <sup>1</sup>**[a]** an applicant  
 2 supermarket, grocery store,<sup>1</sup> mid-sized food retailer<sup>1, 1</sup> or small food  
 3 retailer pursuant to this subsection, the Department of Labor and  
 4 Workforce Development, the Department of Environmental  
 5 Protection, and the Department of the Treasury shall each report to  
 6 the chief executive officer of the authority whether <sup>1</sup>**[a** qualifying  
 7 mid-sized food retailer or small food retailer**]** the applicant<sup>1</sup> is in  
 8 substantial good standing with the respective department, or has  
 9 entered into an agreement with the respective department that  
 10 includes a practical corrective action plan for the <sup>1</sup>**[mid-sized food**  
 11 retailer or small food retailer**]** applicant<sup>1</sup>. The authority may also  
 12 contract with an independent third party to perform a background  
 13 check on the entity.

14 (4) <sup>1</sup>**[A]** An applicant supermarket, grocery store,<sup>1</sup> mid-sized  
 15 food retailer<sup>1, 1</sup> or small food retailer shall, as required at the  
 16 discretion of the authority, submit to the authority satisfactory  
 17 information pertaining to the eligible equipment costs and eligible  
 18 technology costs, as certified by a certified public accountant,  
 19 certifications that all information provided by the <sup>1</sup>**[mid-sized food**  
 20 retailer or small food retailer**]** applicant<sup>1</sup> to the authority is true,  
 21 including information contained in the application, any agreement  
 22 pertaining to the award of grants or loans under the program, any  
 23 amendment to such an agreement, and any other information  
 24 submitted by the <sup>1</sup>**[mid-sized food retailer or small food retailer]**  
 25 applicant<sup>1</sup> to the authority pursuant to sections 35 through 42 of  
 26 P.L. , c. (C. ) (pending before the Legislature as this bill),  
 27 and evidence of the eligible equipment costs and eligible  
 28 technology costs of the <sup>1</sup>**[mid-sized food retailer or small food**  
 29 retailer**]** applicant<sup>1</sup>. The <sup>1</sup>**[mid-sized food retailer or small food**  
 30 retailer**]** applicant<sup>1</sup>, or an authorized agent of the <sup>1</sup>**[mid-sized food**  
 31 retailer or small food retailer**]** applicant<sup>1</sup>, shall certify under the  
 32 penalty of perjury that the information provided pursuant to this  
 33 subsection is true.

34 e. The authority may <sup>1</sup>**[provide]** establish a<sup>1</sup> technical  
 35 assistance fund<sup>1</sup> to assist<sup>1</sup> any entity that is eligible for a tax  
 36 credit, grant, or loan under this section. The technical assistance  
 37 <sup>1</sup>**[shall provide instructions]** may make grants to entities<sup>1</sup> to  
 38 assist<sup>1</sup> qualifying supermarkets, grocery stores, <sup>1</sup>**[and]**<sup>1</sup> mid-sized  
 39 food <sup>1</sup>**[retailer]** retailers,<sup>1</sup> or small food retailers <sup>1</sup>**[concerning]** in  
 40 implementation of<sup>1</sup> best practices <sup>1</sup>for<sup>1</sup> increasing the accessibility  
 41 of nutritious foods in food desert communities. Technical assistance  
 42 shall be provided either directly by the authority or through a not-  
 43 for-profit or for-profit entity and<sup>1</sup> made available in English as well  
 44 as the two most commonly spoken languages in New Jersey other  
 45 than English. At the discretion of the authority, funds to support<sup>1</sup>

1 technical assistance may be provided in addition to, or in lieu of,  
2 any tax credit, grant, or loan awarded under sections 35 through 42  
3 of P.L. , c. (C. ) (pending before the Legislature as this  
4 bill).

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

9 (a) to mitigate a project financing gap;

10 (b) to mitigate the initial operating costs of the supermarket or  
11 grocery store; or

12 (c) to mitigate the eligible equipment costs or eligible  
13 technology costs of the 'supermarket, grocery store,' mid-sized  
14 food retailer<sup>1,1</sup> or small food retailer in order to make nutritious  
15 foods more accessible and affordable to residents within food  
16 deserts; or

17 (d) to support initiatives to ensure food security of residents in  
18 food desert communities.

19 (2) The value of tax credits or grants awarded to individual  
20 entities under the program shall not exceed:

21 (a) in the case of an entity eligible under paragraph (1) of  
22 subsection c. of this section, 40 percent of the total project cost for  
23 the first supermarket or grocery store in a designated food desert  
24 community, and 20 percent of the total project cost for the second  
25 supermarket or grocery store in the food desert community; and

26 (b) in the case of an entity eligible under paragraph (2) of  
27 subsection c. of this section, the initial operating costs of the first  
28 supermarket or grocery store in a designated food desert  
29 community, and one-half of the initial operating costs of the second  
30 supermarket or grocery store in the food desert community; and

31 (c) in the case of an entity eligible for a grant or loan under  
32 subparagraph (b) of paragraph (1) of subsection d. of this section,  
33 the eligible equipment costs and eligible technology costs of the  
34 'supermarket, grocery store,' mid-sized food retailer<sup>1,1</sup> or small  
35 food retailer.

36 g. An entity that develops and opens a new supermarket or  
37 grocery store in a designated food desert community shall be  
38 eligible for a tax credit only if the entity demonstrates to the  
39 authority at the time of application that each worker employed to  
40 perform construction at the project shall be paid not less than the  
41 prevailing wage rate for the worker's craft or trade, as determined  
42 by the Commissioner of Labor and Workforce Development  
43 pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005,  
44 c.379 (C.34:11-56.58 et seq.).

45 h. (1) Except as provided in paragraph (2) of this subsection, a  
46 labor harmony agreement shall be required if the State has a  
47 proprietary interest in a supermarket or grocery store and the  
48 agreement shall remain in effect for as long as the State acts as a

1 market participant in the project. The provisions of this paragraph  
2 shall apply to a supermarket or grocery store that will have more  
3 than 10 employees.

4 (2) A labor harmony agreement under paragraph (1) of this  
5 subsection shall not be required if the authority determines that the  
6 supermarket or grocery store would not be feasible if a labor  
7 harmony agreement is required. The authority shall support the  
8 determination by a written finding, which provides the specific  
9 basis for the determination.

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

34 i. <sup>1</sup>【The award agreement shall require that the recipient  
35 consent to the disclosure of tax expenditure information as  
36 described in paragraph (8) of subsection b. of section 1 of P.L.2009,  
37 c.189 (C.52:27B-20a).】<sup>1</sup> A recipient shall certify that all factual  
38 representations made by the recipient in the application or award  
39 agreement are true under the penalty of perjury. A material  
40 misrepresentation of fact in either the application or award  
41 agreement may result in recession and recapture of any grants or tax  
42 credits awarded, or acceleration of any loans made, under sections  
43 35 through 42 of P.L. , c. (C. ) (pending before the  
44 Legislature as this bill).

45  
46 39. (New section) a. For privilege periods beginning on or after  
47 January 1 next following the effective date of sections <sup>1</sup>【25】 35<sup>1</sup>  
48 through 42 of P.L. , c. (C. ) (pending before the Legislature

1 as this bill), a taxpayer eligible under subsection c. of section 38 of  
2 P.L. , c. (C. ) (pending before the Legislature as this bill)  
3 shall be awarded a credit against the tax due pursuant to section 5 of  
4 P.L.1945, c.162 (C.54:10A-5). A taxpayer that qualifies for the  
5 award of a tax credit under this section may claim 25 percent of the  
6 total amount awarded in the privilege period in which the taxpayer  
7 establishes and opens the supermarket or grocery store for business,  
8 and an additional 25 percent of the total amount awarded in each of  
9 the three privilege periods next following the initial opening,  
10 provided that the supermarket or grocery store remains in business  
11 and open to the public. For a taxpayer to be allowed a tax credit  
12 pursuant to this section, the taxpayer shall meet the requirements of  
13 this section, and the rules and regulations adopted pursuant to  
14 section 41 of P.L. , c. (C. ) (pending before the Legislature  
15 as this bill).

16 b. The order of priority of the application of the credit allowed  
17 pursuant to this section and any other credits allowed against the tax  
18 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for  
19 a privilege period shall be as prescribed by the Director of the  
20 Division of Taxation in the Department of the Treasury <sup>1</sup>], in  
21 consultation with the chief executive office of the authority<sup>1</sup>]. The  
22 amount of the credit applied pursuant to this section against the tax  
23 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),  
24 shall not reduce a taxpayer's tax liability for a privilege period to an  
25 amount less than the statutory minimum provided in subsection (e)  
26 of section 5 of P.L.1945, c.162 (C.54:10A-5). Any credit shall be  
27 valid in the privilege period in which the certification is approved  
28 and any unused portion thereof may be carried forward into the next  
29 10 privilege periods or until exhausted, whichever is earlier.

30 c. The authority shall award tax credits to taxpayers until either  
31 the available tax credits are exhausted or all projects that are  
32 eligible for a tax credit pursuant to the provisions of sections 35  
33 through 42 of P.L. , c. (C. ) (pending before the Legislature  
34 as this bill) receive a tax credit, whichever occurs first. If  
35 insufficient funding exists to allow a tax credit to a taxpayer in  
36 accordance with the provisions of subsection a. of section 38 of  
37 P.L. , c. (C. ) (pending before the Legislature as this bill),  
38 the authority may offer the taxpayer a tax credit in an amount less  
39 than that provided in subsection a. of this section.

40 d. Prior to awarding a tax credit to a supermarket or grocery  
41 store, the Department of Labor and Workforce Development, the  
42 Department of Environmental Protection, and the Department of the  
43 Treasury shall each report to the chief executive officer of the  
44 authority whether a qualifying supermarket or grocery store is in  
45 substantial good standing with the respective department, or has  
46 entered into an agreement with the respective department that  
47 includes a practical corrective action plan for the supermarket or



1 grocery store. The authority may also contract with an independent  
2 third party to perform a background check on the developer.

3 e. A supermarket or grocery store shall, as required at the  
4 discretion of the authority, submit to the authority satisfactory  
5 information pertaining to the project cost, project financing gap,  
6 and the initial operating costs, as certified by a certified public  
7 accountant, certifications that all information provided by the  
8 supermarket or grocery store to the authority is true, including  
9 information contained in the application, any agreement pertaining  
10 to the award of tax credits under the program, any amendment to  
11 such an agreement, and any other information submitted by the  
12 supermarket or grocery store to the authority pursuant to sections 35  
13 through 42 of P.L. , c. (C. ) (pending before the Legislature  
14 as this bill), and evidence of the initial opening and continued  
15 operation of the supermarket or grocery store. The supermarket or  
16 grocery store, or an authorized agent of the supermarket or grocery  
17 store, shall certify under the penalty of perjury that the information  
18 provided pursuant to this subsection is true.  
19 to this subsection is true.

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

38 b. The order of priority of the application of the credit allowed  
39 pursuant to this section and any other credits allowed against the tax  
40 imposed pursuant to N.J.S.54A:1-1 et seq. for a taxable year shall  
41 be as prescribed by the Director of the Division of Taxation in the  
42 Department of the Treasury, in consultation with the chief executive  
43 officer of the authority. The amount of the credit applied pursuant  
44 to this section against the tax imposed pursuant to N.J.S.54A:1-1 et  
45 seq. shall not reduce a taxpayer's tax liability for a taxable year to  
46 an amount less than zero. Any credit shall be valid in the taxable  
47 year in which the certification is approved and any unused portion

1 thereof may be carried forward into the next 10 taxable years or  
2 until depleted, whichever is earlier.

3 c. A business entity that is classified as a partnership for  
4 federal income tax purposes shall not be allowed the credit directly  
5 under N.J.S.54A:1-1 et seq., but the amount of credit of the  
6 taxpayer in respect of a distributive share of partnership income  
7 shall be determined by allocating to the taxpayer that proportion of  
8 the credit acquired by the partnership that is equal to the taxpayer's  
9 share, whether or not distributed, of the total distributive income or  
10 gain of the partnership for its taxable year ending within or with the  
11 taxpayer's taxable year.

12 A taxpayer that is a New Jersey S corporation shall not be  
13 allowed the credit directly under N.J.S.54A:1-1 et seq., but the  
14 amount of credit of a taxpayer in respect of a pro rata share of S  
15 corporation income shall be determined by allocating to the  
16 taxpayer that proportion of the credit acquired by the New Jersey S  
17 corporation that is equal to the taxpayer's share, whether or not  
18 distributed, of the total pro rata share of S corporation income of the  
19 New Jersey S corporation for its taxable year ending within or with  
20 the taxpayer's taxable year.

21 d. The authority shall award tax credits to taxpayers until either  
22 the available tax credits are exhausted or all projects that are  
23 eligible for a tax credit pursuant to the provisions of sections 35  
24 through 42 of P.L. , c. (C. ) (pending before the Legislature  
25 as this bill) receive a tax credit, whichever occurs first. If  
26 insufficient funding exists to allow a tax credit to a taxpayer in  
27 accordance with the provisions of subsection a. of section 38 of  
28 P.L. , c. (C. ) (pending before the Legislature as this bill),  
29 the authority may offer the taxpayer a tax credit in an amount less  
30 than that provided in subsection a. of this section 40.

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

43 f. A supermarket or grocery store shall, as required at the  
44 discretion of the authority, submit to the authority satisfactory  
45 information pertaining to the project cost, project financing gap,  
46 and the initial operating costs, as certified by a certified public  
47 accountant, certifications that all information provided by the  
48 supermarket or grocery store to the authority is true, including

1 information contained in the application, any agreement pertaining  
2 to the award of tax credits under the program, any amendment to  
3 such an agreement, and any other information submitted by the  
4 supermarket or grocery store to the authority pursuant to sections  
5 35 through 42 of P.L. , c. (C. ) (pending before the  
6 Legislature as this bill), and evidence of the initial opening and  
7 continued operation of the supermarket or grocery store. The  
8 supermarket or grocery store, or an authorized agent of the  
9 supermarket or grocery store, shall certify under the penalty of  
10 perjury that the information provided pursuant to this subsection is  
11 true.

12

13 41. (New section) The authority, in consultation with the  
14 department and the Director of the Division of Taxation in the  
15 Department of the Treasury, shall adopt, pursuant to the  
16 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
17 seq.), rules and regulations necessary to carry out the provisions of  
18 sections 35 through 42 of P.L. , c. (C. ) (pending before the  
19 Legislature as this bill).

20

21 42. (New section) Within one year of the effective date of  
22 sections 35 through 42 of P.L. , c. (C. ) (pending before the  
23 Legislature as this bill), the authority shall annually submit a report  
24 to the Governor, the State Treasurer, and, pursuant to section 2 of  
25 P.L.1991, c.164 (C.52:14-19.1), the Legislature, on the  
26 effectiveness of the program in establishing supermarkets and  
27 grocery stores in food desert communities.

28

29 43. (New section) Sections 43 through 53 of P.L. , c.  
30 (C. ) (pending before the Legislature as this bill) shall be  
31 known and may be cited as the "New Jersey Community-Anchored  
32 Development Act."

33

34 44. (New section) The purpose of the New Jersey Community-  
35 Anchored Development Act is for the New Jersey Economic  
36 Development Authority to facilitate, in partnership with the State's  
37 key not-for-profit and governmental anchor institutions, large-scale  
38 development projects with desirable employment and geographical  
39 characteristics that are to impact a broader community. The  
40 Legislature finds that where a broad commonality of goals exists  
41 between anchor institutions and the State, the authority can  
42 effectively utilize anchor institutions as investors in, and additional  
43 overseers of, projects that the authority seeks to incentivize. Under  
44 the legislation, anchor institutions in the areas of education, health  
45 care, culture, community development, and economic development  
46 are provided with the opportunity to act as investors in targeted  
47 development, utilizing proceeds from the sale of State tax credits.  
48 This approach harnesses the deep experience of the numerous

1 anchor institutions in the State, institutions that enjoy decades-long  
2 relationships with communities around the State, making them ideal  
3 partners for companies wanting to come to or expand in New  
4 Jersey.

5 This legislation seeks to overcome cost-of-occupancy differences  
6 between New Jersey and less expensive options in other  
7 jurisdictions for specific properties by reducing the cost of  
8 occupancy being offered to a targeted company. This legislation  
9 represents a shift in State economic development policy from a  
10 grant model to an investment model, differing significantly from  
11 past award models in that the legislation does not provide a certain  
12 dollar amount to private employers based on the number and types  
13 of jobs being created or preserved in the State.

14 The legislation affords an opportunity for an anchor institution  
15 and the authority to become partners in a project, with the authority  
16 receiving a negotiated current or deferred economic return on the  
17 tax credit investment made by the anchor institution and ultimately  
18 the return of the amount initially invested. Through a competitive  
19 application process to the authority, a real estate partnership  
20 between an anchor institution and a partner business will make its  
21 case for an amount of tax credits necessary for that project to be  
22 able to establish occupancy costs at a competitive level.

23 By its inclusion of designated federal opportunity zones and  
24 areas eligible to be designated as federal opportunity zones as a  
25 separate basis for projects to receive tax credits, the legislation  
26 seeks to incentivize anchor institutions to look beyond the borders  
27 of their host communities, permitting them to invest in other locales  
28 that lack strong anchor institutions, thus expanding their influence  
29 and impact by doing so. Simultaneously, such investments will  
30 further the objectives of the State in attracting high-value employers  
31 and in providing economic stimulus to areas of the State that prior  
32 investment cycles have overlooked. The legislation is also  
33 expansive enough to permit the addition of other beneficial uses to  
34 a qualifying project; including housing, public amenities, parking,  
35 mixed uses, and facilities of an anchor institution itself.

36 The tax credits issued by the authority to an applicant anchor  
37 institution are to be issued pursuant to a tax credit agreement that  
38 sets forth negotiated terms on which the authority has agreed to  
39 issue the credits. The tax credit agreement is to include standards  
40 relating to the anticipated economic results of the community-  
41 anchored project and address accountability in the event that the  
42 community-anchored project fails to meet the requirements  
43 specified in the tax credit agreement.

44 The Legislature declares that two principal objectives underscore  
45 the policy approach of this legislation: first, an incentive program  
46 cannot succeed as a one-size-fits-all structure, and therefore an  
47 award of tax credits is to be thoroughly underwritten by the  
48 authority and specifically designed for scenarios in which the

1 authority finds that the award will be effective; and second, the  
 2 State is better served where the State's financial support is  
 3 characterized and treated as an investment rather than an explicit  
 4 grant.

5  
 6 45. (New section) As used in sections 43 through 53 of P.L. ,  
 7 c. (C. ) (pending before the Legislature as this bill):

8 "Affiliate" means an entity that directly or indirectly controls, is  
 9 under common control with, or is controlled by an anchor  
 10 institution 'partner anchor institution.'<sup>1</sup> or a partner business.  
 11 Control exists in all cases in which the entity is a member of a  
 12 controlled group of corporations as defined pursuant to section 1563  
 13 of the federal Internal Revenue Code (26 U.S.C. s.1563) or the  
 14 entity is an organization in a group of organizations under common  
 15 control that is subject to the regulations applicable to organizations  
 16 pursuant to subsection (b) or (c) of section 414 of the federal  
 17 Internal Revenue Code (26 U.S.C. s.414). A taxpayer may establish  
 18 by clear and convincing evidence, as determined by the Director of  
 19 the Division of Taxation in the Department of the Treasury, that  
 20 control exists in situations involving lesser percentages of  
 21 ownership than required by the above referenced federal statutes.

22 "Anchor institution" means a governmental entity or nonprofit  
 23 entity incorporated pursuant to Title 15 of the Revised Statutes or  
 24 Title 15A of the New Jersey Statutes having a primary mission and  
 25 specific policy goals that align with those of the authority under the  
 26 program and that is a comprehensive health care system, a public  
 27 research university, a private research university, a major cultural  
 28 scientific, research '[and] , or' philanthropic '[institutions]  
 29 institution'<sup>1</sup>, or 'a' public '[colleges] college'<sup>1</sup> which '[are] is'  
 30 separate from public research universities, 'or an experienced  
 31 nonprofit or governmental economic or community development  
 32 entity'<sup>1</sup> certified as an anchor institution by the board pursuant to  
 33 subsection a. of section 46 of P.L. , c. (C. ) (pending before  
 34 the Legislature as this bill).

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

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

40 "Commitment period" means the period of time, which shall be  
 41 not less than 10 years and no greater than twice the eligibility  
 42 period that is granted to an anchor institution 'or, if applicable, a  
 43 partner anchor institution'<sup>1</sup>, to distribute to the authority the agreed  
 44 upon returns on investment for the award of tax credits pursuant to  
 45 the program; provided, however, at the election of the authority or  
 46 upon the request of an anchor institution 'or, if applicable, a partner  
 47 anchor institution'<sup>1</sup> in order to benefit the community-anchored

1 project, and as determined in the sole discretion of the authority, the  
2 authority may grant up to two consecutive five-year extensions of  
3 the commitment period.

4 "Community-anchored project" means a capital project that is  
5 located in an area that is designated as a New Jersey State  
6 opportunity zone, an area of the State designated pursuant to the  
7 "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as  
8 Planning Area 1 (Metropolitan), or a municipality with a Municipal  
9 Revitalization Index distress score of at least 50 and for which an  
10 anchor institution 'and, if applicable, any partner anchor  
11 institution' is to be awarded tax credits by the authority pursuant to  
12 a tax credit agreement which establishes the award of tax credits as  
13 an investment by the authority in the project, provided that the  
14 project will result in a capital investment of at least \$10,000,000 in  
15 a New Jersey State opportunity zone or in any other area of the  
16 State, but a project that is not located in a New Jersey State  
17 opportunity zone is to be primarily designed to result in the  
18 economic expansion of a targeted industry in this State.

19 "Comprehensive health care system" means an entity in this State  
20 with the primary purpose of offering comprehensive health care  
21 services. **1["Comprehensive health care system" shall not include**  
22 **any business that manages or offers one or more health benefits**  
23 **plans.]'**

24 "Comprehensive health care services" means the basic health  
25 care services provided under a health benefits plan, including  
26 medical and surgical services provided by licensed health care  
27 providers who may include, but are not limited to, family  
28 physicians, internists, cardiologists, psychiatrists, rheumatologists,  
29 dermatologists, orthopedists, obstetricians, gynecologists,  
30 neurologists, endocrinologists, radiologists, nephrologists,  
31 emergency services physicians, ophthalmologists, pediatricians,  
32 pathologists, general surgeons, osteopathic physicians, physical  
33 therapists and chiropractors. Basic benefits may also include  
34 inpatient or outpatient services rendered at a licensed hospital,  
35 covered services performed at an ambulatory surgical facility, and  
36 ambulance services. "Comprehensive health care services" shall  
37 include only services provided by licensed health care providers.

38 "Director" means the Director of the Division of Taxation in the  
39 Department of the Treasury.

40 "Eligibility period" means the period in which an anchor  
41 institution 'or, if applicable, a partner anchor institution' may  
42 claim, sell, transfer, or otherwise use a tax credit under the New  
43 Jersey Community-Anchored Development Program, beginning  
44 with the tax period in which the authority accepts certification of  
45 the business that it has met the capital investment requirements of  
46 the program and extending thereafter for a term of not more than 10  
47 years.

1 "Eligible position" means a full-time position in a business in  
2 this State which the business has filled with a full-time employee.  
3 An eligible position shall not include an independent contractor or a  
4 consultant.

5 "Experienced nonprofit or governmental economic or community  
6 development entity" means a nonprofit entity incorporated pursuant  
7 to Title 15 of the Revised Statutes or Title 15A of the New Jersey  
8 Statutes <sup>1</sup>with a substantial number of years of experience<sup>1</sup> that has  
9 a core mission and a community track record of advancing  
10 economic or community development in at least one area of the  
11 State <sup>1</sup>, that has undertaken multiple successful partnerships with  
12 government entities, educational institutions and the private sector  
13 in carrying out development projects, that has successfully  
14 developed multiple types of mixed-use projects, that owns or  
15 controls significant real estate assets,<sup>1</sup> and that has appropriate prior  
16 experience in successfully developing mixed-use projects <sup>1</sup>of  
17 comparable or greater size, value and complexity to that being  
18 proposed, structuring, securing,<sup>1</sup> and utilizing complex financing  
19 <sup>1</sup>[arrangements in developing similar types of projects] in the  
20 development of projects of comparable or greater size, value, and  
21 complexity to that being proposed,<sup>1</sup> as determined by the board.  
22 <sup>1</sup>An experienced nonprofit or governmental economic or  
23 community development entity shall not be eligible to participate in  
24 the program in connection with a project that is primarily residential  
25 or retail.<sup>1</sup>

26 "Major cultural institution" means a public or nonsectarian  
27 nonprofit institution within this State that engages in the cultural,  
28 intellectual, scientific, environmental, educational, or artistic  
29 enrichment of the people of this State, and which is designated by  
30 the board as a major cultural institution.

31 "New full-time job" means an eligible position created by an  
32 anchor institution <sup>1</sup>, partner anchor institution<sup>1</sup> or a partner business  
33 at the community-anchored project that did not previously exist in  
34 this State. For the purposes of determining a number of new full-  
35 time jobs, the eligible positions of an affiliate shall be considered  
36 eligible positions of the business.

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

40 <sup>1</sup>"Partner anchor institution" means an anchor institution that  
41 partners with one or more anchor institutions to make an equity  
42 investment in or to provide a loan or other financial support for a  
43 community-anchored project.<sup>1</sup>

44 "Partner business" means a corporation, partnership, firm,  
45 enterprise, franchise, association, trust, sole proprietorship, or other  
46 legal entity, but shall not include a public entity that enters into an  
47 agreement with an anchor institution <sup>1</sup>or, if applicable, a partner

1 anchor institution<sup>1</sup> to rent and occupy commercial space within a  
2 community-anchored project. Under the program a partner  
3 business, subject to agreement with the anchor institution <sup>1</sup>or, if  
4 applicable, a partner anchor institution<sup>1</sup>, may lease one or more  
5 portions of the partner business's space in the community-anchored  
6 project to one or more other persons or entities.

7 "Private research university" means Princeton University and any  
8 other institution of higher education in this State designated by the  
9 board as a private research university, based on criteria and metrics  
10 established by the board.

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

14 "Public research university" means Rutgers, The State University  
15 of New Jersey, Rowan University, the New Jersey Institute of  
16 Technology, and Montclair State University.

17 "Qualified business accelerator or incubator facility" means a  
18 commercial space that contains office, laboratory, or industrial  
19 space and which is located near, and presents opportunities for  
20 collaboration with, a public research university, a private research  
21 university, teaching hospital, college, or university, and within  
22 which at least 50 percent of the gross leasable area is restricted for  
23 use by one or more targeted industry start-up companies during the  
24 commitment period.

25 "Targeted industry" means any industry identified from time to  
26 time by the authority which shall initially include advanced  
27 transportation and logistics, advanced manufacturing, aviation,  
28 autonomous vehicle and zero-emission vehicle research or  
29 development, clean energy, life sciences, hemp processing,  
30 information and high technology, finance and insurance,  
31 professional services, film and digital media, <sup>1</sup>**[and]**<sup>1</sup> non-retail  
32 food and beverage businesses <sup>1</sup>**[,]**<sup>1</sup> including food innovation <sup>1</sup>,<sup>1</sup>  
33 and other innovative industries that disrupt current technologies or  
34 business models.

35 "Tax credit agreement" means a tax credit agreement entered into  
36 pursuant to section 50 of P.L. , c. (C. ) (pending before the  
37 Legislature as this bill) between the authority and an anchor  
38 institution <sup>1</sup>or, if applicable, a partner anchor institution<sup>1</sup>.

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

42  
43 46. (New section) a. The New Jersey Community-Anchored  
44 Development Program is established as a program under the  
45 jurisdiction of the New Jersey Economic Development Authority.  
46 The authority shall administer the program to invest in and  
47 incentivize the expansion of targeted industries in the State and the



1 continued development of certain areas of the State through the  
2 provision of tax credits to anchor institution <sup>1</sup>and, if applicable,  
3 partner anchor institutions<sup>1</sup>. The board shall certify qualified  
4 anchor institution <sup>1</sup>and, if applicable, qualified partner anchor  
5 institutions<sup>1</sup> based on the requirements of sections 43 through 53 of  
6 P.L. , c. (C. ) (pending before the Legislature as this bill),  
7 and may approve the award of a tax credit to an anchor institution  
8 pursuant to <sup>1</sup>~~sections 47 and 48~~ section 49<sup>1</sup> of P.L. , c.  
9 (C. <sup>1</sup>~~and C.~~ <sup>1</sup>) (pending before the Legislature as this  
10 bill). The value of all tax credits approved by the authority to  
11 anchor institution <sup>1</sup>and, if applicable, partner anchor institutions<sup>1</sup>  
12 under the program shall be subject to the limitations set forth in  
13 section 98 of P.L. , c. (C. ) (pending before the Legislature as  
14 this bill).

15 b. (1) The authority shall administer the program to invest in,  
16 and incentivize the establishment of, community-anchored projects  
17 by anchor institution <sup>1</sup>and, if applicable, partner anchor  
18 institutions<sup>1</sup>, independently or in collaboration with one or more  
19 partner businesses or governmental entities. The authority's  
20 investment in community-anchored projects shall be in the form of  
21 the award of tax credits to anchor institution <sup>1</sup>and, if applicable,  
22 partner anchor institutions<sup>1</sup>.

23 (2) (a) The authority may award a tax credit to an anchor  
24 institution <sup>1</sup>and, if applicable, one or more partner anchor  
25 institutions<sup>1</sup> under the program, which the anchor institution <sup>1</sup>and, if  
26 applicable, each partner anchor institution<sup>1</sup> shall convert into an  
27 investment by the authority in a community-anchored project,  
28 subject to the condition that the anchor institution <sup>1</sup>and, if  
29 applicable, each partner anchor institution<sup>1</sup> either sell and transfer  
30 the tax <sup>1</sup>~~credit~~ credits<sup>1</sup>, or adopt a plan to use the tax <sup>1</sup>~~credit~~  
31 credits<sup>1</sup> in order to finance the completion of the community-  
32 anchored project, which condition shall be included in the tax credit  
33 agreement entered into pursuant to section 50 of P.L. , c.  
34 (C. ) (pending before the Legislature as this bill). An anchor  
35 institution <sup>1</sup>and, if applicable, each partner anchor institution<sup>1</sup>  
36 receiving tax credits under the program shall use the proceeds  
37 derived from the sale or financing of the tax credits to make an  
38 equity investment in or to provide a loan or other financial support  
39 for the community-anchored project that will permit the anchor  
40 institution, and, if applicable, a partner business, <sup>1</sup>a partner anchor  
41 institution, or both<sup>1</sup> to develop the community-anchored project and  
42 to attract tenants, owners, investors, lenders, partners, collaborators,  
43 and other beneficial parties to the community-anchored project. A  
44 tax credit agreement, entered into pursuant to section 50 <sup>1</sup>~~of~~<sup>1</sup>  
45 P.L. , c. (C. ) (pending before the Legislature as this bill)  
46 shall detail the terms by which an anchor institution <sup>1</sup>and, if

1 applicable, each partner anchor institution<sup>1</sup> will convert the award  
2 of tax credits into an investment by the authority into the  
3 community-anchored project, subject to potential returns on  
4 investment to the authority based on an agreed-upon formula for the  
5 distribution of returns, including upon the sale of a community-  
6 anchored project or at the end of the commitment period. For  
7 community-anchored projects financed solely by governmental and  
8 nonprofit entity investments, the authority shall negotiate an agreed  
9 upon formula which shall include, but not be limited to, the  
10 potential recapture of the value of the tax credits awarded. For  
11 community-anchored projects that are not financed solely by  
12 governmental and nonprofit entity investments, the authority shall  
13 negotiate an agreed upon formula which shall include, but not be  
14 limited to, the potential recapture of the value of the tax credits  
15 awarded and additional returns on investment. The tax credit  
16 agreement shall, however, specify that the authority's interest in the  
17 community-anchored project shall be subordinate to the investments  
18 made by an anchor institution <sup>1</sup>and, if applicable, each partner  
19 anchor institution<sup>1</sup> and partner businesses. References to  
20 investments and returns in sections 43 through 53 of P.L. , c.  
21 (C. ) (pending before the Legislature as this bill) shall also  
22 include loans and other financial support and their corresponding  
23 returns.

24 (b) Consistent with an applicable tax credit agreement, a tax  
25 credit awarded to an anchor institution <sup>1</sup>and, if applicable, each  
26 partner anchor institution<sup>1</sup> for conversion into an authority  
27 investment, as provided pursuant to subparagraph (a) of this  
28 paragraph, may be applied against tax liability otherwise due  
29 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to  
30 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),  
31 pursuant to section 1 of P.L.1950, c.231 (C.17:32-15), or pursuant  
32 to N.J.S.17B:23-5.

33 (3) The authority shall develop protocols for assumptions testing  
34 relating to projected and actual returns on investment under the  
35 program and regularly analyze the returns on investment received  
36 by the authority under the program, and shall evaluate future  
37 applications and projections considering the results of the  
38 assumptions testing and analysis.

39 c. The authority shall engage in program evaluation and  
40 assumptions testing to ensure that the authority at least recaptures  
41 the value of the tax credits awarded to all anchor institutions <sup>1</sup>and,  
42 if applicable, partner anchor institutions<sup>1</sup> and realizes additional  
43 returns on investment under the program; provided, however, that  
44 for community-anchored projects financed solely by governmental  
45 and nonprofit entity investments, the authority may negotiate a  
46 potential return on investment, the calculation of which would  
47 include, but not be limited to, recapture of the value of the tax

1 credits awarded for those community-anchored projects financed  
2 solely by governmental and nonprofit entities.

3 d. Any funds distributed to the authority as a return on  
4 investment pursuant to the program shall be deposited into the  
5 General Fund of the State.

6  
7 47. (New section) a. An anchor institution <sup>1</sup>and, if applicable,  
8 each partner anchor institution<sup>1</sup> shall be eligible to receive a tax  
9 credit under the program only if the anchor institution <sup>1</sup>and, if  
10 applicable, each partner anchor institution<sup>1</sup> submits a program  
11 application to the authority that results in completion of a  
12 community-anchored project through a capital investment in a New  
13 Jersey State opportunity zone or, if the community-anchored project  
14 is primarily designed to result in the economic expansion of a  
15 targeted industry in this State, in an area of the State designated  
16 pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-  
17 196 et seq.), as Planning Area 1 (Metropolitan) or in a municipality  
18 with a Municipal Revitalization Index distress score of at least 50.

19 b. At the time of application, an anchor institution <sup>1</sup>and, if  
20 applicable, each partner anchor institution<sup>1</sup> seeking tax credits  
21 pursuant to the program shall demonstrate to the authority:

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

30 (2) the structure and terms of the financial, corporate, and real  
31 estate instruments to be utilized to successfully complete and then  
32 operate the community-anchored project, including, but not limited  
33 to, the proposed economic and business relationship between the  
34 anchor institution <sup>1</sup>and, if applicable, each partner anchor  
35 institution<sup>1</sup> and any partner business;

36 (3) that the anchor institution <sup>1</sup>and, if applicable, each partner  
37 anchor institution<sup>1</sup>, along with any partner business <sup>1</sup>and each  
38 partner institution<sup>1</sup> participating in a community-anchored project,  
39 has not commenced any construction at the site of the community-  
40 anchored project prior to submitting an application, unless the  
41 authority determines that the community-anchored project would  
42 not be completed otherwise or, in the event the community-  
43 anchored project is to be undertaken in phases, the requested tax  
44 credit covers only phases for which construction has not yet  
45 commenced;

46 (4) the value of the tax credit that is necessary in each year of  
47 the eligibility period, in order for the anchor institution <sup>1</sup>and, if

1 applicable, each partner anchor institution<sup>1</sup> to finance the  
2 establishment of the community-anchored project;

3 (5) the total aggregate value of the tax credit for the entire  
4 eligibility period that is necessary in order for the anchor institution  
5 and, if applicable, each partner anchor institution<sup>1</sup> to finance the  
6 establishment of the community-anchored project;

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

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

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

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

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

31 (11)<sup>1</sup> that during the eligibility period, each worker employed  
32 to perform construction work and building services work at the  
33 community-anchored project shall be paid not less than the  
34 prevailing wage rate for the worker's craft or trade, as determined  
35 by the Commissioner of Labor and Workforce Development  
36 pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005,  
37 c.379 (C.34:11-56.58 et seq.). In the event the community-  
38 anchored project constitutes a lease of more than 55 percent of a  
39 single facility, these requirements shall apply to construction work  
40 and building services work at<sup>1</sup> the entire facility <sup>1</sup>. In the event the  
41 community-anchored project constitutes a lease of more than 35  
42 percent of a single facility, these requirements shall apply to  
43 construction work at the entire facility<sup>1</sup>;

44 <sup>1</sup>[(12)] (11)<sup>1</sup> that during the eligibility period, the anchor  
45 institution and, if applicable, each partner anchor institution<sup>1</sup> shall  
46 partner with one or more local community organizations that  
47 provide support and services to Work First New Jersey program

1 recipients, in order to provide work activity opportunities and other  
 2 appropriate services to Work First New Jersey program recipients,  
 3 which activities and services may include, but shall not be limited  
 4 to: work-study programs, internships, sector-based contextualized  
 5 literacy training, skills-based training in growth industries in the  
 6 State, and job retention and advancement services;

7 **[(13)] (12)**<sup>1</sup> the extent to which the community-anchored  
 8 development will result in the expansion of a targeted industry in  
 9 this State;

10 **[(14)] (13)**<sup>1</sup> that the timing of the award and investment of tax  
 11 credits under the program shall allow for the successful completion  
 12 and operation of the community-anchored project; and

13 **[(15)] (14)**<sup>1</sup> that the community-anchored project is viable and  
 14 that the anchor institution <sup>1</sup>and, if applicable, each partner anchor  
 15 institution<sup>1</sup> is a credible partner for completing the community-  
 16 anchored project and providing the agreed-upon potential returns to  
 17 the authority, as detailed in the tax credit agreement entered into  
 18 pursuant to section 50 of P.L. , c. (C. ) (pending before the  
 19 Legislature as this bill).

20 c. Prior to the board considering an application submitted by an  
 21 anchor institution <sup>1</sup>and, if applicable, each partner anchor  
 22 institution<sup>1</sup>, the Department of Labor and Workforce Development,  
 23 the Department of Environmental Protection, and the Department of  
 24 the Treasury shall each report to the chief executive officer of the  
 25 authority whether the anchor institution <sup>1</sup>and, if applicable, each  
 26 partner anchor institution<sup>1</sup> and any partner business is in substantial  
 27 good standing with the respective department, or has entered into an  
 28 agreement with the respective department that includes a practical  
 29 corrective action plan **[(anchor institution or partner business)]<sup>1</sup>**.  
 30 The authority may also contract with an independent third party to  
 31 perform a background check on an anchor institution <sup>1</sup>and, if  
 32 applicable, each partner anchor institution<sup>1</sup> and any partner  
 33 business.

34 d. In order to facilitate the creation of new partnerships with  
 35 anchor **[(institution)] institutions and, if applicable, partner anchor**  
 36 **institutions<sup>1</sup>**, the authority shall publish on the authority's website a  
 37 list of names and contact information for each anchor institution  
 38 that has submitted an application pursuant to this section.

39  
 40 48. (New section) a. Prior to March 1, 2027, an anchor  
 41 institution <sup>1</sup>and, if applicable, each partner anchor institution<sup>1</sup>  
 42 seeking a tax credit pursuant to the program shall submit an  
 43 application to the authority in a form and manner prescribed in  
 44 regulations adopted by the authority pursuant to the provisions of  
 45 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
 46 seq.). The authority shall accept and certify applications for tax

1 credits during the award rounds established pursuant to section 49  
2 of P.L. , c. (C. ) (pending before the Legislature as this  
3 bill).

4 b. The authority shall not consider an application for a  
5 community-anchored project unless the anchor institution <sup>1</sup>and, if  
6 applicable, each partner anchor institution<sup>1</sup> submits, with the  
7 application, a letter evidencing support for the community-anchored  
8 project from the governing body of the municipality in which the  
9 community-anchored project is located.

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

25 d. If at any time during the eligibility period the authority  
26 determines that an anchor institution <sup>1</sup>or a partner anchor  
27 institution<sup>1</sup> made a material misrepresentation on the program  
28 application, the anchor institution <sup>1</sup>or partner anchor institution<sup>1</sup>  
29 shall forfeit or repay to the authority the value of tax credits  
30 associated with that application.

31  
32 49. (New section) a. The authority shall award tax credits  
33 under the program through a competitive application process  
34 consisting of up to two award rounds each year. The authority shall  
35 provide notice to the public of the opening and closing dates for  
36 submission of program applications on the authority's Internet  
37 website.

38 b. (1) The authority shall review applications for tax credits  
39 submitted to the authority by the deadline date of the award round  
40 and shall evaluate each application as if it were received on the  
41 deadline date, without providing any preference for early  
42 submissions. To determine priority for an award of a tax credit, all  
43 applications for community-anchored projects that satisfy the  
44 criteria set forth in sections 47 and 48 of P.L. , c. (C. and )  
45 (pending before the Legislature as this bill) in a given award round  
46 shall be ranked on the basis of a scoring system developed by the  
47 authority through regulations adopted pursuant to the provisions of

- 1 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
2 seq.). Prior to the commencement of an award round, the authority  
3 shall determine the minimum score for the award round that an  
4 anchor institution <sup>1</sup>or, if applicable, each partner anchor institution<sup>1</sup>  
5 is required to attain to be eligible for a tax credit.
- 6 (2) The authority may establish different criteria for community-  
7 anchored projects that are located in a New Jersey State opportunity  
8 zone and community-anchored projects that are primarily designed  
9 to result in the economic expansion of a targeted industry in this  
10 State.
- 11 c. The scoring system developed by the authority pursuant to  
12 subsection b. of this section shall assess applications for tax credits  
13 based on the following competitive criteria, which shall include, but  
14 shall not be limited to:
- 15 (1) the amount of tax credit requested by the anchor institution  
16 <sup>1</sup>and, if applicable, each partner anchor institution<sup>1</sup> compared to the  
17 overall investments required for the completion of the community-  
18 anchored project, along with the amount of the potential return on  
19 the authority's investment of tax credits to the State by the end of  
20 the commitment period, the amount of the tax credit, if any, that is  
21 unlikely to be realized as a return on investment to the State, and  
22 the proposed terms and structure for the authority's investment in  
23 the project, including applicable current and deferred returns;
- 24 (2) the financial benefit of the community-anchored project to  
25 the community in which the community-anchored project will be  
26 located;
- 27 (3) apprenticeships or workforce programs to be offered because  
28 of the community-anchored project;
- 29 (4) the ability of the community-anchored project to absorb and  
30 adapt to changing environmental conditions and deliver its  
31 objectives;
- 32 (5) how the community-anchored project will advance State,  
33 regional, and local development and planning strategies;
- 34 (6) the relationship of the community-anchored project to a  
35 comprehensive local development strategy, including its relation to  
36 other development and redevelopment projects in the municipality;
- 37 (7) the degree to which the community-anchored project  
38 enhances and promotes job creation and economic development;
- 39 (8) the extent of economic and related social distress in the  
40 municipality and the immediate area surrounding the community-  
41 anchored project;
- 42 (9) the extent to which the community-anchored project  
43 provides for the development of workforce housing and housing for  
44 individuals with special needs;
- 45 (10) the extent to which the community-anchored project  
46 constitutes the expansion of the anchor institution <sup>1</sup>and, if

1 applicable, each partner anchor institution<sup>1</sup> to different areas of the  
2 State;

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

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

8 (13)the length of the commitment period for the community-  
9 anchored project;

10 (14)the quality and number of new full-time jobs that will be  
11 created by the anchor institution partner anchor institution<sup>1</sup> or a  
12 partner business at the community-anchored project;

13 (15)the quality and number of existing full-time jobs that will be  
14 retained by the anchor institution partner anchor institution<sup>1</sup> or a  
15 partner business in the State as a result of completing the  
16 community-anchored project, with the criteria specifying, in scoring  
17 the application, that the retention of an existing full-time job shall  
18 be given not more than one-third the weight of a new full-time job  
19 of a similar quality; and

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

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

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



1 fully fund all eligible community-anchored projects, a community-  
2 anchored project may be offered partial funding.

3 f. Applications that do not receive the minimum score  
4 established by the authority for that award round shall not receive  
5 further consideration for a tax credit by the authority in that award  
6 round; however, an anchor institution <sup>1</sup>or partner anchor institution<sup>1</sup>  
7 may revise or complete a new application to be submitted in a  
8 subsequent award round.

9 g. If an anchor institution <sup>1</sup>or partner anchor institution<sup>1</sup>  
10 declines a tax credit offered by the authority, the authority shall  
11 offer the tax credit to the applicant with the application having the  
12 next highest score, and having obtained at least the minimum score  
13 in that award round.

14

15 50. (New section) a. Following approval and selection of an  
16 application pursuant to sections 48 and 49 of P.L. , c. (C. )  
17 (pending before the Legislature as this bill), the authority shall enter  
18 into a tax credit agreement with the anchor institution <sup>1</sup>and, if  
19 applicable, each partner anchor institution<sup>1</sup>. The chief executive  
20 officer of the authority shall negotiate the terms and conditions of  
21 the tax credit agreement on behalf of the State.

22 b. (1) A tax credit agreement shall specify the amount of the  
23 tax credit that the authority shall award to the anchor institution  
24 <sup>1</sup>and, if applicable, each partner anchor institution<sup>1</sup> for conversion  
25 into an authority investment and specify the duration of the  
26 eligibility period, which shall not exceed 10 years. The tax credit  
27 agreement shall provide an estimated date of completion for the  
28 community-anchored project and include a requirement for periodic  
29 progress reports through completion, including the submittal of  
30 executed financing commitments and documents or agreements that  
31 evidence site control.

32 (2) If, as a result of a default under the tax credit agreement, the  
33 authority rescinds a tax credit in the same calendar year in which  
34 the authority approved the tax credit, then the authority may assign  
35 the tax credit to another applicant that attained the minimum score  
36 determined pursuant to section 49 of P.L. , c. (C. ) (pending  
37 before the Legislature as this bill).

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

39 (1) provide for a verification of project financing at the time the  
40 anchor institution <sup>1</sup>, each partner anchor institution,<sup>1</sup> and any  
41 partner business provides executed financing commitments to the  
42 authority and a verification of the anchor institution's projected  
43 cash flow <sup>1</sup>and each partner anchor institution's cash flow<sup>1</sup> at the  
44 time of certification that the project is completed;

45 (2) specify the length of the commitment period for the  
46 community-anchored project and the terms by which the anchor  
47 institution <sup>1</sup>and, if applicable, each partner anchor institution<sup>1</sup> shall

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

1 (10)at a minimum, require that the anchor institution, each  
2 partner anchor institution,<sup>1</sup> and any partner businesses, adopt  
3 specific nondiscrimination policies for the operation of a  
4 community-anchored project <sup>1</sup>]; and

5 (11) require that any partner business of an anchor institution  
6 and, if applicable, any partner business of a partner anchor  
7 institution<sup>1</sup> consent to the disclosure of tax expenditure information  
8 as described in paragraph (8) of subsection b. of section 1 of  
9 P.L.2009, c.189 (C.52:27B-20a)]<sup>1</sup>.

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

28 e. An anchor institution and, if applicable, each partner  
29 institution<sup>1</sup> shall, as required at the discretion of the authority,  
30 submit to the authority satisfactory evidence of actual project costs,  
31 as certified by a certified public accountant, evidence of a  
32 temporary certificate of occupancy, or other event evidencing  
33 project completion. The anchor institution and, if applicable, each  
34 partner institution<sup>1</sup>, or an authorized agent of the anchor institution  
35 or partner institution<sup>1</sup>, shall certify under the penalty of perjury  
36 that the information provided pursuant to this subsection is true.

37  
38 51. (New section) a. Up to the limits established in subsection b.  
39 of this section and in accordance with a tax credit agreement,  
40 beginning upon the receipt of occupancy permits for any portion of  
41 the community-anchored project, or upon any other event  
42 evidencing project completion as set forth in the tax credit  
43 agreement, an anchor institution and, if applicable, each partner  
44 institution<sup>1</sup> of an approved community-anchored project shall be  
45 awarded a base tax credit of \$5,000,000 for conversion into an  
46 authority investment in the community-anchored project.

1        b. An anchor institution <sup>1</sup>and, if applicable, each partner  
2 institution<sup>1</sup> may be allowed a tax credit in excess of the base  
3 amount, if approved by the authority, provided, however, the total  
4 tax credit allowed per community-anchored project shall not exceed  
5 \$75,000,000 and the total investment of all State resources <sup>1</sup>not  
6 including rent payments<sup>1</sup> in a community-anchored project shall not  
7 exceed 40 percent of the total cost of the project.

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

26        b. (1) Upon receipt and review of each report submitted  
27 during the eligibility period, the authority shall provide to the  
28 anchor institution <sup>1</sup>and, if applicable, each partner institution<sup>1</sup> and  
29 the Director of the Division of Taxation in the Department of the  
30 Treasury a certificate of compliance indicating the amount of tax  
31 credits awarded to the anchor institution <sup>1</sup>and, if applicable, each  
32 partner institution<sup>1</sup> for conversion into an authority investment in  
33 the community-anchored project, that the anchor institution <sup>1</sup>and, if  
34 applicable, each partner institution<sup>1</sup> may:

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

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

44        (2) Upon receipt by the director of the certificate of compliance,  
45 the director shall coordinate with the anchor institution <sup>1</sup>and, if  
46 applicable, each partner institution<sup>1</sup> and the authority to provide the

1 anchor institution <sup>1</sup>and, if applicable, each partner institution<sup>1</sup> with  
2 a tax credit transfer certificate, as described in section 53 of P.L. ,  
3 c. (C. ) (pending before the Legislature as this bill), or a tax  
4 credit certificate for the value awarded by the authority for that year  
5 that the anchor institution <sup>1</sup>and, if applicable, each partner  
6 institution<sup>1</sup> may use as provided in paragraph (1) of this subsection  
7 b. and in accordance with the rules adopted pursuant to  
8 subparagraph (b) of paragraph (1) of this subsection.  
9

10 53. (New section) a. An anchor institution <sup>1</sup>and, if applicable,  
11 each partner institution<sup>1</sup> may apply to the director and the chief  
12 executive officer of the authority for a tax credit transfer certificate,  
13 covering one or more years. The tax credit transfer certificate, upon  
14 receipt thereof by the anchor institution <sup>1</sup>or partner institution<sup>1</sup> from  
15 the director and the chief executive officer of the authority, may be  
16 sold or assigned, in full or in part, in the privilege period during  
17 which the anchor institution <sup>1</sup>or partner institution<sup>1</sup> receives the tax  
18 credit transfer certificate from the director, to another person, who  
19 may apply the credit against a tax liability pursuant to section 5 of  
20 P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132  
21 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231  
22 (C.17:32-15), or N.J.S.17B:23-5.

23 b. The anchor institution <sup>1</sup>or partner institution<sup>1</sup> shall not sell  
24 or assign, including a collateral assignment, a tax credit transfer  
25 certificate allowed under this section for consideration received by  
26 the anchor institution <sup>1</sup>or partner institution<sup>1</sup> of less than 85 percent  
27 of the transferred credit amount before considering any further  
28 discounting to present value which shall be permitted. The tax  
29 credit transfer certificate issued to an anchor institution <sup>1</sup>or partner  
30 institution<sup>1</sup> by the director shall be subject to any limitations and  
31 conditions imposed on the application of State tax credits pursuant  
32 to sections 43 through 53 of P.L. , c. (C. ) (pending before  
33 the Legislature as this bill) and any other terms and conditions that  
34 the director may prescribe.

35 c. A purchaser or assignee of a tax credit transfer certificate  
36 pursuant to this section may make any subsequent transfers,  
37 assignments, or sales of a tax credit transfer certificate for an  
38 amount to be negotiated with a subsequent purchaser or assignee.

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

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

1 54. (New section) Sections 54 through 67 of P.L. , c.  
2 (C. ) (pending before the Legislature as this bill) shall be  
3 known and may be cited as the "New Jersey Aspire Program Act."  
4

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

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

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

12 "Aviation district" means all areas within the boundaries of the  
13 Atlantic City International Airport, established pursuant to section  
14 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation  
15 Administration William J. Hughes Technical Center and the area  
16 within a one-mile radius of the outermost boundary of the Atlantic  
17 City International Airport and the Federal Aviation Administration  
18 William J. Hughes Technical Center.

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

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

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

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

47 "Commercial project" means a building, which is predominantly  
48 commercial and contains 100,000 or more square feet of office and

1 retail space, industrial space, or film studios, professional stages,  
2 television studios, recording studios, screening rooms, or other  
3 infrastructure for film production, for purchase or lease and may  
4 include a parking component.

5 "Developer" means a person who enters or proposes to enter into  
6 an incentive award agreement pursuant to the provisions of section  
7 **1[62] 60**<sup>1</sup> of P.L. , c. (C. ) (pending before the Legislature  
8 as this bill), including, but not limited, to a lender that completes a  
9 redevelopment project, operates a redevelopment project, or  
10 completes and operates a redevelopment project.

11 "Director" means the Director of the Division of Taxation in the  
12 Department of the Treasury.

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

22 "Economic development incentive" means a financial incentive,  
23 awarded by the authority, or agreed to between the authority and a  
24 business or person, for the purpose of stimulating economic  
25 development or redevelopment in New Jersey, including, but not  
26 limited to, a bond, grant, loan, loan guarantee, matching fund, tax  
27 credit, or other tax expenditure.

28 "Eligibility period" means the period not to exceed 15 years for a  
29 commercial or mixed-use project or the period not to exceed 10  
30 years for a residential project specified in an incentive award  
31 agreement during which a developer may claim a tax credit under  
32 the program.

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

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

43 "Government-restricted municipality" means a municipality in  
44 this State with a municipal revitalization index distress score of at  
45 least 7, that met the criteria for designation as an urban aid  
46 municipality in the 2019 State fiscal year, and that, on the effective  
47 date of P.L. , c. (C. ) (pending before the Legislature as this  
48 bill), is subject to financial restrictions imposed pursuant to the

1 Municipal Stabilization and Recovery Act <sup>1</sup>【of 2016】<sup>1</sup>, P.L.2016,  
2 c.4 <sup>1</sup>【(52:27BBBB-1)】 (C.52:27BBBB-1 et seq.)<sup>1</sup>, or is restricted in  
3 its ability to levy property taxes on property in that municipality as  
4 a result of the State of New Jersey owning or controlling property  
5 representing at least 25 percent of the total land area of the  
6 municipality or as a result of the federal government of the United  
7 States owning or controlling at least 50 acres of the total land area  
8 of the municipality, which is dedicated as a national natural  
9 landmark.

10 "Health care or health services center" means an establishment  
11 where patients are admitted for examination and treatment by one or  
12 more physicians, dentists, psychologists, or other medical  
13 practitioners.

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

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

30 "Incentive award agreement" means the contract executed  
31 between a developer and the authority pursuant to section <sup>1</sup>【62】 <sup>1</sup>60<sup>1</sup>  
32 of P.L. , c. (C. ) (pending before the Legislature as this  
33 bill), which sets forth the terms and conditions under which the  
34 developer may receive the incentive awards authorized pursuant to  
35 the provisions of sections 54 through 67 of P.L. , c. (C. )  
36 (pending before the Legislature as this bill).

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

44 "Individuals with special needs" means individuals with mental  
45 illness, individuals with physical or developmental disabilities, and  
46 individuals in other emerging special needs groups identified by the  
47 authority, based on guidelines established for the administration of  
48 the Special Needs Housing Trust Fund established pursuant to



1 section 1 of P.L.2005, c.163 (C.34:1B-21.25a) or developed in  
2 consultation with other State agencies.

3 "Low-income housing" means housing affordable according to  
4 federal Department of Housing and Urban Development or other  
5 recognized standards for home ownership and rental costs and  
6 occupied or reserved for occupancy by households with a gross  
7 household income equal to 50 percent or less of the median gross  
8 household income for households of the same size within the  
9 housing region in which the housing is located.

10 <sup>1</sup>"Major rail station" means a railroad station that is located  
11 within a qualified incentive area and that provides to the public  
12 access to a minimum of six rail passenger service lines operated by  
13 the New Jersey Transit Corporation.<sup>1</sup>

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

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

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

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

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

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

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

47 "Project cost" means the costs incurred in connection with a  
48 redevelopment project by a developer until the issuance of a

1 permanent certificate of occupancy, or until such other time  
2 specified by the authority, for a specific investment or  
3 improvement, including the costs relating to lands, buildings,  
4 improvements, real or personal property, or any interest therein,  
5 including leases discounted to present value, including lands under  
6 water, riparian rights, space rights, and air rights acquired, owned,  
7 developed or redeveloped, constructed, reconstructed, rehabilitated,  
8 or improved, any environmental remediation costs, plus costs not  
9 directly related to construction, of an amount not to exceed 20  
10 percent of the total costs, capitalized interest paid to third parties,  
11 and the cost of infrastructure improvements, including ancillary  
12 infrastructure projects. The cost of acquisition of land or fees  
13 associated with the application or administration of a grant under  
14 sections 54 through 67 of P.L. , c. (C. ) (pending before the  
15 Legislature as this bill) shall not constitute a project cost.

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

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

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

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

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

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

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

6 "SDA municipality" means a municipality in which an SDA  
7 district is situated.

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

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

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

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

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

38 "Workforce housing" means housing that is affordable according  
39 to federal Department of Housing and Urban Development or other  
40 recognized standards for home ownership and rental costs, and  
41 occupied or reserved for occupancy by households with a gross  
42 household income of more than 80 percent, but less than 120  
43 percent, of the median gross household income for households of  
44 the same size within the housing region in which the housing is  
45 located.

46

47 56. (New section) a. The New Jersey Aspire Program is hereby  
48 established as a program under the jurisdiction of the New Jersey

1 Economic Development Authority. The authority shall administer  
2 the program to encourage redevelopment projects through the  
3 provision of incentive awards to reimburse developers for certain  
4 project financing gap costs. The board may approve the award of  
5 an incentive award to a developer upon application to the authority  
6 pursuant to sections 58 and 59 of P.L. , c. (C. , C. , and  
7 C. ) (pending before the Legislature as this bill). The value of  
8 all tax credits approved by the authority pursuant to sections 54  
9 through 67 of P.L. , c. (C. ) (pending before the Legislature  
10 as this bill), shall be subject to the limitations set forth in section 98  
11 of P.L. , c. (C. ) (pending before the Legislature as this bill).

12 b. The chief executive officer of the authority shall designate  
13 one staff member per government-restricted municipality in order to  
14 keep the municipality informed on activities within the municipality  
15 and to coordinate economic development initiatives.  
16

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

21 (1) without the incentive award, the redevelopment project is  
22 not economically feasible;

23 (2) a project financing gap exists, or the authority determines  
24 that the redevelopment project will generate a below market rate of  
25 return;

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

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

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

36 (6) the redevelopment project shall comply with the authority's  
37 affirmative action requirements, adopted pursuant to section 4 of  
38 P.L.1979, <sup>1</sup>**[c.203]** c.303<sup>1</sup> (C.34:1B-5.4);

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

44 (8)<sup>1</sup> during the eligibility period, each worker employed to  
45 perform construction work or building services work at the  
46 redevelopment project shall be paid not less than the prevailing  
47 wage rate for the worker's craft or trade, as determined by the  
48 Commissioner of Labor and Workforce Development pursuant to

1 P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379  
2 (C.34:11-56.58 et seq.). In the event a redevelopment project is  
3 undertaken by a tenant and the tenant has a leasehold of more than  
4 55 percent of space in the building owned or controlled by the  
5 developer, the requirement that each worker employed to perform  
6 building service work at the building be paid not less than the  
7 prevailing wage shall apply to the entire building;

8 **[(9)] (8)**<sup>1</sup> the redevelopment project shall be completed, and the  
9 developer shall be issued a certificate of occupancy for the  
10 redevelopment project facilities by the applicable enforcing agency  
11 within four years of executing the incentive award agreement  
12 corresponding to the redevelopment project;

13 **[(10)] (9)**<sup>1</sup> the developer has complied with all requirements  
14 for filing tax and information returns and for paying or remitting  
15 required State taxes and fees by submitting, as a part of the  
16 application, a tax clearance certificate, as described in section 1 of  
17 P.L.2007, c.101 (C.54:50-39); and

18 **[(11)] (10)**<sup>1</sup> the developer is not more than 24 months in arrears  
19 at the time of application.

20 b. In addition to the requirements set forth in subsection a. of  
21 this section, for a commercial project to qualify for an incentive  
22 award the developer shall demonstrate that:

23 (1) the incremental increase of State revenues realized from the  
24 commercial project upon its completion shall be in excess of the  
25 amount necessary to reimburse the developer for its project  
26 financing gap; and

27 (2) the developer shall have an equity participation of at least 20  
28 percent of the total project cost.

29 c. In addition to the requirements set forth in subsection a. of  
30 this section, for a residential project to qualify for an incentive  
31 award, the residential project shall:

32 (1) have a total project cost of at least \$17,500,000, if the  
33 project is located in a municipality with a population greater than  
34 200,000 according to the latest federal decennial census;

35 (2) have a total project cost of at least \$10,000,000 if the project  
36 is located in a municipality with a population less than 200,000  
37 according to the latest federal decennial census; or

38 (3) have a total project cost of at least \$5,000,000 if the project  
39 is in a qualified incentive tract or government-restricted  
40 municipality.

41 d. In addition to the requirements set forth in subsections a. and  
42 c. of this section, for a residential project consisting of newly-  
43 constructed residential units to qualify for an incentive award , the  
44 developer shall reserve at least 20 percent, but not more than 50  
45 percent, of the residential units constructed for occupancy by low-  
46 and moderate-income households with affordability controls as  
47 required under the "Fair Housing Act," P.L.1985, c. 222 (C.52:27D-

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

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

39

40 58. (New section)a. Prior to March 1, 2027, a developer that  
41 meets the eligibility criteria in section 57 of P.L. , c. (C. )  
42 (pending before the Legislature as this bill) and is seeking an  
43 incentive award for a redevelopment project shall submit an  
44 application to the authority and, in the case of a residential project,  
45 shall submit an application to the authority and the agency, in a  
46 form and manner prescribed in regulations adopted by the authority,  
47 in consultation with the agency, pursuant to the provisions of the

- 1 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et  
2 seq.). The authority shall accept applications for incentive awards  
3 during the grant periods established pursuant to section 59 of  
4 P.L. , c. (C. ) (pending before the Legislature as this bill).
- 5 b. The authority shall not consider an application for a  
6 commercial project unless the developer submits a letter evidencing  
7 support for the commercial project from the governing body of the  
8 municipality in which the commercial project is located with the  
9 application.
- 10 c. The authority shall review the project cost, evaluate and  
11 validate the project financing gap estimated by the developer, and  
12 conduct a State fiscal impact analysis to ensure that the overall  
13 public assistance provided to the project will result in a net positive  
14 benefit to the State, provided that the net benefit analysis shall not  
15 apply to capital investment for a food delivery source <sup>1</sup> [, or] <sup>1</sup> ;<sup>1</sup> a  
16 health care or health services center with a minimum of 10,000  
17 square feet of space devoted to <sup>1</sup> [residential projects,]<sup>1</sup> health care  
18 or health services that is located in a municipality with a Municipal  
19 Revitalization Index distress score of at least 50 lacking adequate  
20 access, as determined by the Commissioner of Health<sup>1</sup> [, to health  
21 care or health services] ; or a residential project<sup>1</sup>. In determining  
22 whether a project will result in a net positive benefit to the State,  
23 the authority shall not consider the value of any taxes exempted,  
24 abated, rebated, or retained under the "Five-Year Exemption and  
25 Abatement Law," P.L.1991, c.441 (C.40A:21-1 et seq.), the "Long  
26 Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et al.),  
27 the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303  
28 (C.52:27H-60 et seq.), or any other law that has the effect of  
29 lowering or eliminating the developer’s State or local tax liability.  
30 The determination made pursuant to this subsection shall be based  
31 on the potential tax liability of the developer without regard for  
32 potential tax losses if the developer were to locate in another state.  
33 The authority shall assess the cost of these reviews to the applicant.  
34 A developer shall pay to the authority the full amount of the direct  
35 costs of an analysis concerning the developer’s application for a tax  
36 credit that a third party retained by the authority performs, if the  
37 authority deems such retention to be necessary. The authority shall  
38 evaluate the net economic benefits on a present value basis under  
39 which the requested tax credit allocation amount is discounted to  
40 present value at the same discount rate as the projected benefits  
41 from the implementation of the proposed redevelopment project for  
42 which an award of tax credits is being sought.
- 43 d. For a redevelopment project subject to the requirement of  
44 subsection c. of this section to be eligible for any tax credits under  
45 the program, a developer shall demonstrate to the authority that the  
46 award of tax credits will yield a net positive benefit to the State  
47 equaling an amount determined by the authority through regulation

1 that exceeds the requested tax credit amount. The developer shall  
2 certify, under the penalty of perjury, that all documents submitted,  
3 and factual assertions made, to the authority to demonstrate that the  
4 award of tax credits will yield a net positive benefit to the State in  
5 accordance with this subsection are true and accurate at the time of  
6 submission. A redevelopment project located in a government-  
7 restricted municipality shall yield a net positive benefit to the State  
8 that exceeds the requested tax credit amount, but the net benefit  
9 requirement set by the authority for such redevelopment projects  
10 may be up to 35 percentage points lower than the net benefit  
11 requirement set by the authority for all other eligible redevelopment  
12 projects.

13 e. If at any time during the eligibility period the authority  
14 determines that the developer made a material misrepresentation on  
15 the developer's application, the developer shall forfeit the incentive  
16 award.

17 f. If circumstances require a developer to amend its application  
18 to the authority, then the developer, or an authorized agent of the  
19 developer, shall certify to the authority that the information  
20 provided in its amended application is true under the penalty of  
21 perjury.

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

41 b. Prior to allocating an incentive award to a redevelopment  
42 project, the Department of Labor and Workforce Development, the  
43 Department of Environmental Protection, and the Department of the  
44 Treasury shall each report to the chief executive officer of the  
45 authority whether the developer and each contractor and  
46 subcontractor performing work at the redevelopment project is in  
47 substantial good standing with the respective department, or has



1 entered into an agreement with the respective department that  
2 includes a practical corrective action plan. The authority may also  
3 contract with an independent third party to perform a background  
4 check on the developer. Provided that the developer and all  
5 contractors and subcontractors are in substantial good standing, or  
6 have entered into such agreements, the authority shall allocate  
7 incentive awards to redevelopment projects according to the  
8 redevelopment project's score and until either the available  
9 incentive awards are exhausted or all redevelopment projects  
10 obtaining the minimum score receive an incentive award, whichever  
11 occurs first. If insufficient funding exists to fully fund all eligible  
12 projects, a project may be offered partial funding.

13

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

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

42 c. To ensure the protection of taxpayer money, if the authority  
43 determines that the project financing gap is smaller than determined  
44 at board approval, the authority shall reduce the amount of the tax  
45 credit on a pro rata basis. If there is no project financing gap, then  
46 the developer shall forfeit the incentive award. This test shall be  
47 conducted at the end of the third year of the eligibility period  
48 whereupon the authority shall evaluate the developer's cash flow

1 and compare that cash flow to the projected cash flow at the time of  
2 board approval. For a commercial project, if the actual cash flow  
3 exceeds the projected cash flow at the time of board approval by  
4 more than 15 percent, the authority shall require the developer to  
5 pay up to 15 percent of the amount of the excess <sup>1</sup>, which payment  
6 shall be deposited in the State General Fund<sup>1</sup>. To the extent  
7 applicable, in the case of a residential project, the developer's  
8 return on investment shall be subject to the provisions of section 7  
9 of P.L.1983, c.530 (C.55:14K-7).

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

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

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

48 (3) As used in this subsection:

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

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

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

44 (2) The community benefits agreement shall provide for the  
45 creation of a community advisory committee to oversee the  
46 implementation of the agreement, monitor successes, ensure  
47 compliance with the terms of the agreement, and produce an annual  
48 public report. The community advisory committee created pursuant

1 to this paragraph shall be comprised of representatives of diverse  
2 community groups and residents of the county or municipality in  
3 which the redevelopment project is located.

4 (3) At the time the developer submits the annual report required  
5 pursuant to section 62 of P.L. , c. (C. ) (pending before the  
6 Legislature as this bill) to the authority, the developer shall certify,  
7 under the penalty of perjury, that it is in compliance with the terms  
8 of the community benefits agreement. If the developer fails to  
9 provide the certification required pursuant to this paragraph or the  
10 authority determines that the developer is not in compliance with  
11 the terms of the community benefits agreement based on the reports  
12 submitted by the community advisory committee pursuant to  
13 paragraph (2) of this subsection, then the authority may rescind an  
14 award or recapture all or part of any tax credits awarded.

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

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

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

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

1        b. The value of all tax credits approved by the authority under  
2 the program for a redevelopment project shall not exceed  
3 \$50,000,000 per redevelopment project if located in a qualified  
4 incentive tract, government-restricted municipality, or municipality  
5 with a Municipal Revitalization Index distress score of at least 50,  
6 or \$32,000,000 for any other redevelopment project.

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

24        b. (1) Upon receipt and review of each report submitted  
25 during the eligibility period, the authority shall provide to the  
26 developer and the director a certificate of compliance indicating the  
27 amount of tax credits that the developer may apply against the  
28 developer's tax liability.

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

1 executed agreement among the partners, members, or owners  
2 documenting an alternate distribution method provided to the  
3 director accompanied by any additional information as the director  
4 may prescribe.

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

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

29

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

47 b. The developer shall not sell or assign, including a collateral  
48 assignment, a tax credit transfer certificate allowed under this

1 section for consideration received by the developer of less than 85  
2 percent of the transferred credit amount before considering any  
3 further discounting to present value which shall be permitted,  
4 except a developer of a residential project consisting of newly-  
5 constructed residential units may assign a tax credit transfer  
6 certificate for consideration of less than 85 percent subject to the  
7 submission of a plan to the authority and the agency to use the  
8 proceeds derived from the assignment of tax credits to complete the  
9 residential project, except a developer of a residential project  
10 consisting of newly-constructed residential units that has received  
11 federal low income housing tax credits under 26 U.S.C.  
12 s.42(b)(2)(B)(i) may assign a tax credit transfer certificate for  
13 consideration of no less than 75 percent subject to the submission of  
14 a plan to the authority and the New Jersey Housing and Mortgage  
15 Finance Agency to use the proceeds derived from the assignment of  
16 tax credits to complete the residential project. The tax credit  
17 transfer certificate issued to a developer by the director shall be  
18 subject to any limitations and conditions imposed on the application  
19 of State tax credits pursuant to sections 54 through 67 of P.L. , c.  
20 (C. ) (pending before the Legislature as this bill) and any other  
21 terms and conditions that the director may prescribe.

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

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

- 28 (1) the name of the transferrer;
- 29 (2) the name of the transferee;
- 30 (3) the value of the tax credit transfer certificate; and
- 31 (4) the consideration received by the transferrer.

32

33 64. (New section) a. A developer who has entered into an  
34 incentive award agreement pursuant to section <sup>1</sup>~~62~~ 60<sup>1</sup> of P.L. ,  
35 c. (C. ) (pending before the Legislature as this bill) may,  
36 upon notice to and written consent of the authority and State  
37 Treasurer, pledge, assign, transfer, or sell any or all of its right,  
38 title, and interest in and to the incentive award agreement and in the  
39 incentive awards payable under the incentive award agreement, and  
40 the right to receive the incentive awards, along with the rights and  
41 remedies provided to the developer under the incentive award  
42 agreement. Any assignment shall be an absolute assignment for all  
43 purposes, including the federal bankruptcy code.

44 b. Any pledge of an incentive award made by the developer  
45 shall be valid and binding from the time the pledge is made and  
46 filed in the records of the authority. The incentive award pledged  
47 and thereafter received by the developer shall immediately be  
48 subject to the lien of the pledge without any physical delivery

1 thereof or further act, and the lien of any pledge shall be valid and  
2 binding against all parties having claims of any kind in tort,  
3 contract, or otherwise against the developer irrespective of whether  
4 the parties have notice thereof. As a condition of any incentive  
5 grant, the grantee, assignee, pledgee or subsequent holder of the  
6 incentive grant shall immediately file notice of the same with the  
7 clerk of the county in which the project is located.

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

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

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

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

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

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

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

40 (2) for a residential or mixed-use project, the construction of  
41 1,000 or more new residential units, 20 percent of which shall be  
42 constructed for occupancy by low- and moderate-income  
43 households with affordability controls as required under the under  
44 the "Fair Housing Act," P.L.1985, c. 222 (C.52:27D-301 et al.) <sup>1</sup>[,  
45 which 20 percent shall include, to the extent to which the proposed  
46 transformative project would attract or retain a skilled employment  
47 base that is important to the State's competitive position generally  
48 or to capture economic development opportunities within targeted



1 industries, low-income housing, moderate-income housing,  
 2 workforce housing, or housing for individuals with special needs,  
 3 and which 20 percent shall be constructed within the same housing  
 4 development;] and at least 5 percent of the residential units  
 5 constructed as workforce housing, unless: the municipality in which  
 6 the property is located has received substantive certification from  
 7 the council and such a reservation is not required under the  
 8 approved affordable housing plan; the municipality has been given  
 9 a judgment of repose or a judgment of compliance by the court, and  
 10 such a reservation is not required under the approved affordable  
 11 housing plan. If the municipality in which the property is located  
 12 has received substantive certification from the council and such a  
 13 reservation is not required under the approved affordable housing  
 14 plan or the municipality has been given a judgment of repose or a  
 15 judgment of compliance by the court, and such a reservation is not  
 16 required under the approved affordable housing plan, then the  
 17 developer shall reserve at least 10 percent, but not more than 50  
 18 percent, of the residential units constructed for occupancy by low-  
 19 and moderate-income households with affordability controls as  
 20 required under the "Fair Housing Act," P.L.1985, c. 222 (C.52:27D-  
 21 301 et al.) and at least 15 percent of the residential units constructed  
 22 as workforce housing; and<sup>1</sup>

23 (3) the extent to which the proposed project would leverage the  
 24 competitive economic development advantages of the State's mass  
 25 transit assets, higher education assets, and other economic  
 26 development assets in attracting or retaining both employers and  
 27 skilled workers generally or in targeted industries <sup>1</sup>[;] .<sup>1</sup>

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

31 b. The authority may award an incentive award to no more than  
 32 <sup>1</sup>[seven] ten<sup>1</sup> transformative projects in accordance with the  
 33 provisions of sections 59 through 67 of P.L. , c. (C. );  
 34 provided, however, a transformative project shall not be subject to  
 35 the competitive application procedure set forth in section 59 of  
 36 P.L. , c. (C. ) (pending before the Legislature as this bill).  
 37 A transformative project receiving an incentive award pursuant to  
 38 this section, other than a project that includes 250,000 or more  
 39 square feet of film studios, professional stages, television studios,  
 40 recording studios, screening rooms or other infrastructure for film  
 41 production, shall be located in a distressed municipality, a  
 42 government-restricted municipality, or an urban transit hub  
 43 municipality. No more than two transformative <sup>1</sup>[project] projects<sup>1</sup>  
 44 receiving an incentive award pursuant to this section shall be  
 45 located in the same municipality. The authority shall not consider  
 46 an application for a transformative project unless the applicant  
 47 submits with its application a letter evidencing support for the

1 transformative project from the governing body of the municipality  
2 in which the transformative project is located.

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

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

41 e. The authority shall administer the credits awarded pursuant  
42 to this section in accordance with the provisions of sections 62 and  
43 63 of P.L. , c. (C. and C. ) (pending before the  
44 Legislature as this bill).

45 f. Prior to allocating an incentive award to a developer, the  
46 Department of Labor and Workforce Development, the Department  
47 of Environmental Protection, and the Department of the Treasury  
48 shall each report to the chief executive officer of the authority

1 whether the developer and each contractor and subcontractor  
2 performing work at the transformative project is in substantial good  
3 standing with the respective department, or has entered into an  
4 agreement with the respective department that includes a practical  
5 corrective action plan. The authority may also contract with an  
6 independent third party to perform a background check on the  
7 applicant.

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

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

39  
40 67. (New section) Notwithstanding the provisions of the  
41 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
42 seq.), to the contrary, the chief executive officer of the authority  
43 may adopt, immediately, upon filing with the Office of  
44 Administrative Law, regulations that the chief executive officer  
45 deems necessary to implement the provisions of sections 54 through  
46 67 of P.L. , c. (C. ) (pending before the Legislature as this  
47 bill), which regulations shall be effective for a period not to exceed  
48 180 days from the date of the filing. The chief executive officer

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

4  
5 68. (New section) Sections 68 through 81 of P.L. , c.  
6 (C. ) (pending before the Legislature as this bill) shall be  
7 known and may be cited as the "Emerge Program Act."

8  
9 69. (New section) As used in sections 68 through 81 of P.L. ,  
10 c. (C. ) (pending before the Legislature as this bill):

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

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

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

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

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

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

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

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

33 "College or university" means a county college, an independent  
34 institution of higher education, a public research university, or a  
35 State college.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 "Full-time employee" means a person:

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

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

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

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

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

1 terminal, the requirement that employee health benefits are to be  
2 provided shall be deemed to be satisfied if the benefits are provided  
3 in accordance with industry practice by a third party obligated to  
4 provide such benefits pursuant to a collective bargaining agreement  
5 **1[;] 1**

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

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

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

41 "Government-restricted municipality" means a municipality in  
42 this State with a municipal revitalization index distress score of at  
43 least 75, that met the criteria for designation as an urban aid  
44 municipality in the 2019 State fiscal year, and that, on the effective  
45 date of P.L. , c. (C. ) (pending before the Legislature as this  
46 bill), is subject to financial restrictions imposed pursuant to the  
47 Municipal Stabilization and Recovery Act **1[of 2016]<sup>1</sup>**, P.L.2016,



1 c.4 <sup>1</sup>[(52:27BBBB-1)] (C.52:27BBBB-1 et seq.)<sup>1</sup>, or is restricted in  
2 its ability to levy property taxes on property in that municipality as  
3 a result of the State of New Jersey owning or controlling property  
4 representing at least 25 percent of the total land area of the  
5 municipality or as a result of the federal government of the United  
6 States owning or controlling at least 50 acres of the total land area  
7 of the municipality, which is dedicated as a national natural  
8 landmark.

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

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

16 "Incentive area" means:

17 a. an aviation district;

18 b. a port district;

19 c. a distressed municipality or transit hub municipality;

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

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

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

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

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

1 or as a warehouse if the business uses the warehouse as part of the  
2 chain of distribution for products assembled, processed,  
3 manufactured, or any combination thereof, by the business at the  
4 qualified business facility; for the breaking or demolishing of  
5 finished or partially finished products; or for the production of oil  
6 or gas or the generation or transformation of electricity.

7 "Industrial use" means assembling, processing, manufacturing, or  
8 any combination thereof, of finished or partially finished products  
9 from materials or fabricated parts; the breaking or demolishing of  
10 finished or partially finished products; or the production of oil or  
11 gas or the generation or transformation of electricity. "Industrial  
12 use" includes farming purposes as that term is defined under <sup>1</sup>IRC  
13 section] 26 U.S.C. s. 16420(c)(3)(A), undertaken in an industrial  
14 space.

15 "Infrastructure Fund" means the Recovery Infrastructure Fund  
16 established pursuant to section 79 of P.L. , c. (C. ) (pending  
17 before the Legislature as this bill) to fund local infrastructure  
18 improvements.

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

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

1 "Mega project" means a project of special economic importance,  
2 as determined pursuant to regulations adopted by the <sup>1</sup>["chief  
3 executive officer of the authority"] board<sup>1</sup>, as measured by the level  
4 of new jobs, new capital investment, and opportunities to leverage  
5 leadership in a high-priority targeted industry, as determined by the  
6 authority pursuant to rules and regulations promulgated to  
7 implement <sup>1</sup>sections 68 through 81 of<sup>1</sup> P.L. , c. (C. )  
8 (pending before the Legislature as this bill).

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

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

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

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

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

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

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

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

46 "Project" means the capital investment and the employment  
47 commitment at a qualified business facility pursuant to the project  
48 agreement.

1 "Project agreement" means the contract executed between an  
2 eligible business and the authority pursuant to section **'[75] 73'** of  
3 P.L. , c. (C. ) (pending before the Legislature as this bill),  
4 which sets forth the terms and conditions under which the eligible  
5 business may receive the incentives authorized pursuant to the  
6 program.

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

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

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

23 "Qualified incentive tract" means: **'[(i)] a.**<sup>1</sup> a population census  
24 tract having a poverty rate of 20 percent or more; or **'[(ii)] b.**<sup>1</sup> a  
25 census tract in which the median family income for the census tract  
26 does not exceed 80 percent of the greater of the Statewide median  
27 family income or the median family income of the metropolitan  
28 statistical area in which the census tract is situated.

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

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

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

45 "Retained full-time job" means an eligible position that currently  
46 exists in New Jersey and is filled by a full-time employee, but  
47 which, because of a potential relocation by the business, is at risk of  
48 being lost to another state or country or of being eliminated. For

1 the purposes of determining the number of retained full-time jobs,  
2 the eligible positions of an affiliate shall be considered eligible  
3 positions of the business.

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

6 "SDA municipality" means a municipality in which an SDA  
7 district is situated.

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

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

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

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

31 "Transit oriented development" means a qualified business  
32 facility located within a 1/2-mile radius, or one-mile radius for  
33 projects located in a Government-restricted municipality,  
34 surrounding the mid-point of a New Jersey Transit Corporation,  
35 Port Authority Transit Corporation, or Port Authority Trans-Hudson  
36 Corporation rail, bus, or ferry station platform area, including all  
37 light rail stations.

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

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

1 total exempt value by the sum of the net valuation which is taxable  
2 and that which is tax exempt.

3 “Transit Village” means a municipality that has been designated  
4 as a transit village by the Commissioner of Transportation and the  
5 Transit Village Task Force <sup>1</sup> [established pursuant to P.L.1985,  
6 c.398 (C.27:1A-5)]<sup>1</sup>.

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

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

22  
23 71. (New section) a. Beginning on the effective date of P.L. ,  
24 c. (C. ) (pending before the Legislature as this bill), but prior  
25 to March 1, 2027, to be eligible for tax credits under the program, a  
26 business’s chief executive officer, or equivalent officer, shall  
27 demonstrate to the authority at the time of application that:

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

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

35 (3) the qualified business facility is located in a qualified  
36 incentive area;

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

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

1 generated during the period of time from approval through the end  
2 of the commitment period, or through the end of the longer period  
3 of extended commitment that the business may elect for purposes of  
4 receiving credit for benefits projected to occur after the expiration  
5 of the commitment period, except that:

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

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

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

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

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



1 benefit to the State in accordance with this paragraph are true and  
2 accurate at the time of submission;

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

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

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

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

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

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

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

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

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

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

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

47 (c) for the rehabilitation, improvement, fit-out, or retrofit of  
48 existing portion of the premises that does not qualify pursuant to

1 subparagraph (a) or (b) of this paragraph, a minimum investment of  
2 \$40 per square foot of gross leasable area;

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

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

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

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

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

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

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

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

31 (d) for a business located in qualified incentive tract or  
32 government-restricted municipality that will retain 500 or more  
33 retained full-time jobs, a minimum of the business's retained full-  
34 time jobs at the time of application and new construction or  
35 rehabilitation, improvement, fit-out, or retrofit of an existing  
36 portion of the premises equal in size to the space occupied by the  
37 business's retained full-time jobs at the time of application;

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

44 (2) Notwithstanding the provisions of paragraph (1) of this  
45 subsection, the authority may adopt, pursuant to the provisions of  
46 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
47 seq.), rules and regulations adjusting the minimum number of new  
48 or retained full-time jobs required under the program when

1 necessary to respond to the prevailing economic conditions in the  
2 State.

3 d. A business shall provide and adhere to a plan that  
4 demonstrates that the qualified business facility is capable of  
5 accommodating more than half of the business's new or retained  
6 full-time employees as approved and shall certify, under the penalty  
7 of perjury, that not less than 80 percent <sup>1</sup>["or more"]<sup>1</sup> of the  
8 <sup>1</sup>withholdings of<sup>1</sup> new or retained full-time jobs are <sup>1</sup>["held by  
9 employees whose earnings are"]<sup>1</sup> subject to <sup>1</sup>["withholding under"]<sup>1</sup>  
10 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.  
11 <sup>1</sup>["On the effective date of P.L. , c. (C. ) (pending before the  
12 Legislature as this bill) this requirement shall apply to projects  
13 approved under P.L.2011, c.149 (C.34:1B-242 et seq.), P.L.2007,  
14 c.346 (C.34:1B-207 et seq.), and P.L.1996, c.26 (C.34:1B-124 et  
15 al.)."]<sup>1</sup> The requirements set forth in this subsection may be  
16 modified by the authority to respond to an emergency, disaster, or  
17 other factors that result in employees of an eligible business having  
18 to work from a location other than the qualified business facility.

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

23 f. A business eligible pursuant to this section may submit an  
24 application to the authority in accordance with the provisions of  
25 section 72 of P.L. , c. (C. ) (pending before the Legislature  
26 as this bill) on or after the effective date of P.L. , c. (C. or )  
27 (pending before the Legislature as this bill) but prior to March 1,  
28 2027.

29

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

38 b. (1) Before the board may consider an eligible business's  
39 application for tax credits, the Department of Labor and Workforce  
40 Development, the Department of Environmental Protection, and the  
41 Department of the Treasury shall each report to the chief executive  
42 officer of the authority whether the eligible business is in  
43 compliance with the respective department, or, if necessary, has  
44 entered into an agreement with the respective department that  
45 includes a practical corrective action plan for the eligible business.  
46 The authority may also contract with an independent third party to  
47 perform a background check on the eligible business. Provided that

1 the eligible business is in substantial good standing, or has entered  
2 into such an agreement, before the board may approve an eligible  
3 business's application for tax credits, the eligible business shall  
4 execute a non-binding letter of intent with the chief executive  
5 officer of the authority, specifying the amount and terms and  
6 conditions of tax credits that the authority is prepared to propose for  
7 board approval and that are intended to be a material factor in the  
8 decision by the eligible business to create or retain the proposed  
9 number of new and retained full-time jobs, and in which the eligible  
10 business certifies such tax credits are a material factor in its  
11 decision.

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

43 c. An eligible business shall pay to the authority the full  
44 amount of the direct costs of an analysis concerning the eligible  
45 business's application for a tax credit, which a third party retained  
46 by the authority performs, if the authority deems such retention to  
47 be necessary. The authority shall have the discretion to waive all or  
48 a portion of the costs of application for a small business.

1 d. If at any time during the eligibility period the authority  
2 determines that the eligible business made a material  
3 misrepresentation on the eligible business's application, the eligible  
4 business shall forfeit all tax credits awarded under the program,  
5 which shall be in addition to any other criminal or civil penalties to  
6 which the business and the officer may be subject.

7 e. If circumstances require an eligible business to amend its  
8 application to the authority, then the owner of the eligible business,  
9 or an authorized agent of the owner, shall certify to the authority  
10 that the information provided in its amended application is true  
11 under the penalty of perjury.

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

15  
16 73. (New section) a. Following approval by the board, but  
17 before the issuance of tax credits, the authority shall require an  
18 eligible business to enter into a project agreement. The terms of the  
19 project agreement shall be consistent with the eligibility  
20 requirements of section 71 of P.L. , c. (C. ) (pending before  
21 the Legislature as this bill), as applicable, and shall include, but  
22 shall not be limited to, the following:

23 (1) <sup>1</sup>~~[(i)]~~ <sup>1</sup>(a) a detailed description of the proposed project  
24 which will result in job creation or retention, and the number of  
25 new and retained full-time jobs that are approved for tax credits;

26 <sup>1</sup>~~[(ii)]~~ <sup>1</sup>(b) for a phased project, an incentive phase agreement  
27 for which each phase identifies a description of the phase, the  
28 expected capital investment and number of new full-time jobs, and  
29 the time following acceptance of the incentive agreement when  
30 each phase is to begin and be completed, with the awarding of tax  
31 credits under the incentive agreement to be predicated on the  
32 number of full-time jobs created through the fulfillment of each  
33 incentive phase agreement;

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

36 (3) personnel information that will enable the authority to  
37 administer the program;

38 (4) a requirement that the eligible business maintain the project  
39 at a location in New Jersey for the commitment period, with at least  
40 the minimum number of full-time jobs as required by this program,  
41 and a provision to permit the authority to recapture all or part of any  
42 tax credits awarded, at its discretion, if the eligible business does  
43 not remain in compliance with this provision for the required term  
44 or significantly reduces the number of full-time employees, or the  
45 salaries thereof, to which the eligible business certified at the  
46 commencement of the eligibility period;

47 (5) a method for the eligible business to certify that it has met  
48 the capital investment and employment requirements of the program

1 set forth in subsections b. and c. of section 71 of P.L. , c.  
2 (C. ) (pending before the Legislature as this bill) and to report  
3 annually to the authority the number of new and retained full-time  
4 employees, and the salaries thereof, for which the tax credits are to  
5 be allowed;

6 (6) representations that the eligible business is in substantial  
7 good standing or meets the agreement requirements described in  
8 paragraph (1) of subsection b. of section 71 of P.L. , c. (C. )  
9 (pending before the Legislature as this bill), the project complies  
10 with all applicable laws, and specifically, that the project does not  
11 violate any environmental law;

12 (7) a provision permitting an audit of the payroll records of the  
13 business from time to time, as the authority deems necessary;

14 (8) a provision that the chief executive officer of the authority  
15 receives annual reports from the Department of Environmental  
16 Protection, the Department of Labor and Workforce Development,  
17 and the Department of the Treasury demonstrating that the eligible  
18 business and each contractor and subcontractor performing work at  
19 the qualified business facility is in compliance with the respective  
20 department, or has entered into an agreement with the respective  
21 department that includes a practical corrective action plan, and a  
22 provision providing that if the eligible business is not in compliance  
23 with its legal obligations of rules administered by these departments  
24 and has been given formal notice thereof, then the authority may  
25 suspend the issuance of tax credits pending resolution of the  
26 dispute;

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

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

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

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

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

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

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

23 <sup>1</sup>(4) An eligible business shall not be required to enter into a  
24 community benefits agreement pursuant to this subsection if the  
25 eligible business submits to the authority a copy of the eligible  
26 business's project agreement that is certified by the municipality in  
27 which the project is located.<sup>1</sup>

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

1 under the program if a project fails to advance in accordance with  
2 the project agreement.

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

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

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

46

47 75. (New section) a. The total amount of the tax credit for an  
48 eligible business for each new or retained full-time job shall be as



1 set forth in subsections b. through g. of this section. The total tax  
2 credit amount shall be calculated and credited to the business  
3 annually for each year of the eligibility period, notwithstanding any  
4 other provisions of P.L. , c. (C. ) (pending before the  
5 Legislature as this bill) to the contrary.

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

8 (1) for an eligible business facility located within a government-  
9 restricted municipality, or which is a mega project, \$4,000 per year;

10 (2) for a qualified business facility located within <sup>1</sup>【a distressed  
11 municipality】 an enhanced area<sup>1</sup>, \$3,500 per year;

12 (3) for a qualified business facility located within a <sup>1</sup>【transit hub  
13 municipality but not qualifying under paragraph (1) of this  
14 subsection, 3,000】 distressed municipality, \$3,000<sup>1</sup> per year;

15 (4) for a project in a qualified opportunity zone or an  
16 employment and investment corridor, \$2,500 per year; and

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

18 c. (1) In addition to the base amount of the tax credit, the  
19 amount of the tax credit to be awarded for each new or retained full-  
20 time job shall be increased with the following bonuses:

21 (a) for an eligible business with a qualified business facility  
22 located in a municipality with a Municipal Revitalization Index  
23 score greater than 50, an increase of \$1,000 per year;

24 (b) for an eligible business with a qualified business facility at  
25 which the capital investment in industrial or research and  
26 development premises for industrial or research and development  
27 use by the business is in excess of the minimum capital investment  
28 required for eligibility pursuant to subsection b. of section 71 of  
29 P.L. , c. (C. ) (pending before the Legislature as this bill),  
30 an increase of \$1,000 per year for each additional amount of  
31 investment that exceeds the minimum amount required for  
32 eligibility by 40 percent, with a maximum increase of \$3,000 per  
33 year, unless the project qualifies as a mega project or the qualified  
34 business facility is located in a government-restricted municipality,  
35 in which case the maximum increase is \$5,000 per year;

36 (c) for an eligible business with large numbers of new full-time  
37 jobs during the commitment period, the increases shall be in  
38 accordance with the following schedule:

39 (i) if the number of new full-time jobs is between 251 and 400,  
40 \$500 per year;

41 (ii) if the number of new full-time jobs is between 401 and 600,  
42 \$750 per year;

43 (iii) if the number of new full-time jobs is between 601 and 800,  
44 \$1000 per year;

45 (iv) if the number of new full-time jobs is between 801 and  
46 1,000, \$1,250 per year;

- 1 (v) if the number of new full-time jobs is in excess of 1,000,  
2 \$1,500 per year;
- 3 (d) for an eligible business that annually funds an industry-  
4 specific training program, which has the capacity to enroll 10  
5 percent or more of the eligible business's full-time workforce, or  
6 pays a State educational institution to provide to the public an  
7 industry-specific training program, an increase of \$500 per year;  
8 provided, however, that if the training program is provided by a  
9 State educational institution that is within 10 miles of the qualified  
10 business facility, then the increase shall be \$1,000 per year;
- 11 (e) for an eligible business that qualifies as a small business, an  
12 increase of \$500 per year;
- 13 (f) <sup>1</sup>[(i)]<sup>1</sup> for an eligible business with new full-time jobs and  
14 retained full-time jobs at the qualified business facility with a  
15 median salary in excess of the existing median salary for the county  
16 in which the project is located, or, in the case of a project in a  
17 government-restricted municipality, a business that employees full-  
18 time positions at the project with a median salary in excess of the  
19 median salary for the government-restricted municipality, an  
20 increase of \$250 per year during the eligibility period for each 35  
21 percent by which the project's median salary levels exceeds the  
22 county or government-restricted municipality median salary, with a  
23 maximum increase of \$1,500 per year;
- 24 (g) for an eligible business with a qualified business facility  
25 located in a qualified incentive tract, an increase of \$500 per year;
- 26 (h) for an eligible business engaged primarily in a targeted  
27 industry, an increase of \$500 per year;
- 28 (i) for an eligible business with a qualified business facility  
29 located in a qualified incubator facility, an increase of \$500 per  
30 year;
- 31 (j) for an eligible business that enters into a labor harmony  
32 agreement in accordance with <sup>1</sup>[(subsection c. of section 73)] section  
33 69<sup>1</sup> of P.L. , c. (C. ) (pending before the Legislature as this  
34 bill), an increase of \$2,000 per year for the portion of the project  
35 subject to that labor harmony agreement; <sup>1</sup>provided further that an  
36 eligible business receiving a bonus under this subparagraph may  
37 exceed the limitation applicable to the eligible business pursuant to  
38 subsection d. of this section by an amount not to exceed \$1,000;<sup>1</sup>
- 39 (k) for an eligible business that provides its employees access to  
40 child care either through an on-site quality child care facility free of  
41 charge to its employees or through reimbursements paid by the  
42 eligible business to its employees for the cost of child care in  
43 accordance with standards adopted by the authority, an increase of  
44 \$1,000 per year;
- 45 (l) for an eligible business that enters into a partnership with a  
46 prisoner re-entry program for the purpose of identifying and  
47 promoting employment opportunities at the eligible business for

1 former inmates and current inmates leaving the corrections system,  
2 and that hires at least one active participant in the re-entry program,  
3 an increase of \$500 per year.

4 (m) for an eligible business with a qualified business facility that  
5 exceeds the Leadership in Energy and Environmental Design's  
6 "Silver" rating standards but does not exceed "Gold" rating  
7 standards or completes substantial environmental remediation, an  
8 additional increase of \$250 per year, or for an eligible business with  
9 a qualified business facility that exceeds the Leadership in Energy  
10 and Environmental Design's "Gold" rating standards, an additional  
11 increase of \$500 per year;

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

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

21 (p) for an eligible business with a marine terminal project in a  
22 municipality located outside a government-restricted municipality,  
23 but within the geographical boundaries of the South Jersey Port  
24 District, an increase of \$1,500 per year; <sup>1</sup>**[and]**<sup>1</sup>

25 (q) for an eligible business with a qualified business facility  
26 located in a qualified opportunity zone, an increase of \$1,000 per  
27 year <sup>1</sup>; and

28 (r) for an eligible business if one-third or more of the members  
29 of the eligible business's governing board or other governing body  
30 self-identify as members of an underrepresented community, which  
31 may include Black, African American, Hispanic, Latino, Asian,  
32 Pacific Islander, Native American, Native Hawaiian, Alaska Native  
33 or gay, lesbian, bisexual or transgender, an increase of \$2,000 per  
34 year. The authority shall work with the Chief Diversity Officer or  
35 other State entities to ensure that the bonus provided under this  
36 subparagraph is implemented faithfully and in compliance with  
37 law<sup>1</sup>.

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

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

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

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

10 (2) for a qualified business facility located within <sup>1</sup>~~【a distressed~~  
11 ~~municipality or qualified opportunity zone】~~ an enhanced area<sup>1</sup>, the  
12 gross amount for each new or retained full-time job shall not exceed  
13 \$6,000 per year;

14 (3) for a qualified business facility <sup>1</sup>~~【in a transit hub】~~ within a  
15 distressed<sup>1</sup> municipality, the gross amount for each new or retained  
16 full-time job shall not exceed \$5,000 per year;

17 (4) for a qualified business facility in <sup>1</sup>a qualified opportunity  
18 zone or<sup>1</sup> an employment and investment corridor, the gross amount  
19 for each new or retained full-time job shall not exceed \$4,000 per  
20 year; and

21 (5) for a qualified business facility in other eligible areas, the  
22 gross amount for each new or retained full-time job shall not exceed  
23 \$3,000 per year.

24 e. The authority shall reduce the gross amount of tax credits  
25 per full-time job if the median salary of new full-time jobs and  
26 retained full-time jobs at the qualified business facility is less than  
27 the existing median salary for the county in which the qualified  
28 business facility is located. The authority shall reduce the gross  
29 amount of tax credits per full-time job by an amount, in percentage  
30 points, equal to the percentage the median salary of new full-time  
31 jobs and retained full-time jobs at the qualified business facility is  
32 below the existing median salary for the county in which the  
33 qualified business facility is located. The authority shall not award  
34 a tax credit to an eligible business if the median salary of new full-  
35 time jobs and retained full-time jobs at the qualified business  
36 facility is 30 percent or more below the existing median salary for  
37 the county in which the qualified business facility is located.

38 f. After the determination by the authority of the gross amount  
39 of tax credits for which an eligible business is eligible pursuant to  
40 subsection d. of this section, the final total tax credit amount shall  
41 be calculated as follows: (1) for each new full-time job, the eligible  
42 business shall be allowed tax credits equaling the lesser of 100  
43 percent of the gross amount of tax credits for each new full-time  
44 job; and (2) for each retained full-time job, the eligible business  
45 shall be allowed tax credits equaling 50 percent of the gross amount  
46 of tax credits for each retained full-time job.

1 g. Notwithstanding the provisions of subsections a. through f.  
2 of this section to the contrary, for each application approved by the  
3 board, the amount of tax credits available to be applied by the  
4 business annually shall not exceed an amount determined by the  
5 authority to be necessary to induce the project to be sited in New  
6 Jersey as determined by the board. The authority shall determine  
7 the amount necessary to complete the project through staff analysis  
8 of all locations under consideration by the eligible business and all  
9 lease agreements, ownership documents, or substantially similar  
10 documentation for the eligible business's current in-State locations  
11 and potential out-of-State location alternatives, competitive  
12 proposals from other states, the prevailing economic conditions, and  
13 any other information that the authority deems relevant.

14

15 76. (New section) a. (1) If, in any tax period, an eligible  
16 business reduces the total number of full-time employees in its  
17 Statewide workforce by more than 20 percent from the number of  
18 full-time employees in its Statewide workforce in the last tax period  
19 prior to the credit amount approval under the program, then the  
20 eligible business shall forfeit its credit amount for that tax period  
21 and each subsequent tax period, until the first tax period for which  
22 documentation demonstrating the restoration of the eligible  
23 business's Statewide workforce to the threshold levels required by  
24 this subsection has been reviewed and approved by the authority,  
25 for which tax period and each subsequent tax period the full amount  
26 of the credit shall be allowed.

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

38 b. If, in any tax period, the number of full-time employees  
39 employed by the eligible business at the qualified business facility,  
40 or the salaries thereof, drops below 80 percent of the number of new  
41 and retained full-time jobs, and the salaries thereof, specified in the  
42 project agreement or the incentive phase agreement, then the  
43 eligible business shall forfeit its tax credit amount for that tax  
44 period and each subsequent tax period, until the first tax period for  
45 which documentation demonstrating the restoration of the number  
46 of full-time employees employed by the eligible business at the  
47 qualified business facility to 80 percent of the number of jobs  
48 specified in the project agreement or incentive phase agreement or

1 the restoration of 80 percent of the salaries specified in the project  
2 agreement is reviewed and approved by the authority.

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

5 (1) If the qualified business facility is sold in whole or in part  
6 during the eligibility period, the new owner shall not acquire the  
7 capital investment of the seller, provided, however, that any tax  
8 credits of tenants shall remain unaffected. The seller shall forfeit  
9 all tax credits for the tax period in which the sale occurs and all  
10 subsequent tax periods, provided, however, that an eligible business  
11 may change the location of the qualified business facility if:

12 (a) the new facility:

13 (i) meets all applicable location qualifying criteria and has gross  
14 leasable area not less than the gross leasable area of the qualified  
15 business facility initially approved by the authority and the alternate  
16 qualified business facility meets the minimum capital investment  
17 and sustainability requirements of the program; or

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

36 (b) in the event that the modified project economics materially  
37 deviate from the economics of the initial approval in a manner that  
38 undermines the recommendation of approval made by the staff of  
39 the authority at the time of the initial approval, then the business  
40 requesting to re-locate a qualified business facility shall be required  
41 to obtain the approval of the members of the authority.

42 (2) If a tenant subleases its tenancy in whole or in part during  
43 the eligibility period, the new tenant shall not acquire the tax credits  
44 of the sublessor, and the sublessor shall forfeit all tax credits for  
45 any tax period of its sublease in which the sublessor, in continued  
46 occupation of a portion of the qualified business facility, fails to  
47 maintain the number of jobs required for the sublessor to earn tax  
48 credits for the tax period or fails to independently satisfy the

1 minimum capital investment or sustainability requirements for the  
2 program as set forth in section 71 of P.L. , c. (C. or  
3 C. ) (pending before the Legislature as this bill). Provided,  
4 however, if the capital investment of the sublessor in the occupied  
5 portion of the qualified business facility is below the project  
6 minimum capital investment as set forth in section 71 of P.L. , c.  
7 (C. ) (pending before the Legislature as this bill), the sublessor  
8 may include capital investment made by or on behalf of the new  
9 tenant in the subleased portion of the qualified business facility, so  
10 long as that capital investment is not the subject of an independent  
11 application under an incentive program with the authority.

12 d. A small business may move its qualified business facility  
13 provided that the business remains in New Jersey during the  
14 commitment period.

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

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

44 (2) If all or part of a tax credit sold or assigned pursuant to  
45 section 78 of P.L. , c. (C. ) (pending before the Legislature  
46 as this bill) is subject to recapture, then the authority shall pursue  
47 recapture from the eligible business and not from the purchaser or  
48 assignee of the tax credit transfer certificate. The purchaser or

1 assignee of a tax credit transfer certificate shall be subject to any  
2 limitations and conditions that apply to the use of the tax credits by  
3 the eligible business.

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

7 g. A business may include an affiliate for any period, provided  
8 that the business provides a valid tax clearance certificate for the  
9 affiliate and a verification of the nature of the affiliate relationship  
10 during the relevant period, and provided further that the affiliate  
11 provides acceptable responses to the authority's legal disclosures  
12 inquiries, as determined by the authority. A formal modification of  
13 the authority's approval of the incentive agreement shall not be  
14 necessary to add or remove an affiliate after approval or execution  
15 of the incentive agreement.

16 h. A business may change its name filed with the authority by  
17 providing a copy of the filed amendment to the certificate of  
18 incorporation or formation, as the case may be, of the business and  
19 a valid tax clearance certificate with the business's new name. A  
20 formal modification of the authority's approval shall not be  
21 necessary to change a business's name after approval or execution  
22 of the incentive agreement.

23  
24 77. (New section) a. (1) An eligible business which is awarded  
25 tax credits under the program shall submit annually, no later than  
26 the date indicated in the project agreement, commencing in the year  
27 in which the grant of tax credits is issued and for the remainder of  
28 the commitment period, a report that indicates that the eligible  
29 business continues to maintain the number of new and retained full-  
30 time jobs, and the salaries thereof, specified in the project  
31 agreement. As part of the annual report required pursuant to this  
32 subsection, an eligible business shall provide to the authority a copy  
33 of its applicable New Jersey tax return showing business income  
34 and withholdings as a condition of its continuation in the program,  
35 and the quarterly wage report required under R.S.43:21-14  
36 submitted to the Department of Labor and Workforce Development  
37 together with an annual payroll report showing: (a) the new full-  
38 time jobs which were created in accordance with the project  
39 agreement, and (b) the new full-time jobs created during each  
40 subsequent year of the commitment period. The failure of an  
41 eligible business to submit to the authority a copy of its annual  
42 payroll report or submit the quarterly wage report in accordance  
43 with the provisions of this subsection during the eligibility period  
44 shall result in the forfeiture of the award for that year. An eligible  
45 business shall explain, in the reports required by this subsection, the  
46 reason for any discrepancies between the annual payroll report  
47 submitted by the eligible business and the quarterly wage report.  
48 The owner of the eligible business, or an authorized agent of the



1 owner, shall certify that the information provided pursuant to this  
2 paragraph is true under the penalty of perjury. Claims, records, or  
3 statements submitted by an eligible business to the authority in  
4 order to receive tax credits shall not be considered claims, records,  
5 or statements made in connection with State tax laws.

6 (2) Upon receipt and review of each report submitted during the  
7 eligibility period, the authority shall provide to the eligible business  
8 and the director a certificate of compliance indicating the amount of  
9 tax credits that the eligible business may apply against its tax  
10 liability. The authority shall pro rate the tax credit for the first and  
11 last years of the eligibility period based on the number of full  
12 months the project was certified in the year the eligible business  
13 first certifies.

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

17 (2) An eligible business shall forfeit the credit amount for any  
18 tax period for which the eligible business's documentation remains  
19 uncertified as of the date for certification indicated in the project  
20 agreement, although credit amounts for the remainder of the years  
21 of the eligibility period shall remain available to the eligible  
22 business.

23 c. Full-time employment for an accounting or privilege period  
24 shall be determined as the average of the monthly full-time  
25 employment for the period.

26 d. (1) Upon receipt by the director of the certificate of  
27 compliance, the director shall allow the eligible business a tax  
28 credit. The eligible business may apply the credit allowed by the  
29 director against the eligible business's tax liability for the tax period  
30 in which the director allowed the tax credit or may carry forward  
31 the credit for use by the eligible business in any of the next seven  
32 successive tax periods, which credit shall expire thereafter.

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

38 (b) Credits granted to a partnership shall be passed through to  
39 the partners, members, or owners, respectively, pro-rata, or  
40 pursuant to an executed agreement among the partners, members, or  
41 owners documenting an alternate distribution method provided to  
42 the director accompanied by any additional information as the  
43 director may prescribe. With respect to credits passed through to a  
44 person subject to tax liability due pursuant to sections 2 or 3 of  
45 P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), the person shall be  
46 allowed to apply credits against the person's tax liability without  
47 the provision of a tax credit certificate to the Division of Taxation  
48 in the Department of the Treasury for the tax period accompanying

1 the person's tax return and the person shall be considered the tax  
2 certificate holder and be subject to subparagraph (c) of this  
3 paragraph. The authority may recapture all or part of any tax  
4 credits claimed by a person pursuant to subparagraph (b) of this  
5 paragraph with penalties and interest from the person or the  
6 business in the event the Division of Taxation in the Department of  
7 the Treasury does not issue a tax credit certificate in an amount at  
8 least equal to the tax credit amount claimed on the person's tax  
9 return for the applicable tax period.

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

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

30

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

1 include a statement waiving the eligible business's right to claim  
2 the credit that the eligible business has elected to sell or assign.

3 b. (1) The eligible business shall not sell or assign a tax credit  
4 transfer certificate allowed under this section for consideration  
5 received by the eligible business of less than 85 percent of the  
6 transferred credit amount before considering any further  
7 discounting to present value which shall be permitted. The tax  
8 credit transfer certificate issued to the eligible business by the  
9 director shall be subject to any limitations and conditions imposed  
10 on the application of State tax credits pursuant to sections 70  
11 through 81 of P.L. , c. (C. ) (pending before the Legislature  
12 as this bill) and any other terms and conditions that the director may  
13 prescribe.

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

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

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

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

- 36 (1) the name of the transferrer;  
37 (2) the name of the transferee;  
38 (3) the value of the tax credit transfer certificate;  
39 (4) the State tax against which the transferee may apply the tax  
40 credit; and  
41 (5) the consideration received by the transferrer.

42  
43 79. (New section) a. The authority shall establish a dedicated  
44 fund to be known as the "Recovery Infrastructure Fund." Money in  
45 the fund shall be dedicated to the purpose of funding local  
46 infrastructure, which shall include:

- 1 (1) buildings and structures, such as schools, fire houses, police
- 2 stations, recreation centers, public works garages, and water and
- 3 sewer treatment and pumping facilities;
- 4 (2) sidewalks, streets, roads, ramps, and jug handles;
- 5 (3) open space with improvements such as athletic fields,
- 6 playgrounds, and planned parks;
- 7 (4) open space without improvements;
- 8 (5) public transportation facilities such as train stations and
- 9 public parking facilities; and
- 10 (6) the purchase of equipment considered vital to public safety.
- 11 b. The fund shall be credited with money remitted by eligible
- 12 businesses pursuant to paragraph (2) of subsection b. of section 71
- 13 of P.L. , c. (C. ) (pending before the Legislature as this
- 14 bill).
- 15 c. Money remitted to the fund by an eligible business pursuant
- 16 to paragraph (2) of subsection b. of section 71 of P.L. , c.
- 17 (C. ) (pending before the Legislature as this bill) shall be
- 18 earmarked for use on local infrastructure projects in the
- 19 municipality in which the eligible business's project is located.
- 20 d. A municipality shall apply to the authority, in a form and
- 21 manner prescribed by the authority, for disbursements from the
- 22 Recovery Infrastructure Fund. The authority, in consultation with
- 23 the Department of Community Affairs, shall review and approve
- 24 applications for disbursements of money from the fund pursuant to
- 25 the provisions of this section and the rules and regulation
- 26 promulgated by the authority pursuant to paragraph (1) of
- 27 subsection f. of this section.
- 28 e. The Department of Community Affairs shall coordinate with
- 29 the authority and other boards, commissions, institutions,
- 30 departments, agencies, State officers, and employees to carry out
- 31 the local infrastructure projects funded through the Recovery
- 32 Infrastructure Fund.
- 33 f. (1) The authority shall adopt rules and regulations pursuant
- 34 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
- 35 1 et seq.), to effectuate the purposes of subsections a. through d. of
- 36 this section.
- 37 (2) The Department of Community Affairs shall adopt rules and
- 38 regulations pursuant to the "Administrative Procedure Act,"
- 39 P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of
- 40 subsection e. of this section.
- 41
- 42 80. (New section) Beginning the year next following the year in
- 43 which P.L. , c. (C. ) (pending before the Legislature as this
- 44 bill) takes effect and every two years thereafter, a State college or
- 45 university shall, pursuant to an agreement executed between the
- 46 State college or university and the authority, prepare a report on the
- 47 implementation of the program, and submit the report to the
- 48 authority, the Governor, and, pursuant to section 2 of P.L.1991,

1 c.164 (C.52:14-19.1), to the Legislature. Each biennial report  
2 required under this section shall include a description of each  
3 eligible business receiving a tax credit under the program, a detailed  
4 analysis of the consideration given to each applicant, an analysis of  
5 whether the incentives awarded influenced the eligible business's  
6 decisions to locate a qualified business facility in the State, the  
7 return on investment for incentives awarded, the eligible business's  
8 impact on the State's economy, and any other metrics the State  
9 college determines are relevant based upon national best practices.  
10 The authority shall prepare a written response to the report, which  
11 the authority shall submit to the Governor and, pursuant to section 2  
12 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

13

14 81. (New section) Notwithstanding the provisions of the  
15 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
16 seq.), to the contrary, the chief executive officer of the authority  
17 may adopt, immediately, upon filing with the Office of  
18 Administrative Law, regulations that the chief executive officer  
19 deems necessary to implement the provisions of sections 70 through  
20 81 of P.L. , c. (C. ) (C. ) (pending before the  
21 Legislature as this bill), including but not limited to examples of  
22 and the determination of capital investment and the determination  
23 of the limits, if any, on the expense or type of furnishings that may  
24 constitute capital improvements, which regulations shall be  
25 effective for a period not to exceed 180 days from the date of the  
26 filing. The chief executive officer shall thereafter amend, adopt, or  
27 readopt the regulations in accordance with the requirements of  
28 P.L.1968, c.410 (C.52:14B-1 et seq.).

29

30 82 (New section) Sections 82 through 88 of P.L. , c.  
31 (C. ) (pending before the Legislature as this bill) shall be  
32 known and may be cited as the "Main Street Recovery Finance  
33 Program Act."

34

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

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

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

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

47 "Eligible small business" means any business that satisfies the  
48 criteria set forth in subsection b. of section 85 of P.L. , c.

1 (C. ) (pending before the Legislature as this bill) at the time of  
2 application for a grant under the program.

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

6 "Small business" means a business engaged in the conduct of a  
7 trade or business in this State that qualifies as a "small business  
8 concern" within the meaning of the federal "Small Business Act,"  
9 Pub.L.85-536 (15 U.S.C. § 631 et seq.) for the purpose of the small  
10 business's eligibility assistance from the United States Small  
11 Business Administration.

12

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

27

28 85. (New section) a. As part of the Main Street Recovery  
29 Finance Program, the authority shall provide grants to eligible small  
30 businesses from the Main Street Recovery Fund, subject to  
31 appropriation or the availability of federal funds provided that not  
32 less than 40 percent of such funds shall be made available to  
33 eligible microbusinesses certified by the State as a "minority  
34 business" or a "women's business" pursuant to P.L.1986, c.195  
35 (C.52:27H-21.17 et seq.). Grants awarded pursuant to the program  
36 may be used by an eligible small business for capital improvements  
37 or to cover operating expenses. The authority may dedicate up to  
38 10 percent of any amount appropriated for the purposes of this  
39 section to provide technical assistance grants to eligible  
40 microbusinesses.

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

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

1 (b) each worker employed by the small business shall be paid  
2 not less than \$15 per hour or 120 percent of the minimum wage  
3 fixed under subsection a. of section 5 of P.L.1966, c.113 (C.34:11-  
4 56a4), whichever is higher <sup>1</sup>, except an employee who customarily  
5 and regularly receives gratuities or tips shall be paid not less than  
6 120 percent of the minimum wage<sup>1</sup>.

7 (2) In addition to the requirements of paragraph (1) of this  
8 subsection, a small business shall be eligible to receive a grant  
9 pursuant to this subsection for capital improvements only if the  
10 small business demonstrates to the authority at the time of  
11 application that:

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

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

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

44 d. Following approval by the board, but before the  
45 disbursement of grant funds, the authority shall require an eligible  
46 small business to enter into a grant agreement. The grant agreement  
47 shall specify the amount of the grant to be awarded the eligible  
48 small business and the frequency of payments. If the authority

1 determines that an eligible small business made a material  
2 misrepresentation on the eligible small business's grant application  
3 or the eligible small business has failed to comply with any  
4 requirement set forth in paragraphs (1) through (4) of subsection b.  
5 of this section, then the small business shall return to the authority  
6 any grant awarded pursuant to this section.

7  
8 86. (New section) a. As part of the Main Street Recovery  
9 Finance Program, the authority shall make available from the Main  
10 Street Recovery Fund, subject to annual appropriation and the  
11 availability of funds, to eligible community development finance  
12 institutions <sup>1</sup>and other eligible lenders<sup>1</sup> pursuant to subsection b. of  
13 this section and to eligible microbusinesses pursuant to subsection  
14 c. of this section, provided that not less than 40 percent of such  
15 funds shall be made available to eligible microbusinesses certified  
16 by the State as a "minority business" or a "women's business"  
17 pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.). The  
18 authority may dedicate up to 10 percent of any amount appropriated  
19 for the purposes of this section to provide technical assistance  
20 grants to eligible microbusinesses.

21 b. The authority shall provide loans and grants to eligible  
22 community development finance institutions <sup>1</sup>and other eligible  
23 lenders<sup>1</sup> in accordance with this subsection. Loans and grants made  
24 available to eligible community development finance institutions  
25 <sup>1</sup>and other eligible lenders<sup>1</sup> pursuant to this paragraph shall be used  
26 to strengthen capital structures, leverage additional debt capital, and  
27 increase lending and investing in economically disadvantaged  
28 communities. The authority shall require an eligible community  
29 development finance <sup>1</sup>institutions institution or other eligible  
30 lender<sup>1</sup> that receives a grant or loan pursuant to this subsection to  
31 enter into an agreement with the authority.

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

37 c. The authority shall provide loans to eligible microbusinesses  
38 in accordance with this subsection. Loans made available to  
39 eligible microbusinesses pursuant to this subsection may be used for  
40 capital improvements, employee training, salaries for new positions,  
41 and to pay for day-to-day operating expenditures, including payroll,  
42 rent, utilities, insurance, and purchases of goods and services. The  
43 authority shall require an eligible microbusiness to enter into a loan  
44 agreement. Loans made pursuant to this subsection shall have a  
45 term and an interest rate determined by the authority based on  
46 conditions currently prevailing in the market. The authority may  
47 forgive loans provided to eligible microbusinesses pursuant to this



1 subsection at the authority's discretion. The authority may, through  
2 the terms of the loan agreement, establish terms governing the  
3 incidence of default by an eligible microbusiness.

4 d. Prior to March 1, 2025, an eligible community development  
5 finance institution <sup>1</sup>or other eligible lender<sup>1</sup> seeking a loan or a  
6 grant pursuant to subsection b. of this section or an eligible  
7 microbusiness seeking a loan pursuant to subsection c. of this  
8 section shall submit an application for approval to the authority in  
9 the form and manner prescribed in regulations adopted by the  
10 authority pursuant to the provisions of the "Administrative  
11 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Before the  
12 authority may consider an application, the Department of Labor and  
13 Workforce Development, the Department of Environmental  
14 Protection, and the Department of the Treasury shall each report to  
15 the chief executive officer of the authority whether the applicant is  
16 in substantial good standing with the respective department, or has  
17 entered into an agreement with the respective department that  
18 includes a practical corrective action plan for the applicant. The  
19 authority may also contract with an independent third party to  
20 perform a background check on the applicant. The applicant, or an  
21 authorized agent thereof, shall certify under the penalty of perjury  
22 that any information provided in the application required pursuant  
23 to this subsection is true.

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

44 b. Upon application to the State Treasurer, and in consultation  
45 with the Chief Executive Officer of the New Jersey Economic  
46 Development Authority, the State Treasurer shall make loan  
47 guarantees from the fund to leverage private and public lending to  
48 help finance small businesses, real estate developments, and

1 manufacturers that are creditworthy but not receiving the financing  
2 needed to expand and create jobs. In making loan guarantees under  
3 this section, the State Treasurer shall give due consideration to  
4 small businesses and real estate developments in underserved  
5 communities throughout the State that have been deeply impacted  
6 by the COVID-19 pandemic.

7 c. (1) The State Treasurer shall monitor the activities of the  
8 beneficiaries of the loan guarantees issued pursuant to this section  
9 on an annual basis to ensure compliance with the terms and  
10 conditions imposed on the recipient by the chief executive officer.

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

15 (3) The annual accounting required under this section shall  
16 include certifications by the Department of Labor and Workforce  
17 Development, the Department of Environmental Protection, and the  
18 Department of the Treasury that the entity and the beneficiaries are  
19 in substantial good standing with the respective departments, or  
20 have entered into an agreement with the respective department that  
21 includes a practical corrective action plan.

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

25

26 88. (New section) Notwithstanding the provisions of the  
27 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
28 seq.), to the contrary, the chief executive officer of the authority  
29 may adopt, immediately, upon filing with the Office of  
30 Administrative Law, regulations that the chief executive officer  
31 deems necessary to implement the provisions of sections 82 through  
32 88 of P.L. , c. (C. ) (pending before the Legislature as this  
33 bill), which regulations shall be effective for a period not to exceed  
34 180 days from the date of the filing. The chief executive officer  
35 shall thereafter amend, adopt, or readopt the regulations in  
36 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1  
37 et seq.).

38

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

1 to the provisions of paragraph (4) of subsection d. of section 77 of  
2 P.L. , c. (C. ) (pending before the Legislature as this bill).

3 b. The Director of the Division of Taxation in the Department  
4 of the Treasury may purchase tax credits awarded under the  
5 following:

6 (1) the "Historic Property Reinvestment Act," sections 1 through  
7 8 of P.L. , c. (C. ) (pending before the Legislature as this  
8 bill);

9 (2) the "Brownfield Redevelopment Incentive Program Act,"  
10 sections 9 through 19 of P.L. , c. (C. ) (pending before the  
11 Legislature as this bill);

12 (3) the "New Jersey Innovation Evergreen Act," sections 20  
13 through 34 of P.L. , c. (C. ) (pending before the Legislature  
14 as this bill);

15 (4) the "Food Desert Relief Act," sections 35 through 42 of  
16 P.L. , c. (C. ) (pending before the Legislature as this bill);

17 (5) the "New Jersey Community-Anchored Development Act,"  
18 sections 43 through 53 of P.L. , c. (C. ) (pending before the  
19 Legislature as this bill);

20 (6) the "New Jersey Aspire Program Act," sections 54 through  
21 67 of P.L. , c. (C. ) (pending before the Legislature as this  
22 bill);

23 (7) the " Emerge Program Act," sections 68 through 81 of  
24 P.L. , c. (C. ) (pending before the Legislature as this bill);

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

27 (9) section 6 of P.L.2010, c.57 (C.34:1B-209.4);

28 (10) the State Economic Redevelopment and Growth Grant  
29 program established pursuant to section 5 of P.L.2009, c.90  
30 (C.52:27D-489e);

31 (11) section 1 of P.L.2018, c.56 (C.54:10A-5.39b); and

32 (12) section 2 of P.L.2018, c.56 (C.54A:4-12b).

33

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

44 b. The working group shall consist of seven members  
45 appointed by the chief executive officer of the New Jersey  
46 Economic Development Authority.

47 c. Appointments to the working group shall be made within 30  
48 days after the effective date of this act. Vacancies in the

1 membership of the working group shall be filled in the same  
2 manner as the original appointments were made.

3

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

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

8 "State agency" means any principal department in the Executive  
9 Branch of State government, and any division, board, bureau,  
10 office, commission or other instrumentality within or created by  
11 such department, and any independent State authority, commission,  
12 instrumentality or agency, other than in the Legislative or Judicial  
13 Branches of State government, which is authorized by law to award  
14 public contracts.

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

35 Any specifications for the provision <sup>1</sup>~~or~~ <sup>1</sup>of<sup>1</sup> personal  
36 protective equipment under this act shall be drafted in a manner to  
37 encourage free, open, and competitive bidding.

38 Any specification which knowingly excludes prospective bidders  
39 by reason of the impossibility of performance, bidding, or  
40 qualifications by any but one bidder shall be null and void and of no  
41 effect.

42 <sup>1</sup>Nothing in this section shall limit the ability of the Director of  
43 the Division of Purchase and Property or the head of any State  
44 agency to make awards to multiple bidders, pursuant to section 1 of  
45 P.L.1986, c.26 (C.52:34-12.1) to furnish the same or similar  
46 materials, supplies, services or equipment, where multiple bidders  
47 are necessary.<sup>1</sup>

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

5  
6 92. (New section) Sections 92 through 97 of P.L. , c.  
7 (C. ) (pending before the Legislature as this bill) shall be  
8 known and may be cited as the "New Jersey Ignite Act."

9  
10 93. (New section) As used in sections 92 through 97 of P.L. ,  
11 c. (C. ) (pending before the Legislature as this bill):

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

15 "Authority commitment period" means the period for which the  
16 authority commits to provide a start-up rent grant for the payment  
17 of rent in a collaborative workspace

18 "Collaborative workspace" means a business facility certified  
19 pursuant to section 95 of P.L. , c. (C. ) (pending before the  
20 Legislature as this bill), located in this State, developed to provide  
21 flexible workspaces for early stage innovation economy businesses,  
22 and designed to encourage community and collaboration within an  
23 inter-connected environment in which multiple start-up businesses  
24 have access to shared community events and shared workplace  
25 accommodations including, but not limited to, kitchens and  
26 makerspaces.

27 "Collaborative workspace commitment period" means a period of  
28 months equal to one-half the number of months of the authority  
29 commitment period.

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

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

1 shall not have previously utilized or rented space in, or access to,  
2 another collaborative workspace in the State.

3 "Full time employee" means a person who is: employed by the  
4 start-up tenant or member business for at least 35 hours a week;  
5 working as an independent contractor providing critical capabilities  
6 to the start-up tenant or member business for at least 35 hours a  
7 week; or an owner or partner of the start-up tenant or member  
8 business who works for at start-up tenant or member business for at  
9 least 35 hours a week.

10 "Grant agreement" means an agreement between the authority  
11 and the owner and operator of a collaborative workspace which  
12 memorializes the terms and conditions of the collaborative  
13 workspace's participation in the program.

14 "Program" means the New Jersey Ignite Program established  
15 pursuant to section 94 of P.L. , c. (C. ) (pending before the  
16 Legislature as this bill).

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

27 "Start-up rent grant" means a grant provided by the authority to a  
28 collaborative workspace for the rent that would otherwise be due to  
29 the collaborative workspace from a start-up tenant or member  
30 business for the period of the authority commitment period.

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

40 "Start-up tenant or member business commitment period" means  
41 a period of months equal to the sum of the authority commitment  
42 period and the collaborative workspace commitment period.

43

44 94. (New section) The New Jersey Ignite Program is hereby  
45 established as a program under the jurisdiction of the authority.  
46 The purpose of the program shall be to foster early stage innovation  
47 economy businesses and to help those businesses overcome barriers  
48 to commercial success. The authority shall structure the program as

1 a public-private partnership through which the authority provides  
2 start-up rent grants to collaborative workspaces, certified pursuant  
3 to section 95 of P.L. , c. (C. ) (pending before the  
4 Legislature as this bill), to support the early months of an early  
5 stage innovation economy business's rent at the collaborative  
6 workspace.

7  
8 95. (New section) a. The owner and operator of a business  
9 facility located in the State may apply to the authority to have the  
10 business facility certified as a collaborative workspace under the  
11 program. A business facility shall be eligible for certification as a  
12 collaborative workspace if:

13 (1) the business facility is developed to provide flexible  
14 workspaces for early stage innovation economy businesses;

15 (2) the business facility is designed to encourage community  
16 and collaboration within an inter-connected environment in which  
17 multiple start-up businesses have access to shared workplace  
18 accommodations;

19 (3) the owner and operator of the business facility commits to  
20 hosting at least eight community events at the business facility each  
21 year;

22 (4) the owner and operator of the business facility possesses a  
23 tax clearance certificate issued by the Division of Taxation in the  
24 Department of the Treasury;

25 (5) the owner and operator of the business facility possesses a  
26 business registration certificate issued by the Division of Revenue  
27 in the Department of the Treasury;

28 (6) at least five unique tenant or member businesses, in which  
29 the owner and operator of the business facility does not have a  
30 direct financial interest, have paid rent for space in, or access to, the  
31 business facility over the two years immediately preceding the  
32 submission of the application for certification as a collaborative  
33 workspace pursuant to this section or, if the business facility has  
34 been open for less than 90 days, the owner and operator of the  
35 business facility provides to the authority at least three letters of  
36 intent from prospective tenant or member businesses;

37 (7) the business facility is subject to ongoing operating costs,  
38 such as rent, mortgage payments, or internal corporate charge-  
39 backs, at the time of application for certification pursuant to this  
40 section;

41 (8) the owner and operator of the business facility offers at least  
42 one type of workspace at the business facility for rent by an early  
43 stage innovation economy business;

44 (9) the owner and operator of the business facility charges rent  
45 to tenants or members; and

46 (10) the owner and operator of the business facility certifies that  
47 any rent charged to a start-up tenant or member business is to be  
48 market-rate.

1       b. In addition to the requirements set forth in subsection a. of  
2 this section, for a business facility to qualify for certification as a  
3 collaborative workspace, the authority may, in its discretion and  
4 subject to available funds, require the owner and operator of the  
5 business facility shall commit to paying one month's rent for a  
6 start-up tenant or member business at the business facility for every  
7 two months of rent to be paid by the authority as a start-up rent  
8 grant under the program.

9       c. (1) The owner and operator of a business facility eligible for  
10 certification as a collaborative workspace pursuant to subsections a.  
11 and b. of this section shall submit an application for certification  
12 and participation in the program in such form as required by the  
13 authority. The application shall include any information the  
14 authority determines is necessary to administer the program.

15       (2) In evaluating applications for certification as a collaborative  
16 workspace, the authority may conduct site visits or perform any  
17 other investigation necessary to confirm any statement made in the  
18 application submitted by the owner and operator of the business  
19 facility. If the authority later finds that any statement made in the  
20 application for certification is inaccurate, then the authority may  
21 rescind its certification of the collaborative workspace.

22       d. Following approval of an application for certification, to  
23 participate in the program the authority and the owner and operator  
24 of a collaborative workspace shall enter into a grant agreement  
25 governing the terms, conditions, and timing under which the  
26 authority shall pay the start-up rent grant to the owner and operator  
27 of the collaborative workspace. The grant agreement shall require a  
28 collaborative workspace to share data concerning its participation in  
29 the program and on collaborative workspace utilization for the  
30 purpose of better program planning and the development of new  
31 programs to further support the State's economy.

32  
33       96. (New section) a. Up to the limits established in this  
34 subsection and in accordance with the grant agreement, the  
35 authority shall provide start-up rent grants to the owner and  
36 operator of a collaborative workspace through a series of scheduled  
37 payments as set forth in the grant agreement. The owner and  
38 operator of the collaborative workspace shall utilize the grant  
39 funding to provide rent-free space to a start-up tenant or member  
40 business that agrees to continue renting space in, or access to, the  
41 collaborative workspace for the start-up tenant or member business  
42 commitment period. The maximum start-up rent grant that the  
43 authority may provide to a collaborative workspace for the tenancy  
44 of a single start-up tenant or member business shall not exceed  
45 \$25,000.

46       b. The authority may provide a start-up rent grant for the  
47 payment of rent for space in, or access to, a collaborative workspace  
48 for up to six months; provided, however, if a collaborative



1 workspace or start-up tenant or member business satisfies any of the  
2 bonuses set forth in paragraphs (1) through (5) of this subsection,  
3 then the authority may provide an additional month of rent for each  
4 bonus satisfied by the collaborative workspace or start-up tenant or  
5 member business. The authority <sup>1</sup>~~shall~~ may<sup>1</sup> award a bonus to  
6 the owner and operator of a collaborative workspace if:

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

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

11 (3) the collaborative workspace has been open less than 90 days  
12 from the date on which the owner and operator of the collaborative  
13 workspace applied to the authority to participate in the program and  
14 the collaborative workspace is not in the same location as an  
15 existing facility;

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

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

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

26 (2) In addition to the certification required pursuant to  
27 paragraph (1) of this subsection, the authority shall conduct an  
28 annual inspection and review of the collaborative workspace and  
29 may request documentation evidencing that the collaborative  
30 workspace utilized the start-up rent grant it received from the  
31 authority in accordance with the requirements of the program and  
32 the grant agreement.

33 d. (1) If a start-up tenant or member business stops occupying  
34 or accessing a collaborative workspace before the end of the start-  
35 up tenant or member business commitment period, then the  
36 collaborative workspace shall refund to the authority that portion of  
37 the start-up rent grant covering any period in which the start-up  
38 tenant or member business did not have space in, or access to, the  
39 collaborative workspace.

40 (2) If the authority determines that a collaborative workspace is  
41 not in compliance with the requirements of the program or of the  
42 grant agreement, then the authority shall rescind the business  
43 facility's certification as a collaborative workspace and bar the  
44 business facility from further participation in the program.

45  
46 97. (New section) The authority shall promulgate rules and  
47 regulations necessary for the effective implementation of sections  
48 92 through 97 of P.L. , c. (C. ) (pending before the

1 Legislature as this bill). Notwithstanding any provision of the  
 2 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
 3 seq.) to the contrary, the authority may adopt, immediately upon  
 4 filing with the Office of Administrative Law, such regulations as  
 5 are necessary to implement the provisions of sections 92 through 97  
 6 of P.L. , c. (C. ) (pending before the Legislature as this  
 7 bill), which shall be effective for a period not to exceed 12 months  
 8 following enactment, and shall thereafter be amended, adopted, or  
 9 readopted by the authority in accordance with the requirements of  
 10 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
 11 seq.).

12  
 13 98. (New section) a. The combined value of all tax credits  
 14 awarded under the "Historic Property Reinvestment Act," sections 1  
 15 through 8 of P.L. , c. (C. ) (pending before the Legislature  
 16 as this bill), the "Brownfield Redevelopment Incentive Program  
 17 Act," sections 9 through 19 of P.L. , c. (C. ) (pending  
 18 before the Legislature as this bill), the "New Jersey Innovation  
 19 Evergreen Act," sections 20 through 34 of P.L. , c. (C. )  
 20 (pending before the Legislature as this bill), the "Food Desert Relief  
 21 Act," sections 35 through 42 of P.L. , c. (C. ) (pending  
 22 before the Legislature as this bill), the "New Jersey Community-  
 23 Anchored Development Act," sections 43 through 53 of P.L. , c.  
 24 (C. ) (pending before the Legislature as this bill); the "New  
 25 Jersey Aspire Program Act," sections 54 through 67 of P.L. , c.  
 26 (C. ) (pending before the Legislature as this bill); and the  
 27 "Emerge Program Act," sections 68 through 81 of P.L. , c.  
 28 (C. ) (pending before the Legislature as this bill) shall not  
 29 exceed an overall cap of \$11.5 billion over a <sup>1</sup>~~【six-year】~~ seven-  
 30 year<sup>1</sup> period, subject to the conditions and limitations set forth in  
 31 this section. Of this \$11.5 billion, \$2.5 billion shall be reserved for  
 32 transformative projects approved under the Aspire Program or the  
 33 Emerge Program.

34 b. (1) The total value of tax credits awarded under any  
 35 constituent program of the "New Jersey Economic Recovery Act of  
 36 2020," P.L. , c. (C. ) (pending before the Legislature as this  
 37 bill) shall be subject to the following annual limitations, except as  
 38 otherwise provided in subsection c. of this section:

39 (a) for tax credits awarded under the "Historic Property  
 40 Reinvestment Act," sections 1 through 8 of P.L. , c. (C. )  
 41 (pending before the Legislature as this bill), the total value of tax  
 42 credits annually awarded during <sup>1</sup>~~each of~~ the <sup>1</sup>~~【six-year】~~ first six  
 43 years of the seven-year<sup>1</sup> period shall not exceed \$50 million;

44 (b) for tax credits awarded under the "Brownfield  
 45 Redevelopment Incentive Program Act," sections 9 through 19 of  
 46 P.L. , c. (C. ) (pending before the Legislature as this bill),  
 47 the total value of tax credits annually awarded during <sup>1</sup>~~each of~~ the

1 1[six-year] first six years of the seven-year<sup>1</sup> period shall not exceed  
2 \$50 million;

3 (c) for tax credits awarded under the "New Jersey Innovation  
4 Evergreen Act," sections 20 through 34 of P.L. , c. (C. )  
5 (pending before the Legislature as this bill), the total value of tax  
6 credits annually awarded during 1each of<sup>1</sup> the 1[six-year] first six  
7 years of the seven-year<sup>1</sup> period shall not exceed \$60 million <sup>1</sup>and  
8 the total value of tax credits awarded over the entirety of the seven-  
9 year program shall not exceed \$300,000,000<sup>1</sup>;

10 (d) for tax credits awarded under the "Food Desert Relief Act,"  
11 sections 35 through 42 of P.L. , c. (C. ) (pending before the  
12 Legislature as this bill), the total value of tax credits annually  
13 awarded during 1each of<sup>1</sup> the 1[six-year] first six years of the  
14 seven-year<sup>1</sup> period shall not exceed \$40 million;

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

43 (f) for tax credits awarded under the "New Jersey Aspire  
44 Program Act," sections 54 through 67 of P.L. , c. (C. )  
45 (pending before the Legislature as this bill), and the "Emerge  
46 Program Act," sections 68 through 81 of P.L. , c. (C. )

1 (pending before the Legislature as this bill), not including tax  
 2 credits awarded for transformative projects, the total value of tax  
 3 credits annually awarded during each of the ~~the~~ **["six-year"]** first six  
 4 years of the seven-year<sup>1</sup> period shall not exceed \$1.1 billion, except  
 5 that during each of the first ~~the~~ **["three"]** six<sup>1</sup> years of the ~~the~~ **["six-year"]**  
 6 seven-year<sup>1</sup> period, the authority shall annually award tax credits  
 7 valuing no greater than \$715 million for projects located in the  
 8 northern counties of the State, and the authority shall annually  
 9 award tax credits valuing no greater than \$385 million for projects  
 10 located in the southern counties of the State. If during any of the  
 11 first ~~the~~ **["three"]** six<sup>1</sup> years of the ~~the~~ **["six-year"]** seven-year<sup>1</sup> period, the  
 12 authority awards tax credits in an amount less than the annual  
 13 limitation for projects located in northern counties or southern  
 14 counties, as applicable, the uncommitted portion of the annual  
 15 limitation shall be available to be deployed by the authority in  
 16 ~~the~~ **["the"]** a<sup>1</sup> subsequent year, provided that the uncommitted portion of  
 17 tax credits shall be awarded for projects located in the applicable  
 18 geographic area ~~the~~ **["the"]**. During each of the final three years of the six-  
 19 year period, the authority may annually award ~~the~~ **["the"]** , except that (i)  
 20 after the completion of the third year of the seven-year period, the  
 21 authority may deploy 50 percent of the uncommitted portion of tax  
 22 credits for any previous year without consideration to the county in  
 23 which a project is located; and (ii) after the completion of the sixth  
 24 year of the seven-year period, the authority may deploy all<sup>1</sup>  
 25 available tax credits, including the uncommitted portion of the  
 26 annual limitation for any previous year, without consideration to the  
 27 county in which ~~the~~ **["the"]** a<sup>1</sup> project is located; and

28 (g) for tax credits awarded for transformative projects under the  
 29 "New Jersey Aspire Program Act," sections 54 through 67 of  
 30 P.L. , c. (C. ) (pending before the Legislature as this bill),  
 31 and the "Emerge Program Act," sections 68 through 81 of P.L. , c.  
 32 (C. ) (pending before the Legislature as this bill), the total  
 33 value of tax credits awarded during the ~~the~~ **["six-year"]** seven-year<sup>1</sup>  
 34 period shall not exceed \$2.5 billion. The total value of tax credits  
 35 awarded for transformative projects in a given year shall not be  
 36 subject to an annual limitation, except that no more than 10  
 37 transformative projects shall be awarded tax credits during the  
 38 ~~the~~ **["six-year"]** seven-year<sup>1</sup> period, and the total value of tax credits  
 39 awarded to any transformative project shall not exceed \$250  
 40 million.

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

- 1 (i) the increased demand for opportunities to create or retain  
2 employment and investment the State as indicated by the volume of  
3 project applications and the amount of tax credits being sought by  
4 those applications;
- 5 (ii) the need to protect the State's economic position in the event  
6 of an economic downturn;
- 7 (iii) the quality of project applications and the net economic  
8 benefit to the State and municipalities associated with those  
9 applications;
- 10 (iv) opportunities for project applications to strengthen or protect  
11 the competitiveness of the state under the prevailing market  
12 conditions;
- 13 (v) enhanced access to employment and investment for  
14 underserved populations in distressed municipalities and qualified  
15 incentives tracts;
- 16 (vi) increased investment and employment in high-growth  
17 technology sectors and in projects that entail collaboration with  
18 education institutions in the State;
- 19 (vii) increased development proximate to mass transit facilities;
- 20 (viii) any other factor deemed relevant by the authority.
- 21 c. In the event that the authority in any year approves projects  
22 for tax credits in an amount less than the annual limitations set forth  
23 in paragraph (1) of subsection b. of this section, then the  
24 uncommitted portion of the annual limitation shall be available to  
25 be deployed by the authority in future years for projects <sup>1</sup>under the  
26 same program<sup>1</sup>; provided however, that in no event shall the  
27 aggregate amount of tax credits approved be in excess of the overall  
28 cap of \$11.5 billion <sup>1</sup>, and in no event shall the uncommitted  
29 portion of the annual limitation for any previous year be deployed  
30 after the conclusion of the seven-year period<sup>1</sup>.

31  
32 99. (New section) Sections 99 through 105 of P.L. , c.  
33 (C. ) (pending before the Legislature as this bill) shall be  
34 known and may be cited as the "Economic Development Authority  
35 Integrity and Protection Act."

36  
37 100. (New section) As used in sections 99 through 105 of  
38 P.L. , c. (C. ) (pending before the Legislature as this bill):

39 "Economic development incentive" means a financial incentive,  
40 awarded by the authority to a person or entity, or agreed to between  
41 the authority and a person or entity, for the purpose of stimulating  
42 economic development or redevelopment in New Jersey, including,  
43 but not limited to, a bond, grant, loan, loan guarantee, matching  
44 fund, tax credit, tax deduction, or other tax expenditure.

45 "Fraud" means a deception or misrepresentation made by any  
46 person or entity with the knowledge that the deception or  
47 misrepresentation could result in some unauthorized benefit to that

1 person or entity or another person or entity, including any act that  
2 constitutes fraud under applicable federal or State law.

3 "Economic development investigation" means an investigation of  
4 fraud, abuse, or illegal acts perpetrated within economic  
5 development incentive programs by applicants for, or recipients of,  
6 economic development incentives.

7 "Office of the Economic Development Inspector General" means  
8 the Office of the Economic Development Inspector General created  
9 by section 102 of P.L. , c. (C. ) (pending before the  
10 Legislature as this bill).

11

12 101. (New section) a. The New Jersey Economic Development  
13 Authority shall employ a Chief Compliance Officer, who shall be  
14 appointed by the Chief Executive Officer of the authority to manage  
15 the Division of Portfolio Management and Compliance in the  
16 authority.

17 b. The Chief Compliance Officer shall:

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

23 (2) conduct, on such periodic basis as determined by the  
24 authority, systematic audits of economic development incentive  
25 programs for compliance with the laws, regulations, codes, orders,  
26 procedures, advisory opinions and rulings concerning those  
27 programs;

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

34 (4) prior to the adoption of any rule or regulation by the  
35 authority or the board related to the general administration of the  
36 programs administered by the authority pursuant to section 6 of  
37 P.L. , c. (C. ) (pending before the Legislature as this bill),  
38 section 19 of P.L. , c. (C. ) (pending before the Legislature  
39 as this bill), section 29 of P.L. , c. (C. ) (pending before the  
40 Legislature as this bill), section 34 of P.L. , c. (C. )  
41 (pending before the Legislature as this bill), section 41 of P.L. , c.  
42 (C. ) (pending before the Legislature as this bill), section 67 of  
43 P.L. , c. (C. ) (pending before the Legislature as this bill),  
44 section 79 of P.L. , c. (C. ) (pending before the Legislature  
45 as this bill), section 88 of P.L. , c. (C. ) (pending before the  
46 Legislature as this bill), and section 97 of P.L. , c. (C. )  
47 (pending before the Legislature as this bill), or any other regulation  
48 specifically related to the recapture of economic development

1 incentive award values, review and certify that the provisions of  
2 program rules or regulations provide the authority with adequate  
3 procedures to pursue the recapture of the value of an economic  
4 development incentive in the case of substantial noncompliance,  
5 fraud, or abuse by the economic development incentive recipient,  
6 and that program rules and regulations are sufficient to ensure  
7 against economic development incentive fraud, waste, and abuse;  
8 and

9 (5) refer, to the Economic Development Inspector General and  
10 to the Attorney General, information on suspected fraud or abuse  
11 identified by the Division of Portfolio Management and  
12 Compliance.

13 c. The Chief Compliance Officer, in consultation with the  
14 Department of Labor and Workforce Development and the  
15 Department of the Treasury, shall:

16 Develop, adopt, and implement a corrective action plan, within  
17 one year of the effective date of sections 99 through 105 of P.L. ,  
18 c. (C. ) (pending before the Legislature as this bill) and  
19 within six months of receiving notice of any program deficiency  
20 issued by the Economic Development Inspector General, that is  
21 designed to enable the authority to properly manage the economic  
22 development incentive programs administered by the authority, and  
23 adopt rules and regulations concerning the administration and  
24 enforcement of the Division of Portfolio Management and  
25 Compliance's duties in a manner that is most compatible with  
26 ensuring against fraud and abuse in the State's economic  
27 development incentive programs.

28

29 102. (New section) a. There is established, in the authority, the  
30 Office of the Economic Development Inspector General, which  
31 shall operate independent of the oversight or management of the  
32 Chief Executive Officer of the authority. The Office of the  
33 Economic Development Inspector General shall operate under the  
34 Economic Development Inspector General, who shall be a retired  
35 member of the Judicial Branch of the State, to be appointed by the  
36 Governor with the advice and consent of the Senate for a term of  
37 four years. The Economic Development Inspector General shall  
38 direct the work of the Office of the Economic Development  
39 Inspector General and have the following general functions, duties,  
40 powers, and responsibilities:

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

46 (2) to conduct and supervise State government activities relating  
47 to State economic development incentive integrity, fraud, and  
48 abuse;

1 (3) to call upon any department, office, division, or agency of  
2 State government to provide such information, resources, or other  
3 assistance as the Economic Development Inspector General deems  
4 necessary to discharge the duties and functions and to fulfill the  
5 responsibilities of the Economic Development Inspector General  
6 under sections 99 through 105 of P.L. , c. (C. ) (pending  
7 before the Legislature as this bill). Each department, office,  
8 division, and agency of this State shall cooperate with the Economic  
9 Development Inspector General and furnish the Office of the  
10 Economic Development Inspector General with the assistance  
11 necessary to accomplish the purposes of sections 99 through 105 of  
12 P.L. , c. (C. ) (pending before the Legislature as this bill);

13 (4) to coordinate activities to prevent, detect, and investigate  
14 economic development incentive fraud and abuse among the  
15 following: the authority, State and local government officials, and  
16 all economic development incentive applicants and recipients;

17 (5) to recommend and implement policies relating to economic  
18 development incentive integrity, fraud, and abuse, and monitor the  
19 implementation of any recommendations made by the Office of the  
20 Economic Development Inspector General to the authority for the  
21 administration of economic development incentives;

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

25 (7) to direct an economic development incentive applicant or  
26 recipient to cooperate with the Office of the Economic  
27 Development Inspector General and provide such information or  
28 assistance as shall be reasonably required by the Office of the  
29 Economic Development Inspector General.

30 b. As it relates to ensuring compliance with applicable  
31 economic development incentive standards and requirements,  
32 identifying and reducing fraud and abuse, and improving the  
33 efficiency and effectiveness of economic development incentives,  
34 the functions, duties, powers, and responsibilities of the Economic  
35 Development Inspector General shall include, but not be limited to,  
36 the following:

37 (1) to establish, in consultation with the authority and the  
38 Attorney General, guidelines under which the withholding of  
39 payments or exclusion from economic development incentive  
40 programs shall be imposed on an economic development incentive  
41 applicant or recipient;

42 (2) to review the utilization of economic development incentives  
43 to ensure that economic development incentive funds are  
44 appropriately spent to meet the goals and purposes of an individual  
45 economic development incentive program;

46 (3) to review and audit contracts, reports, documentation,  
47 claims, and all awards of economic development incentives to



- 1 determine compliance with applicable laws, regulations, guidelines,  
2 and standards, and enhance program integrity;
- 3 (4) to consult with the authority to optimize the economic  
4 development incentive management information system in  
5 furtherance of the mission of the Office of the Economic  
6 Development Inspector General. The authority shall consult with  
7 the Economic Development Inspector General on matters that  
8 concern the operation, upgrade, and implementation of the  
9 economic development incentive management information system;
- 10 (5) to coordinate the implementation of information technology  
11 relating to economic development incentive integrity, fraud, and  
12 abuse;
- 13 (6) to conduct educational programs for economic development  
14 incentive State and local government officials and economic  
15 development incentive recipients designed to limit economic  
16 development incentive fraud and abuse; and
- 17 (7) to provide notice to the Chief Compliance Officer, appointed  
18 pursuant to section 101 of P.L. , c. (C. ) (pending before the  
19 Legislature as this bill) if the Economic Development Inspector  
20 General determines that a program deficiency exists in an economic  
21 development incentive program administered by the authority and  
22 to provide notice to the Chief Executive Officer of the Authority of  
23 pending investigations if the Economic Development Inspector  
24 General determines that such disclosure is consistent with the  
25 public interest in maintaining the integrity of an economic  
26 development incentive program administered by the authority or to  
27 abate the continuation of fraud or abuse.
- 28 c. As it relates to investigating allegations of economic  
29 development incentive fraud and abuse and enforcing applicable  
30 laws, rules, regulations, and standards, the functions, duties,  
31 powers, and responsibilities of the Economic Development  
32 Inspector General shall include, but not be limited to, the following:
- 33 (1) to conduct economic development investigations concerning  
34 any acts of misconduct within economic development incentive  
35 programs;
- 36 (2) to provide information concerning the economic  
37 development investigations of the Office of the Economic  
38 Development Inspector General to the Attorney General, law  
39 enforcement authorities, and any prosecutor of competent  
40 jurisdiction, and endeavor to develop these economic development  
41 investigations in a manner that expedites and facilitates criminal  
42 prosecutions and the recovery of improperly expended economic  
43 development incentives, including the maintenance of detailed  
44 records for cases processed by the Economic Development  
45 Inspector General. The records shall include: information on the  
46 total number of cases processed and, for each case, the agency and  
47 division to which the case is referred for an economic development

1 investigation; the date on which the case is referred; and the nature  
2 of the suspected fraud or abuse.

3 (3) to provide information and evidence relating to suspected  
4 criminal acts that the Economic Development Inspector General  
5 may obtain in carrying out its duties to law enforcement officials  
6 when appropriate, and to provide such information to the Attorney  
7 General and county prosecutors in order to facilitate criminal  
8 economic development investigations and prosecutions;

9 (4) to refer complaints alleging criminal conduct to the Attorney  
10 General or other appropriate prosecutorial authority.;

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

25 (5) in furtherance of an economic development investigation, to  
26 compel at a specific time and place, by subpoena, the appearance  
27 and sworn testimony of any person whom the Economic  
28 Development Inspector General reasonably believes may be able to  
29 give information relating to a matter subject to an economic  
30 development investigation:

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

38 (b) if any person to whom a subpoena is issued fails to appear  
39 or, having appeared, refuses to give testimony, or fails to produce  
40 the books, papers, or other documents required, the Economic  
41 Development Inspector General may apply to the Superior Court  
42 and the court may order the person to appear and give testimony or  
43 produce the books, papers, or other documents, as applicable. Any  
44 person failing to obey that order may be held by the court in  
45 contempt;

46 (6) subject to applicable State law, to have full and unrestricted  
47 access to all records, reports, audits, reviews, documents, papers,  
48 data, recommendations, or other material available to the authority

1 and other State and local government agencies with respect to  
2 which the Office of the Economic Development Inspector General  
3 has responsibilities under sections 102 through 105 of P.L. , c.  
4 (C. ) (pending before the Legislature as this bill);

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

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

9 d. As it relates to recovering improperly obtained economic  
10 development incentives, imposing administrative sanctions,  
11 damages, or penalties, and negotiating settlements to assure that all  
12 governmental resources have been properly expended, the  
13 functions, duties, powers, and responsibilities of the Economic  
14 Development Inspector General shall include, but not be limited to,  
15 the following:

16 (1) to pursue civil and administrative enforcement actions  
17 against those who engage in fraud, abuse, or illegal acts perpetrated  
18 under economic development incentive programs. These civil and  
19 administrative enforcement actions shall include the imposition of  
20 administrative sanctions, penalties, suspension of fraudulent or  
21 illegal awards, and actions for civil recovery and seizure of property  
22 or other assets connected with such economic incentive awards;

23 (2) to initiate civil suits consistent with the provisions of  
24 sections 99 through 105 of P.L. , c. (C. ) (pending before  
25 the Legislature as this bill), maintain actions for civil recovery on  
26 behalf of the State, and enter into civil settlements;

27 (3) to require that the authority withhold payments to an  
28 economic development incentive applicant or recipient if the  
29 applicant or recipient unreasonably fails to produce complete and  
30 accurate records related to an economic development investigation  
31 that is initiated by the Office of the Economic Development  
32 Inspector General with reasonable cause; and

33 (4) to monitor and pursue the recoupment of economic  
34 development incentive awards or portions thereof, damages,  
35 penalties, and sanctions.

36  
37 103. (New section) a. The Economic Development Inspector  
38 General is authorized to request, and shall be entitled to receive,  
39 such information, assistance, and cooperation from any State or  
40 local government department, board, bureau, commission, or other  
41 agency or unit thereof, as may be necessary to carry out the duties  
42 and responsibilities of the Office of the Economic Development  
43 Inspector General pursuant to sections 102 through 105 of P.L. ,  
44 c. (C. ) (pending before the Legislature as this bill).

45 b. Upon the request of a prosecutor of competent jurisdiction,  
46 an office, department, or any other State or local government entity,  
47 the Economic Development Inspector General shall provide  
48 information, data, assistance, staff, and other resources as shall be

1 necessary, appropriate and available to aid and facilitate the  
2 economic development investigation and prosecution of economic  
3 development incentive fraud.

4  
5 104. (New section) The Economic Development Inspector  
6 General shall report annually to the Governor, to the Legislature,  
7 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), and to the  
8 Attorney General, the activities of the Office of the Economic  
9 Development Inspector General, as well as recommendations, if  
10 any, for legislation to provide for the management of the State's  
11 economic development incentive programs.

12  
13 105. (New section) The Economic Development Inspector  
14 General, pursuant to the "Administrative Procedure Act," P.L.1968,  
15 c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations, in  
16 consultation with the authority, the Department of Labor and  
17 Workforce Development, and the Department of the Treasury,  
18 concerning the administration and enforcement of the Office of the  
19 Economic Development Inspector General's duties pursuant to  
20 sections 102 through 105 of P.L. , c. (C. ) (pending before  
21 the Legislature as this bill) in a manner that is most compatible with  
22 ensuring against fraud and abuse in the State's economic  
23 development incentive programs.

24  
25 106. (New section) a. For privilege periods ending in 2020,  
26 2021, and 2022, a taxpayer, upon approval of an application to the  
27 authority, shall be allowed a credit against the tax imposed pursuant  
28 to section 5 of P.L.1945, c.162 (C.54:10A-5) in the amount of  
29 \$10,000 for each qualifying new hire involved in the manufacture  
30 of personal protective equipment in a qualified facility in which the  
31 taxpayer made a capital investment during the privilege period.

32 b. The minimum capital investment in a qualified facility  
33 required to be eligible for a credit under this section shall be as  
34 follows:

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

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

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

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

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

7 (1) for a qualified facility in Atlantic County, Burlington  
8 County, Cape May County, Cumberland County, Gloucester  
9 County, Ocean County, or Salem County, a minimum of five new or  
10 15 retained qualifying full-time jobs; or

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

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

18 (1) \$1,000 per qualifying full-time job in the privilege period at  
19 a qualified facility that is a building vacant for not less than seven  
20 years in need of rehabilitation with a minimum of 250,000 square  
21 feet;

22 (2) \$1,500 per qualifying full-time job in the privilege period at  
23 a qualified facility in which the manufacturing of personal  
24 protective equipment is part of a research collaboration between the  
25 taxpayer and a college or university located within the State; and

26 (3) \$1,000 per qualifying full-time job in the privilege period at  
27 a qualified facility in which the taxpayer has established an  
28 apprenticeship program or pre-apprenticeship program with a  
29 technical school or county college located within the State.

30 e. The total credit allowed to a taxpayer pursuant to this section  
31 during the privilege period shall not exceed \$500,000. A taxpayer  
32 shall not be eligible for a tax credit under this section for the same  
33 qualifying new hire for which the taxpayer is receiving a tax credit  
34 incentive award under the Emerge Program established by sections  
35 68 through 81 of P.L. , c. (C. ) (pending before the  
36 Legislature as this bill).

37 f. Notwithstanding the minimum tax schedule imposed  
38 pursuant to subsection (e) of section 5 of P.L.1945, c.162  
39 (C.54:10A-5), if the amount of the tax credit allowed exceeds the  
40 amount of corporation business tax otherwise due pursuant to  
41 section 5 of P.L.1945, c.162 (C.54:10A-5), the amount of excess  
42 shall be treated as a refundable overpayment except that interest  
43 shall not be paid pursuant to section 7 of P.L.1992, c.175 (C.54:49-  
44 15.1) on the amount of overpayment attributable to this credit  
45 amount. The director shall determine the order of priority of the  
46 application of the credit allowed pursuant to this section and any  
47 other credits allowed by law.

1 g. The combined value of all tax credits approved by the  
2 authority and the director pursuant to this section and pursuant to  
3 section 2 of P.L. , c. (C. )(pending before the Legislature as  
4 this bill) shall not exceed \$10,000,000 in any State fiscal year to  
5 apply against the tax imposed pursuant to the “New Jersey Gross  
6 Income Tax Act,” N.J.S.54A:1-1 et seq., and the tax imposed  
7 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).

8 h. An application for the tax credit shall be submitted to the  
9 authority in a form and manner prescribed by the chief executive  
10 officer of the authority. As a condition of receiving tax credits  
11 under this section, an applicant shall be required to commit to  
12 employ qualifying new hires for which tax credits are awarded  
13 under this section for a period of five years.

14 i. Notwithstanding any provision of the “Administrative  
15 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the  
16 contrary, the director chief executive officer of the authority is  
17 authorized to adopt immediately upon filing with the Office of  
18 Administrative Law such rules and regulations shall be effective for  
19 a period not to exceed 360 days following the date of filing and may  
20 thereafter be amended, adopted, or readopted by the chief executive  
21 officer of the authority in accordance with the requirements of  
22 P.L.1968, c.410 (C.52:14B-1 et seq.). The chief executive officer  
23 of the authority shall consult with the Commissioner of Health  
24 related to any specification requirements for what manufactured  
25 products are to qualify as personal protective equipment pursuant to  
26 this section.

27 j. As used in this section:

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

31 “Director” means Director of the Division of Taxation in the  
32 Department of the Treasury;

33 “Personal protective equipment” means coveralls, face shields,  
34 gloves, gowns, masks, respirators, safeguard equipment, and other  
35 equipment designed to protect the wearer from the spread of  
36 infection or illness as may be modified from time to time by the  
37 board of the authority.

38 “Qualified facility” means a facility that is:

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

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

43 (3) a facility in which the manufacturing of personal protective  
44 equipment is part of a research collaboration between the taxpayer a  
45 college or university located within the State;

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

1 (5) a building vacant for not less than seven years in need of  
2 rehabilitation with a minimum of 250,000 square feet.

3 “Qualifying full-time job” means a full-time position in a  
4 business in this State which the business has filled with a full-time  
5 employee for the manufacturing of personal protective equipment in  
6 this State. The employee shall be employed for at least 35 hours a  
7 week and shall be paid employee wages at a rate of not less than  
8 \$15 per hour, or render any other standard of service generally  
9 accepted by custom or practice as full-time employment, whose  
10 wages are subject to withholding as provided in the “New Jersey  
11 Gross Income Tax Act,” N.J.S.54A:1-1 et seq. and is paid employee  
12 wages at a rate of not less than \$15 per hour. “Qualifying new hire”  
13 shall not include any person who works as an independent  
14 contractor or on a consulting basis for the business. “Qualifying  
15 new or retained job” includes only a position for which the taxpayer  
16 provides employee health benefits under a health benefits plan  
17 authorized pursuant to State or federal law.  
18

19 107. a. For taxable years 2020, 2021, and 2022, a taxpayer,  
20 upon approval of an application to the authority shall be allowed a  
21 credit against the tax imposed pursuant to the “New Jersey Gross  
22 Income Tax Act” N.J.S.54A:1-1 et seq. in the amount of \$10,000  
23 for each qualifying new hire involved in the manufacture of  
24 personal protective equipment in a qualified facility in which the  
25 taxpayer made a capital investment during the taxable year.

26 b. The minimum capital investment in a qualified facility  
27 required to be eligible for a credit under this section shall be as  
28 follows:

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

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

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

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

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

1 (1) for a qualified facility in Atlantic County, Burlington  
2 County, Cape May County, Cumberland County, Gloucester  
3 County, Ocean County, or Salem County, a minimum of five new or  
4 15 retained qualifying full-time jobs; and

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

8 d. In addition to the amount of credit allowed pursuant to  
9 subsection a. of this section, a taxpayer shall be allowed the  
10 following tax credits for taxable years 2020, 2021, and 2022:

11 (1) \$1,000 per qualifying full-time job in a taxable year at a  
12 qualified facility that is a building vacant for not less than seven  
13 years in need of rehabilitation with a minimum of 250,000 square  
14 feet;

15 (2) \$1,500 per qualifying full-time job in a taxable year at a  
16 qualified facility in which the manufacturing of personal protective  
17 equipment is part of a research collaboration between the taxpayer  
18 and a college or university located within the State; and

19 (3) \$1,000 per qualifying full-time job in a taxable year at a  
20 qualified facility in which the taxpayer has established an  
21 apprenticeship program or pre-apprenticeship program with a  
22 technical school or county college located within the State.

23 e. The total credit allowed to a taxpayer pursuant to this section  
24 during the taxable year shall not exceed \$500,000. A taxpayer shall  
25 not be eligible for a tax credit under this section for the same  
26 qualifying new hire for which the taxpayer is receiving a tax credit  
27 incentive award under the Emerge Program established by sections  
28 68 through 81 of P.L. , c. (C. ) (pending before the  
29 Legislature as this bill)

30 f. If the amount of the credit exceeds the amount of tax  
31 otherwise due, that amount of excess shall be an overpayment for  
32 the purposes of N.J.S.54A:9-7; provided however, that subsection  
33 (f) of N.J.S.54A:9-7 shall not apply. The director shall determine  
34 the order of priority of the application of the credit allowed  
35 pursuant to this section and any other credits allowed by law.

36 g. (1) A business entity that is classified as a partnership for  
37 federal income tax purposes shall not be allowed a tax credit  
38 pursuant to this section directly, but the amount of tax credit of a  
39 taxpayer in respect to distributive share of entity income, shall be  
40 determined by allocating to the taxpayer that proportion of the tax  
41 credit acquired by the entity that is equal to the taxpayer's share,  
42 whether or not distributed, of the total distributive income or gain  
43 of the entity for its taxable year ending within or with the  
44 taxpayer's taxable year.

45 (2) A New Jersey S Corporation shall not be allowed a tax credit  
46 pursuant to this section directly, but the amount of the tax credit of  
47 a taxpayer in respect of a pro rata share of S Corporation income,  
48 shall be determined by allocating to the taxpayer that proportion of



1 the tax credit acquired by the New Jersey S Corporation that is  
2 equal to the taxpayer's share, whether or not distributed, of the total  
3 pro rata share of S Corporation income of the New Jersey S  
4 Corporation for its privilege period ending within or with the  
5 taxpayer's taxable year.

6 h. The combined value of all tax credits approved by the  
7 authority and the director pursuant to this section and pursuant to  
8 section 1 of P.L. , c. (C. )(pending before the Legislature  
9 as this bill) shall not exceed \$10,000,000 in any State fiscal year to  
10 apply against the tax imposed pursuant to the "New Jersey Gross  
11 Income Tax Act," N.J.S.54A:1-1 et seq., and the tax imposed  
12 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).

13 i. An application for the tax credit shall be submitted to the  
14 authority in a form and manner prescribed by the chief executive  
15 officer of the authority. As a condition of receiving tax credits  
16 under this section, an applicant shall be required to commit to  
17 employ qualifying new hires for which tax credits are awarded  
18 under this section for a period of five years.

19 j. Notwithstanding any provision of the "Administrative  
20 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the  
21 contrary, the chief executive officer of the authority is authorized to  
22 adopt immediately upon filing with the Office of Administrative  
23 Law such rules and regulations shall be effective for a period not to  
24 exceed 360 days following the date of filing and may thereafter be  
25 amended, adopted, or readopted by the chief executive officer of the  
26 authority in accordance with the requirements of P.L.1968, c.410  
27 (C.52:14B-1 et seq.). The chief executive officer of the authority  
28 shall consult with the Commissioner of Health related to any  
29 specification requirements for what manufactured products are to  
30 qualify as personal protective equipment pursuant to this section.

31 k. As used in this section:

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

35 "Director" means Director of the Division of Taxation in the  
36 Department of the Treasury;

37 "Personal protective equipment" means coveralls, face shields,  
38 gloves, gowns, masks, respirators, safeguard equipment, and other  
39 equipment designed to protect the wearer from the spread of  
40 infection or illness as may be modified from time to time by the  
41 board of the authority.

42 "Qualified facility" means a facility that is:

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

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

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

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

7 (5) a building vacant for not less than seven years in need of  
8 rehabilitation with a minimum of 250,000 square feet.

9 "Qualifying full-time job" means a full-time employee hired by  
10 the taxpayer during the privilege period for the manufacturing of  
11 personal protective equipment in this State. The person hired shall  
12 be employed for at least 35 hours a week and shall be paid  
13 employee wages at a rate of not less than \$15 per hour, or render  
14 any other standard of service generally accepted by custom or  
15 practice as full-time employment, whose wages are subject to  
16 withholding as provided in the "New Jersey Gross Income Tax  
17 Act," N.J.S.54A:1-1 et seq. and is paid employee wages at a rate of  
18 not less than \$15 per hour. "Qualifying new hire" shall not include  
19 any person who works as an independent contractor or on a  
20 consulting basis for the business. "Qualifying new or retained job"  
21 includes only a position for which the taxpayer provides employee  
22 health benefits under a health benefits plan authorized pursuant to  
23 State or federal law.  
24

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

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

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

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

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

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

42 b. (1) A business shall submit an application for tax credits prior  
43 to July 1, 2019. The authority shall not approve an application for  
44 tax credits unless the application was submitted prior to July 1,  
45 2019.

46 (2) (a) A business shall submit its documentation indicating that  
47 it has met the capital investment and employment requirements and  
48 all conditions of approvals specified in the incentive agreement for

1 certification of its tax credit amount, to the authority's satisfaction,  
2 within three years following the date of approval of its application  
3 by the authority. The authority shall have the discretion to grant  
4 two six-month extensions of this deadline. If the authority accepts  
5 the documentation, the authority shall request that the Division of  
6 Taxation in the Department of the Treasury issue a tax credit based  
7 on the approved documentation to be used by the business during  
8 the eligibility period. Except as provided in subparagraphs (b) and  
9 (c) of this paragraph, in no event shall the incentive effective date  
10 occur later than four years following the date of approval of an  
11 application by the authority.

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

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

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

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

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

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

46 The credit amount may be taken by the tax certificate holder for  
47 the tax period for which it was issued or may be carried forward for  
48 use by the tax certificate holder in any of the next 20 successive tax

1 periods, and shall expire thereafter. The tax certificate holder may  
2 transfer the tax credit amount on or after the date of issuance or at  
3 any time within three years of the date of issuance for use by the  
4 transferee in the tax period for which it was issued or in any of the  
5 next 20 successive tax periods. Notwithstanding the foregoing, no  
6 more than the amount of tax credits equal to the total credit amount  
7 divided by the duration of the eligibility period in years may be  
8 taken in any tax period.

9 A business may elect to suspend its obligations for the 2020 tax  
10 period and, if the public health emergency or state of emergency  
11 declared due to the COVID-19 pandemic extends past March 2021,  
12 the 2021 tax period, provided that the business shall make such  
13 election in writing to the authority before the date the annual report  
14 is due and such suspension shall extend the term of the eligibility  
15 period by a corresponding amount of time. The authority shall  
16 amend the incentive agreement, and the business shall execute the  
17 amended incentive agreement within the time period provided by  
18 the authority. The amended incentive agreement shall provide that  
19 the failure to submit the annual report due to the suspension shall  
20 not be a forfeiture or an uncertified tax period.

21 (2) Credits granted to a partnership shall be passed through to  
22 the partners, members, or owners, respectively, pro-rata or pursuant  
23 to an executed agreement among the partners, members, or owners  
24 documenting an alternate distribution method provided to the  
25 Director of the Division of Taxation in the Department of the  
26 Treasury accompanied by any additional information as the director  
27 may require.

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

33 (4) In order to respond to the profoundly negative impact of the  
34 COVID-19 pandemic on the State's economy and finances, the  
35 authority may request a tax certificate holder, at the tax certificate  
36 holder's discretion, to defer the application of a credit amount  
37 allowed pursuant to this section to a later tax period. Upon request,  
38 the authority and the tax certificate holder shall negotiate the terms  
39 of the deferral, which shall hold the certificate holder harmless,  
40 which will be made in the incentive agreement or as an addendum  
41 to the incentive agreement.

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

1 documentation demonstrating the restoration of the business's  
2 Statewide workforce to the threshold levels required by the  
3 incentive agreement has been reviewed and approved by the  
4 authority, for which tax period and each subsequent tax period the  
5 full amount of the credit shall be allowed.

6 (2) If, in any tax period, the number of full-time employees  
7 employed by the business at the qualified business facility located  
8 within a qualified incentive area drops below 80 percent of the  
9 number of new and retained full-time jobs specified in the incentive  
10 agreement, then the business shall forfeit its credit amount for that  
11 tax period and each subsequent tax period, until the first tax period  
12 for which documentation demonstrating the restoration of the  
13 number of full-time employees employed by the business at the  
14 qualified business facility to 80 percent of the number of jobs  
15 specified in the incentive agreement.

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

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

45 (4) (a) For a project located within a Garden State Growth Zone,  
46 if, in any tax period, the number of full-time employees employed  
47 by the business at the qualified business facility located within a  
48 qualified incentive area increases above the number of full-time

1 employees specified in the incentive agreement, then the business  
2 shall be entitled to an increased base credit amount for that tax  
3 period and each subsequent tax period, for each additional full-time  
4 employee added above the number of full-time employees specified  
5 in the incentive agreement, until the first tax period for which  
6 documentation demonstrating a reduction of the number of full-time  
7 employees employed by the business at the qualified business  
8 facility, at which time the tax credit amount will be adjusted  
9 accordingly pursuant to this section.

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

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

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

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

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

10 g. A business that has entered into an incentive agreement may  
11 request before December 31, 2022 to terminate the incentive  
12 agreement due to the COVID-19 public health emergency; provided  
13 that the business shall submit a certification from the business's  
14 chief executive officer or equivalent officer stating that the  
15 termination is due to the public health emergency and describing  
16 the impact of the public health emergency on the business. All  
17 credits for the tax period in which the termination occurs and all  
18 subsequent tax periods shall be forfeited, provided however that any  
19 credits of the business shall remain unaffected.

20 h. A business that has entered into an incentive agreement may  
21 request to reduce the number of new or retained full-time jobs  
22 specified in the incentive agreement based on a certification of the  
23 business of the eligible positions at the qualified business facility  
24 commencing with the 2020 tax period and each subsequent tax  
25 period remaining in the eligibility period, provided that the business  
26 maintains the minimum number of new or retained full-time jobs  
27 required to be eligible pursuant to subsection c. of section 3 of  
28 P.L.2011, c.149 (C.34:1B-244). The reduction in employment shall  
29 first apply to the number of new full-time employees, and then shall  
30 apply to the number of retained full-time employees.

31 The authority shall calculate a new tax credit total amount for the  
32 2020 tax period and the remainder of the eligibility period based on  
33 the reduced employment and shall amend the incentive agreement  
34 to reflect the recalculated award amount. In no event shall the  
35 modification result in an increase in employment or tax credit  
36 amount.

37 (cf: P.L.2020, c.8, s.3)

38  
39 109. Section 6 of P.L.2010, c.57 (C.34:1B-209.4) is amended to  
40 read as follows:

41 6. a. (1) A business, upon application to and approval from  
42 the authority, shall be **【allowed】** awarded a credit of 100 percent of  
43 its capital investment, made after the effective date of P.L.2010,  
44 c.57 (C.48:3-87.1 et al.) but prior to its submission of  
45 documentation pursuant to subsection c. of this section, in a  
46 qualified wind energy facility located **【within an eligible wind**  
47 **energy zone】** in the State, pursuant to the restrictions and  
48 requirements of this section. The award of a tax credit pursuant to

1 this section shall be structured so that the authority shall make up to  
2 four awards, each equaling 25 percent of the total value of the tax  
3 credit, to a qualified business over four privilege periods or taxable  
4 years in which the business meets the requirements for the  
5 minimum number of new, full-time employees. Otherwise eligible  
6 businesses with between 150 and 300 new, full-time jobs may  
7 receive an award based on a prorated formula developed by the  
8 authority. To be eligible for any tax credits authorized under this  
9 section, a business shall demonstrate to the authority, at the time of  
10 application, that the State's financial support of the proposed capital  
11 investment in a qualified wind energy facility will yield a net  
12 positive benefit to the State. The value of all credits approved by  
13 the authority pursuant to this section may be up to \$100,000,000,  
14 except as may be increased by the authority if the chief executive  
15 officer of the authority judges certain qualified offshore wind  
16 projects to be meritorious. Credits provided pursuant to this section  
17 shall not be applicable to the cap on the credits provided in section  
18 3 of P.L.2007, c.346 (C.34:1B-209).

19 (2) (a) A business, other than a tenant eligible pursuant to  
20 subparagraph (b) of this paragraph, shall make or acquire capital  
21 investments totaling not less than \$50,000,000 in a qualified wind  
22 energy facility, at which the business, including tenants at the  
23 qualified wind energy facility, shall employ **【at least 300】** the  
24 minimum number of new, full-time employees, to be eligible for a  
25 credit under this section. A business that acquires a qualified wind  
26 energy facility after the effective date of P.L.2010, c.57 (C.48:3-  
27 87.1 et al.) shall also be deemed to have acquired the capital  
28 investment made or acquired by the seller.

29 (b) A business that is a tenant in the qualified wind energy  
30 facility, the owner of which has made or acquired capital  
31 investments in the facility totaling more than \$50,000,000, shall  
32 occupy a leased area of the qualified wind energy facility that  
33 represents at least \$17,500,000 of the capital investment in the  
34 qualified wind energy facility at which **【at least 300】** the minimum  
35 number of new, full-time employees in the aggregate are employed,  
36 to be eligible for a credit under this section. The amount of capital  
37 investment in a facility that a leased area represents shall be equal  
38 to that percentage of the owner's total capital investment in the  
39 facility that the percentage of net leasable area leased by the tenant  
40 is of the total net leasable area of the qualified business facility.  
41 Capital investments made by a tenant shall be deemed to be  
42 included in the calculation of the capital investment made or  
43 acquired by the owner, but only to the extent necessary to meet the  
44 owner's minimum capital investment of \$50,000,000. Capital  
45 investments made by a tenant and not allocated to meet the owner's  
46 minimum capital investment threshold of \$50,000,000 shall be  
47 added to the amount of capital investment represented by the  
48 tenant's leased area in the qualified wind energy facility.



1 (c) The calculation of the number of new, full-time employees  
2 required pursuant to subparagraphs (a) and (b) of this paragraph  
3 may include the number of new, full-time positions resulting from  
4 an equipment supply coordination agreement with equipment  
5 manufacturers, suppliers, installers and operators associated with  
6 the supply chain required to support the qualified wind energy  
7 facility.

8 For the purposes of this paragraph, "full time employee" shall  
9 not include an employee who is a resident of another state and  
10 whose income is not subject to the "New Jersey Gross Income Tax  
11 Act," N.J.S.54A:1-1 et seq., unless that state has entered into a  
12 reciprocity agreement with the State of New Jersey **],** provided that  
13 any employee whose work is provided pursuant to a collective  
14 bargaining agreement with a business in the wind energy zone may  
15 be included**].**

16 (3) A business shall not be **[allowed]** awarded a tax credit  
17 pursuant to this section if the business receives a business  
18 employment incentive grant pursuant to the "Business Employment  
19 Incentive Program Act," P.L.1996, c.26 (C.34:1B-124 et al.),  
20 relating to the same capital and employees that qualify the business  
21 for this credit, or if the business receives assistance pursuant to the  
22 "Business Retention and Relocation Assistance Act," P.L.1996, c.25  
23 (C.34:1B-112 et seq.). A business that is **[allowed]** awarded a tax  
24 credit under this section shall not be eligible for incentives  
25 authorized pursuant to the "Municipal Rehabilitation and Economic  
26 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.).

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

30 b. A business shall apply for the credit by July 1, **[2024]** 2025,  
31 and a business shall submit its documentation for approval of its  
32 credit amount by July 1, **[2027]** 2028.

33 c. The credit **[allowed]** awarded pursuant to this section shall  
34 be administered in accordance with the provisions of subsection c.  
35 of section 3 of P.L.2007, c.346 (C.34:1B-209) and section 33 of  
36 P.L.2009, c.90 (C.34:1B-209.1), except that all references therein to  
37 "qualified business facility" shall be deemed to refer to "qualified  
38 wind energy facility," as that term is defined in subsection f. of this  
39 section.

40 d. The amount of the credit **[allowed]** awarded pursuant to this  
41 section shall, except as otherwise provided, be equal to the capital  
42 investment made by the business, or the capital investment  
43 represented by the business's leased area, and shall be taken over a  
44 **[10-year]** five-year period, at the rate of **[one-tenth]** one-fifth of  
45 the total amount of the business's credit for each tax accounting or  
46 privilege period of the business, beginning with the **[tax period]**  
47 privilege period or taxable year in which the business is first

1 approved by the authority as having met the investment capital and  
2 employment qualifications, subject to any disqualification as  
3 determined by annual review by the authority. In conducting its  
4 annual review, the authority may require a business to submit any  
5 information determined by the authority to be necessary and  
6 relevant to its review. The credit amount for any **【tax period】**  
7 privilege period or taxable year ending after the date 18 years after  
8 the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.) during  
9 which the documentation of a business's credit amount remains  
10 unapproved shall be forfeited, although credit amounts for the  
11 remainder of the years of the **【10-year】** five-year credit period shall  
12 remain available. The amount of the credit **【allowed】** awarded for  
13 a **【tax period】** privilege period or taxable year to a business that is a  
14 tenant in a qualified wind energy facility shall not exceed the  
15 business's total lease payments for occupancy of the qualified wind  
16 energy facility for the **【tax period】** privilege period or taxable year.

17 e. The authority shall adopt rules and regulations pursuant to  
18 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
19 seq.) as are necessary to implement this section, including, but not  
20 limited to: examples of and the determination of capital investment;  
21 the nature of businesses and employment positions constituting and  
22 participating in an equipment supply coordination agreement; a  
23 determination of the types of businesses that may be eligible and  
24 expenses that may constitute capital improvements; the  
25 promulgation of procedures and forms necessary to apply for a  
26 credit; and provisions for applicants to be charged an initial  
27 application fee, and ongoing service fees, to cover the  
28 administrative costs related to the credit.

29 The rules and regulations established by the authority pursuant to  
30 this subsection shall be effective immediately upon filing with the  
31 Office of Administrative Law and shall be effective for a period not  
32 to exceed 12 months and may, thereafter, be amended, adopted or  
33 readopted in accordance with the provisions of the "Administrative  
34 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

35 f. As used in this section: the terms "authority," "business,"  
36 and "capital investment" shall have the same meanings as defined in  
37 section 2 of the "Urban Transit Hub Tax Credit Act," P.L.2007,  
38 c.346 (C.34:1B-208), except that all references therein to "qualified  
39 business facility" shall be deemed to refer to "qualified wind energy  
40 facility" as defined in this subsection.

41 In addition, as used in this section:

42 "Equipment supply coordination agreement" means an agreement  
43 between a business and equipment manufacturer, supplier, installer,  
44 and operator that supports a qualified offshore wind project, or  
45 other wind energy project as determined by the authority, and that  
46 indicates the number of new, full-time jobs to be created by the

1 agreement participants towards the employment requirement as set  
2 forth in paragraph (2) of subsection a. of this section.

3 "Minimum number of new, full-time employees" means:

4 (1) for the first award, at least a cumulative 100 new, full-time  
5 employees compared to the number of full-time employees at the  
6 time of application;

7 (2) for the second award, for a privilege period or taxable year  
8 following the first award, at least a cumulative 150 new, full-time  
9 employees compared to the number of full-time employees at the  
10 time of application;

11 (3) for the third award, for a privilege period or taxable year  
12 following the second award, at least a cumulative 200 new, full-  
13 time employees compared to the number of full-time employees at  
14 the time of application; and

15 (4) for the fourth award, for a privilege period or taxable year  
16 following the third award, at least a cumulative 300 new, full-time  
17 employees compared to the number of full-time employees at the  
18 time of application.

19 "Qualified offshore wind project" shall have the same meaning  
20 as provided in section 3 of P.L.1999, c.23 (C.48:3-51).

21 "Qualified wind energy facility" means any building, complex of  
22 buildings, or structural components of buildings, including water  
23 access infrastructure, and all machinery and equipment used in the  
24 manufacturing, assembly, development or administration of  
25 component parts that support the development and operation of a  
26 qualified offshore wind project, or other wind energy project as  
27 determined by the authority **],** and that are located in a wind energy  
28 zone**].**

29 **["Wind energy zone" means property located in the South Jersey**  
30 **Port District established pursuant to "The South Jersey Port**  
31 **Corporation Act," P.L.1968, c.60 (C.12:11A-1 et seq.).]**  
32 (cf: P.L.2018, c.17, s.7)

33  
34 110. Section 1 of P.L.2018, c.56 (C.54:10A-5.39b) is amended to  
35 read as follows:

36 1. a. (1) A taxpayer, upon approval of an application to the  
37 authority and the director, shall be allowed a credit against the tax  
38 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in  
39 an amount equal to 30 percent of the qualified film production  
40 expenses of the taxpayer during a privilege period commencing on  
41 or after July 1, 2018 but before July 1, 2028, provided that:

42 (a) at least 60 percent of the total film production expenses,  
43 exclusive of post-production costs, of the taxpayer are incurred for  
44 services performed, and goods purchased through vendors  
45 authorized to do business, in New Jersey, or the qualified film  
46 production expenses of the taxpayer during the privilege period  
47 exceed \$1,000,000 per production;

1 (b) principal photography of the film commences within the  
2 earlier of 180 days from the date of the original application for the  
3 tax credit, or 150 days from the date of approval of the application  
4 for the tax credit;

5 (c) the film includes, when determined to be appropriate by the  
6 commission, at no cost to the State, marketing materials promoting  
7 this State as a film and entertainment production destination, which  
8 materials shall include placement of a "Filmed in New Jersey" or  
9 "Produced in New Jersey" statement, or an approved logo approved  
10 by the commission, in the end credits of the film;

11 (d) the taxpayer submits a tax credit verification report prepared  
12 by an independent certified public accountant licensed in this State  
13 in accordance with subsection f. of this section; and

14 (e) the taxpayer complies with the withholding requirements  
15 provided for payments to loan out companies and independent  
16 contractors in accordance with subsection g. of this section.

17 (2) Notwithstanding the provisions of paragraph (1) of  
18 subsection a. of this section to the contrary, the tax credit allowed  
19 pursuant to this subsection against the tax imposed pursuant to  
20 section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount  
21 equal to 35 percent of the qualified film production expenses of the  
22 taxpayer during a privilege period that are incurred for services  
23 performed and tangible personal property purchased through  
24 vendors whose primary place of business is located in Atlantic,  
25 Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer  
26 or Salem County.

27 b. (1) A taxpayer, upon approval of an application to the  
28 authority and the director, shall be allowed a credit against the tax  
29 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in  
30 an amount equal to 20 percent of the qualified digital media content  
31 production expenses of the taxpayer during a privilege period  
32 commencing on or after July 1, 2018 but before July 1, 2028,  
33 provided that:

34 (a) at least \$2,000,000 of the total digital media content  
35 production expenses of the taxpayer are incurred for services  
36 performed, and goods purchased through vendors authorized to do  
37 business, in New Jersey;

38 (b) at least 50 percent of the qualified digital media content  
39 production expenses of the taxpayer are for wages and salaries paid  
40 to full-time or full-time equivalent employees in New Jersey;

41 (c) the taxpayer submits a tax credit verification report prepared  
42 by an independent certified public accountant licensed in this State  
43 in accordance with subsection f. of this section; and

44 (d) the taxpayer complies with the withholding requirements  
45 provided for payments to loan out companies and independent  
46 contractors in accordance with subsection g. of this section.

47 (2) Notwithstanding the provisions of paragraph (1) of  
48 subsection b. of this section to the contrary, the tax credit allowed

1 pursuant to this subsection against the tax imposed pursuant to  
2 section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount  
3 equal to 25 percent of the qualified digital media content production  
4 expenses of the taxpayer during a privilege period that are incurred  
5 for services performed and tangible personal property purchased  
6 through vendors whose primary place of business is located in  
7 Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester,  
8 Mercer, or Salem County.

9 c. No tax credit shall be allowed pursuant to this section for  
10 any costs or expenses included in the calculation of any other tax  
11 credit or exemption granted pursuant to a claim made on a tax  
12 return filed with the director, or included in the calculation of an  
13 award of business assistance or incentive, for a period of time that  
14 coincides with the privilege period for which a tax credit authorized  
15 pursuant to this section is allowed. The order of priority in which  
16 the tax credit allowed pursuant to this section and any other tax  
17 credits allowed by law may be taken shall be as prescribed by the  
18 director. The amount of the tax credit applied under this section  
19 against the tax imposed pursuant to section 5 of P.L.1945, c.162  
20 (C.54:10A-5), for a privilege period, when taken together with any  
21 other payments, credits, deductions, and adjustments allowed by  
22 law shall not reduce the tax liability of the taxpayer to an amount  
23 less than the statutory minimum provided in subsection (e) of  
24 section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of the tax  
25 credit otherwise allowable under this section which cannot be  
26 applied for the privilege period due to the limitations of this  
27 subsection or under other provisions of P.L.1945, c.162 (C.54:10A-  
28 1 et seq.) may be carried forward, if necessary, to the seven  
29 privilege periods following the privilege period for which the tax  
30 credit was allowed.

31 d. A taxpayer, with an application for a tax credit provided for  
32 in subsection a. or subsection b. of this section, may apply to the  
33 authority and the director for a tax credit transfer certificate in lieu  
34 of the taxpayer being allowed any amount of the tax credit against  
35 the tax liability of the taxpayer. The tax credit transfer certificate,  
36 upon receipt thereof by the taxpayer from the authority and the  
37 director, may be sold or assigned, in full or in part, to any other  
38 taxpayer that may have a tax liability under the "Corporation  
39 Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), or  
40 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in  
41 exchange for private financial assistance to be provided by the  
42 purchaser or assignee to the taxpayer that has applied for and been  
43 granted the tax credit. The tax credit transfer certificate provided to  
44 the taxpayer shall include a statement waiving the taxpayer's right  
45 to claim that amount of the tax credit against the tax imposed  
46 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) that the  
47 taxpayer has elected to sell or assign. The sale or assignment of any  
48 amount of a tax credit transfer certificate allowed under this section

1 shall not be exchanged for consideration received by the taxpayer of  
2 less than 75 percent of the transferred tax credit amount. Any  
3 amount of a tax credit transfer certificate used by a purchaser or  
4 assignee against a tax liability under P.L.1945, c.162 (C.54:10A-1  
5 et seq.) shall be subject to the same limitations and conditions that  
6 apply to the use of a tax credit pursuant to subsection c. of this  
7 section. Any amount of a tax credit transfer certificate obtained by  
8 a purchaser or assignee under subsection a. or subsection b. of this  
9 section may be applied against the purchaser's or assignee's tax  
10 liability under N.J.S.54A:1-1 et seq. and shall be subject to the  
11 same limitations and conditions that apply to the use of a credit  
12 pursuant to subsections c. and d. of section 2 of P.L.2018, c.56  
13 (C.54A:4-12b).

14 e. (1) The value of tax credits, including tax credits allowed  
15 through the granting of tax credit transfer certificates, approved by  
16 the director and the authority pursuant to subsection a. of this  
17 section and pursuant to subsection a. of section 2 of P.L.2018, c.56  
18 (C.54A:4-12b) to taxpayers, other than New Jersey film partners  
19 and New Jersey film-lease partners, shall not exceed a cumulative  
20 total of \$100,000,000 in fiscal year 2019 and in each fiscal year  
21 thereafter prior to fiscal year 2029 to apply against the tax imposed  
22 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax  
23 imposed pursuant to the "New Jersey Gross Income Tax Act,"  
24 N.J.S.54A:1-1 et seq. In addition to the \$100,000,000 limitation on  
25 the value of tax credits approved by the director for New Jersey  
26 film-lease partners and the \$100,000,000 limitation on the value of  
27 tax credits approved by the director for other taxpayers imposed by  
28 this paragraph, the value of tax credits, including tax credits  
29 allowed through the granting of tax credit transfer certificates,  
30 approved by the director and the authority pursuant to subsection a.  
31 of this section and pursuant to subsection a. of section 2 of  
32 P.L.2018, c.56 (C.54A:4-12b) to New Jersey film partners shall not  
33 exceed a cumulative total of \$100,000,000 in fiscal year 2021 and  
34 in each fiscal year thereafter prior to fiscal year <sup>1</sup>[2029] 2034<sup>1</sup> to  
35 apply against the tax imposed pursuant to section 5 of P.L.1945,  
36 c.162 (C.54:10A-5) and the tax imposed pursuant to the "New  
37 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. In addition to  
38 the \$100,000,000 limitation on the value of tax credits approved by  
39 the director for New Jersey film partners and the \$100,000,000  
40 limitation on the value of tax credits approved by the director for  
41 other taxpayers imposed by this paragraph, the value of tax credits,  
42 including tax credits allowed through the granting of tax credit  
43 transfer certificates, approved by the director and the authority  
44 pursuant to subsection a. of this section and pursuant to subsection  
45 a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey film-  
46 lease partners shall not exceed a cumulative total of \$100,000,000  
47 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal  
48 year <sup>1</sup>[2029] 2034<sup>1</sup> to apply against the tax imposed pursuant to

1 section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed  
2 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
3 et seq.

4 If the cumulative total amount of tax credits, and tax credit  
5 transfer certificates, allowed to taxpayers for privilege periods or  
6 taxable years commencing during a single fiscal year under  
7 subsection a. of this section and subsection a. of section 2 of  
8 P.L.2018, c.56 (C.54A:4-12b) exceeds the amount of tax credits  
9 available in that fiscal year, then taxpayers who have first applied  
10 for and have not been allowed a tax credit or tax credit transfer  
11 certificate amount for that reason shall be allowed, in the order in  
12 which they have submitted an application, the amount of tax credit  
13 or tax credit transfer certificate on the first day of the next  
14 succeeding fiscal year in which tax credits and tax credit transfer  
15 certificates under subsection a. of this section and subsection a. of  
16 section 2 of P.L.2018, c.56 (C.54A:4-12b) are not in excess of the  
17 amount of credits available.

18 Notwithstanding any provision of paragraph (1) of this  
19 subsection to the contrary, for any fiscal year in which the amount  
20 of tax credits approved pursuant to this paragraph is less than the  
21 cumulative total amount of tax credits permitted to be approved in  
22 that fiscal year, the authority shall certify the amount of the  
23 remaining tax credits available for approval in that fiscal year, and  
24 shall increase the cumulative total amount of tax credits permitted  
25 to be approved in the subsequent fiscal year by the certified amount  
26 remaining from the prior fiscal year. The authority shall also  
27 certify, for each fiscal year, the amount of tax credits that were  
28 previously approved, but that the taxpayer is not able to redeem or  
29 transfer to another taxpayer under this section, and shall increase  
30 the cumulative total amount of tax credits permitted to be approved  
31 in the subsequent fiscal year by the amount of tax credits previously  
32 approved, but not subject to redemption or transfer. <sup>1</sup>【The  
33 combined increase to the cumulative total permitted to be approved  
34 in a subsequent fiscal year pursuant to this paragraph shall not  
35 exceed \$50,000,000】<sup>1</sup>.

36 (2) The value of tax credits, including tax credits allowed  
37 through the granting of tax credit transfer certificates, approved by  
38 the authority and the director pursuant to subsection b. of this  
39 section and pursuant to subsection b. of section 2 of P.L.2018, c.56  
40 (C.54A:4-12b) shall not exceed a cumulative total of \$10,000,000 in  
41 fiscal year 2019 and in each fiscal year thereafter prior to fiscal year  
42 2029 to apply against the tax imposed pursuant to section 5 of  
43 P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the  
44 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

45 If the total amount of tax credits and tax credit transfer  
46 certificates allowed to taxpayers for privilege periods or taxable  
47 years commencing during a single fiscal year under subsection b. of  
48 this section and subsection b. of section 2 of P.L.2018, c.56

1 (C.54A:4-12.b) exceeds the amount of tax credits available in that  
2 year, then taxpayers who have first applied for and have not been  
3 allowed a tax credit or tax credit transfer certificate amount for that  
4 reason shall be allowed, in the order in which they have submitted  
5 an application, the amount of tax credit or tax credit transfer  
6 certificate on the first day of the next succeeding fiscal year in  
7 which tax credits and tax credit transfer certificates under  
8 subsection b. of this section and subsection b. of section 2 of  
9 P.L.2018, c.56 (C.54A:4-12.b) are not in excess of the amount of  
10 credits available.

11 Notwithstanding any provision of this paragraph to the contrary,  
12 for any fiscal year in which the amount of tax credits approved  
13 pursuant to this paragraph is less than the cumulative total amount  
14 of tax credits permitted to be approved in that fiscal year, the  
15 authority shall certify the amount of the remaining tax credits  
16 available for approval in that fiscal year, and shall increase the  
17 cumulative total amount of tax credits permitted to be approved in  
18 the subsequent fiscal year by the certified amount remaining from  
19 the prior fiscal year. The authority shall also certify, for each fiscal  
20 year, the amount of tax credits that were previously approved, but  
21 that the taxpayer is not able to redeem or transfer to another  
22 taxpayer under this section, and shall increase the cumulative total  
23 amount of tax credits permitted to be approved in the subsequent  
24 fiscal year by the amount of tax credits previously approved, but not  
25 subject to redemption or transfer.

26 f. A taxpayer shall submit to the authority and the director a  
27 report prepared by an independent certified public accountant  
28 licensed in this State to verify the taxpayer's tax credit claim  
29 following the completion of the production. The report shall be  
30 prepared by the independent certified public accountant pursuant to  
31 agreed upon procedures prescribed by the authority and the director,  
32 and shall include such information and documentation as shall be  
33 determined to be necessary by the authority and the director to  
34 substantiate the qualified film production expenses or the qualified  
35 digital media content production expenses of the taxpayer. A single  
36 report with attachments deemed necessary by the authority shall be  
37 submitted electronically. Upon receipt of the report, the authority  
38 and the director shall review the findings of the independent  
39 certified public accountant's report, and shall make a determination  
40 as to the qualified film production expenses or the qualified digital  
41 media content production expenses of the taxpayer. The  
42 determination shall be provided in writing to the taxpayer, and a  
43 copy of the written determination shall be included in the filing of a  
44 return that includes a claim for a tax credit allowed pursuant to this  
45 section.

46 g. A taxpayer shall withhold from each payment to a loan out  
47 company or to an independent contractor an amount equal to 6.37  
48 percent of the payment otherwise due. The amounts withheld shall



1 be deemed to be withholding of liability pursuant to the "New  
2 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the  
3 taxpayer shall be deemed to have the rights, duties, and  
4 responsibilities of an employer pursuant to chapter 7 of Title 54A of  
5 the New Jersey Statutes. The director shall allocate the amounts  
6 withheld for a taxable year to the accounts of the individuals who  
7 are employees of a loan out company in proportion to the  
8 employee's payment by the loan out company in connection with a  
9 trade, profession, or occupation carried on in this State or for the  
10 rendition of personal services performed in this State during the  
11 taxable year. A loan out company that reports its payments to  
12 employees in connection with a trade, profession, or occupation  
13 carried on in this State or for the rendition of personal services  
14 performed in this State during a taxable year shall be relieved of its  
15 duties and responsibilities as an employer pursuant to chapter 7 of  
16 Title 54A of the New Jersey Statutes for the taxable year for any  
17 payments relating to the payments on which the taxpayer withheld.

18 h. As used in this section:

19 "Authority" means the New Jersey Economic Development  
20 Authority.

21 "Business assistance or incentive" means "business assistance or  
22 incentive" as that term is defined pursuant to section 1 of P.L.2007,  
23 c.101 (C.54:50-39).

24 "Commission" means the Motion Picture and Television  
25 Development Commission.

26 "Digital media content" means any data or information that is  
27 produced in digital form, including data or information created in  
28 analog form but reformatted in digital form, text, graphics,  
29 photographs, animation, sound, and video content. "Digital media  
30 content" shall not mean content offerings generated by the end user  
31 (including postings on electronic bulletin boards and chat rooms);  
32 content offerings comprised primarily of local news, events,  
33 weather, or local market reports; public service content; electronic  
34 commerce platforms (such as retail and wholesale websites);  
35 websites or content offerings that contain obscene material as  
36 defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or  
37 content that are produced or maintained primarily for private,  
38 industrial, corporate, or institutional purposes; or digital media  
39 content acquired or licensed by the taxpayer for distribution or  
40 incorporation into the taxpayer's digital media content.

41 "Film" means a feature film, a television series, or a television  
42 show of 22 minutes or more in length, intended for a national  
43 audience, or a television series or a television show of 22 minutes  
44 or more in length intended for a national or regional audience,  
45 including, but not limited to, a game show, award show, or other  
46 gala event filmed and produced at a nonprofit arts and cultural  
47 venue receiving State funding. "Film" shall not include a  
48 production featuring news, current events, weather, and market

1 reports or public programming, talk show, or sports event, a  
2 production that solicits funds, a production containing obscene  
3 material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-3, or a  
4 production primarily for private, industrial, corporate, or  
5 institutional purposes, or a reality show, except if the production  
6 company of the reality show owns, leases, or otherwise occupies a  
7 production facility of no less than 20,000 square feet of real  
8 property for a minimum term of 24 months, and invests no less than  
9 \$3,000,000 in such a facility within a designated enterprise zone  
10 established pursuant to the "New Jersey Urban Enterprise Zones  
11 Act," P.L.1983, c.303 (C.52:27H-60 et al.), or a UEZ-impacted  
12 business district established pursuant to section 3 of P.L.2001,  
13 c.347 (C.52:27H-66.2). "Film" shall not include an award show or  
14 other gala event that is not filmed and produced at a nonprofit arts  
15 and cultural venue receiving State funding.

16 "Full-time or full-time equivalent employee" means an individual  
17 employed by the taxpayer for consideration for at least 35 hours a  
18 week, or who renders any other standard of service generally  
19 accepted by custom or practice as full-time or full-time equivalent  
20 employment, whose wages are subject to withholding as provided in  
21 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or  
22 who is a partner of a taxpayer, who works for the partnership for at  
23 least 35 hours a week, or who renders any other standard of service  
24 generally accepted by custom or practice as full-time or full-time  
25 equivalent employment, and whose distributive share of income,  
26 gain, loss, or deduction, or whose guaranteed payments, or any  
27 combination thereof, is subject to the payment of estimated taxes, as  
28 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
29 et seq. "Full-time or full-time equivalent employee" shall not  
30 include an individual who works as an independent contractor or on  
31 a consulting basis for the taxpayer.

32 "Highly compensated individual" means an individual who  
33 directly or indirectly receives compensation in excess of \$500,000  
34 for the performance of services used directly in a production. An  
35 individual receives compensation indirectly when the taxpayer pays  
36 a loan out company that, in turn, pays the individual for the  
37 performance of services.

38 "Independent contractor" means an individual treated as an  
39 independent contractor for federal and State tax purposes who is  
40 contracted with by the taxpayer for the performance of services  
41 used directly in a production.

42 "Loan out company" means a personal service corporation or  
43 other entity that is contracted with by the taxpayer to provide  
44 specified individual personnel, such as artists, crew, actors,  
45 producers, or directors for the performance of services used directly  
46 in a production. "Loan out company" shall not include entities  
47 contracted with by the taxpayer to provide goods or ancillary

1 contractor services such as catering, construction, trailers,  
2 equipment, or transportation.

3 “New Jersey film partner” means a film production company that  
4 has made a commitment to produce films or commercial  
5 audiovisual products in New Jersey and has developed, purchased,  
6 or executed a 10-year contract to lease a production facility of  
7 250,000 square feet or more as a “transformative project” pursuant  
8 to section 65 of P.L. , c. (C. ) (pending before the Legislature  
9 as this bill). No more than five film production companies may be  
10 designated as a New Jersey film partner.

11 “New Jersey film-lease partner” means a taxpayer, including any  
12 taxpayer that is a member of a combined group under P.L.2018,  
13 c.131 (C:54:10A-4.11), that has made a commitment to lease or  
14 acquire a New Jersey production facility with an aggregate square  
15 footage of at least 50,000 square feet, which includes a sound stage  
16 and production support space such as production offices or a  
17 backlot, for a period of five or more successive years and commits  
18 to spend, on a separate-entity basis or in the aggregate with other  
19 members of the taxpayer’s combined group, an annual average of  
20 \$50,000,000 of qualified film production expenses over the period  
21 of at least five but not to exceed 10 years. <sup>1</sup>【The authority shall be  
22 permitted to recapture any credits awarded to a New Jersey film-  
23 lease partner if the New Jersey film-lease partner, or any member of  
24 the New Jersey film-lease partner’s combined group fails to  
25 maintain a New Jersey production facility during the period  
26 prescribed or if the New Jersey film-lease partner, on a separate-  
27 entity basis or in the aggregate with other members of the New  
28 Jersey film-lease partner’s combined group, fails to spend an annual  
29 average of \$50,000,000 of qualified film production expenses over  
30 the prescribed period.】<sup>1</sup>

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

33 "Post-production costs" means the costs of the phase of  
34 production of a film that follows principal photography, in which  
35 raw footage is cut and assembled into a finished film with sound  
36 synchronization and visual effects.

37 "Pre-production costs" means the costs of the phase of  
38 production of a film that precedes principal photography, in which a  
39 detailed schedule and budget for the production is prepared, the  
40 script and location is finalized, and contracts with vendors are  
41 negotiated.

42 "Qualified digital media content production expenses" means an  
43 expense incurred in New Jersey for the production of digital media  
44 content. "Qualified digital media content production expenses"  
45 shall include but not be limited to: wages and salaries of individuals  
46 employed in the production of digital media content on which the  
47 tax imposed by the "New Jersey Gross Income Tax Act,"  
48 N.J.S.54A:1-1 et seq. has been paid or is due; and the costs of

1 computer software and hardware, data processing, visualization  
2 technologies, sound synchronization, editing, and the rental of  
3 facilities and equipment. Payment made to a loan out company or  
4 to an independent contractor shall not be deemed a "qualified digital  
5 media content production expense" unless the payment is made in  
6 connection with a trade, profession, or occupation carried on in this  
7 State or for the rendition of personal services performed in this  
8 State and the taxpayer has made the withholding required pursuant  
9 to subsection g. of this section. "Qualified digital media content  
10 production expenses" shall not include expenses incurred in  
11 marketing, promotion, or advertising digital media or other costs  
12 not directly related to the production of digital media content.  
13 Costs related to the acquisition or licensing of digital media content  
14 by the taxpayer for distribution or incorporation into the taxpayer's  
15 digital media content shall not be deemed "qualified digital media  
16 content production expenses."

17 "Qualified film production expenses" means an expense incurred  
18 in New Jersey for the production of a film including pre-production  
19 costs and post-production costs incurred in New Jersey. "Qualified  
20 film production expenses" shall include but not be limited to:  
21 wages and salaries of individuals employed in the production of a  
22 film on which the tax imposed by the "New Jersey Gross Income  
23 Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; and the  
24 costs for tangible personal property used, and services performed,  
25 directly and exclusively in the production of a film, such as  
26 expenditures for film production facilities, props, makeup,  
27 wardrobe, film processing, camera, sound recording, set  
28 construction, lighting, shooting, editing, and meals. Payment made  
29 to a loan out company or to an independent contractor shall not be  
30 deemed a "qualified film production expense" unless the payment is  
31 made in connection with a trade, profession, or occupation carried  
32 on in this State or for the rendition of personal services performed  
33 in this State and the taxpayer has made the withholding required  
34 pursuant to subsection g. of this section. "Qualified film production  
35 expenses" shall not include: expenses incurred in marketing or  
36 advertising a film; and payment in excess of \$500,000 to a highly  
37 compensated individual for costs for a story, script, or scenario used  
38 in the production of a film and wages or salaries or other  
39 compensation for writers, directors, including music directors,  
40 producers, and performers, other than background actors with no  
41 scripted lines, except as follows:

42 (1) for a New Jersey film partner that incurs more than  
43 '~~[\$30,000,000]~~ \$15,000,000<sup>1</sup> , but less than '~~[\$100,000,000]~~  
44 \$50,000,000<sup>1</sup> , in qualified film production expenses in the State, an  
45 amount, not to exceed \$15,000,000, of the wages or salaries or other  
46 compensation for writers, directors, including music directors,  
47 producers, and performers, other than background actors with no  
48 scripted lines, shall constitute qualified film production expenses;

1       (2) <sup>1</sup>for a New Jersey film partner that incurs \$50,000,000 or  
2 more, but less than \$100,000,000, in qualified film production  
3 expenses in the State, an amount, not to exceed \$25,000,000, of the  
4 wages or salaries or other compensation for writers, directors,  
5 including music directors, producers, and performers, other than  
6 background actors with no scripted lines, shall constitute qualified  
7 film production expenses;

8       (3)<sup>1</sup> for a New Jersey film partner that incurs \$100,000,000 or  
9 more, but less than \$150,000,000, in qualified film production  
10 expenses in the State, an amount, not to exceed <sup>1</sup>["\$30,000,000]  
11 \$40,000,000<sup>1</sup> , of the wages or salaries or other compensation for  
12 writers, directors, including music directors, producers, and  
13 performers, other than background actors with no scripted lines,  
14 shall constitute qualified film production expenses; and

15       <sup>1</sup>[(3)] (4)<sup>1</sup> for a New Jersey film partner that incurs  
16 \$150,000,000 or more in qualified film production expenses in the  
17 State, an amount, not to exceed \$60,000,000, of the wages or  
18 salaries or other compensation for writers, directors, including  
19 music directors, producers, and performers, other than background  
20 actors with no scripted lines, shall constitute qualified film  
21 production expenses.

22       "Total digital media content production expenses" means costs  
23 for services performed and property used or consumed in the  
24 production of digital media content.

25       "Total film production expenses" means costs for services  
26 performed and tangible personal property used or consumed in the  
27 production of a film.

28       i. A business that is not a "taxpayer" as defined and used in the  
29 "Corporation Business Tax Act (1945)," P.L.1945, c.162  
30 (C.54:10A-1 et seq.) and therefore is not directly allowed a credit  
31 under this section, but is a business entity that is classified as a  
32 partnership for federal income tax purposes and is ultimately owned  
33 by a business entity that is a "corporation" as defined in subsection  
34 (c) of section 4 of P.L.1945, c.162 (C.54:10A-4), or a limited  
35 liability company formed under the "Revised Uniform Limited  
36 Liability Company Act," P.L.2012, c.50 (C.42:2C-1 et seq.), or  
37 qualified to do business in this State as a foreign limited liability  
38 company, with one member, and is wholly owned by the business  
39 entity that is a "corporation" as defined in subsection (c) of section  
40 4 of P.L.1945, c.162 (C.54:10A-4), but otherwise meets all other  
41 requirements of this section, shall be considered an eligible  
42 applicant and "taxpayer" as that term is used in this section.

43 (cf: P.L.2019, c.506, s.1)

44  
45       111. Section 2 of P.L.2018, c.56 (C.54A:4-12b) is amended to  
46 read as follows:

1       2. a. (1) A taxpayer, upon approval of an application to the  
2 authority and the director, shall be allowed a credit against the tax  
3 otherwise due for the taxable year under the "New Jersey Gross  
4 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to 30  
5 percent of the qualified film production expenses of the taxpayer  
6 during a taxable year commencing on or after July 1, 2018 but  
7 before July 1, 2028, provided that:

8       (a) at least 60 percent of the total film production expenses,  
9 exclusive of post-production costs, of the taxpayer are incurred for  
10 services performed, and goods purchased through vendors  
11 authorized to do business, in New Jersey, or the qualified film  
12 production expenses of the taxpayer during the taxable year exceed  
13 \$1,000,000 per production;

14       (b) principal photography of the film commences within the  
15 earlier of 180 days from the date of the original application for the  
16 tax credit, or 150 days from the date of approval of the application  
17 for the tax credit;

18       (c) the film includes, when determined to be appropriate by the  
19 commission, at no cost to the State, marketing materials promoting  
20 this State as a film and entertainment production destination, which  
21 materials shall include placement of a "Filmed in New Jersey" or  
22 "Produced in New Jersey" statement, or an appropriate logo  
23 approved by the commission, in the end credits of the film;

24       (d) the taxpayer submits a tax credit verification report prepared  
25 by an independent certified public accountant licensed in this State  
26 in accordance with subsection g. of this section; and

27       (e) the taxpayer complies with the withholding requirements  
28 provided for payments to loan out companies and independent  
29 contractors in accordance with subsection h. of this section.

30       (2) Notwithstanding the provisions of paragraph (1) of  
31 subsection a. of this section to the contrary, the tax credit allowed  
32 pursuant to this subsection against the tax otherwise due for the  
33 taxable year under the "New Jersey Gross Income Tax Act,"  
34 N.J.S.54A:1-1 et seq., shall be in an amount equal to 35 percent of  
35 the qualified film production expenses of the taxpayer during a  
36 taxable year that are incurred for services performed and tangible  
37 personal property purchased through vendors whose primary place  
38 of business is located in Atlantic, Burlington, Camden, Cape May,  
39 Cumberland, Gloucester, Mercer, or Salem County.

40       b. (1) A taxpayer, upon approval of an application to the  
41 authority and the director, shall be allowed a credit against the tax  
42 otherwise due for the taxable year under the "New Jersey Gross  
43 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to 20  
44 percent of the qualified digital media content production expenses  
45 of the taxpayer during a taxable year commencing on or after July  
46 1, 2018 but before July 1, 2028, provided that:

47       (a) at least \$2,000,000 of the total digital media content  
48 production expenses of the taxpayer are incurred for services

1 performed, and goods purchased through vendors authorized to do  
2 business, in New Jersey;

3 (b) at least 50 percent of the qualified digital media content  
4 production expenses of the taxpayer are for wages and salaries paid  
5 to full-time or full-time equivalent employees in New Jersey;

6 (c) the taxpayer submits a tax credit verification report prepared  
7 by an independent certified public accountant licensed in this State  
8 in accordance with subsection g. of this section; and

9 (d) the taxpayer complies with the withholding requirements  
10 provided for payments to loan out companies and independent  
11 contractors in accordance with subsection h. of this section.

12 (2) Notwithstanding the provisions of paragraph (1) of  
13 subsection b. of this section to the contrary, the tax credit allowed  
14 pursuant to this subsection against the tax otherwise due for the  
15 taxable year under the "New Jersey Gross Income Tax Act,"  
16 N.J.S.54A:1-1 et seq., shall be in an amount equal to 25 percent for  
17 the qualified digital media content production expenses of the  
18 taxpayer during a taxable year that are incurred for services  
19 performed and tangible personal property purchased through  
20 vendors whose primary place of business is located in Atlantic,  
21 Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer,  
22 or Salem County.

23 c. No tax credit shall be allowed pursuant to this section for  
24 any costs or expenses included in the calculation of any other tax  
25 credit or exemption granted pursuant to a claim made on a tax  
26 return filed with the director, or included in the calculation of an  
27 award of business assistance or incentive, for a period of time that  
28 coincides with the taxable year for which a tax credit authorized  
29 pursuant to this section is allowed. The order of priority in which  
30 the tax credit allowed pursuant to this section and any other tax  
31 credits allowed by law may be taken shall be as prescribed by the  
32 director. The amount of the tax credit applied under this section  
33 against the tax otherwise due under the "New Jersey Gross Income  
34 Tax Act," N.J.S.54A:1-1 et seq., for a taxable year, when taken  
35 together with any other payments, credits, deductions, and  
36 adjustments allowed by law shall not reduce the tax liability of the  
37 taxpayer to an amount less than zero. The amount of the tax credit  
38 otherwise allowable under this section which cannot be applied for  
39 the taxable year due to the limitations of this subsection or under  
40 other provisions of N.J.S.54A:1-1 et seq., may be carried forward, if  
41 necessary, to the seven taxable years following the taxable year for  
42 which the tax credit was allowed.

43 d. (1) A business entity that is classified as a partnership for  
44 federal income tax purposes shall not be allowed a tax credit  
45 pursuant to this section directly, but the amount of tax credit of a  
46 taxpayer in respect of a distributive share of entity income, shall be  
47 determined by allocating to the taxpayer that proportion of the tax  
48 credit acquired by the entity that is equal to the taxpayer's share,

1 whether or not distributed, of the total distributive income or gain  
2 of the entity for its taxable year ending within or with the taxpayer's  
3 taxable year.

4 (2) A New Jersey S Corporation shall not be allowed a tax credit  
5 pursuant to this section directly, but the amount of tax credit of a  
6 taxpayer in respect of a pro rata share of S Corporation income,  
7 shall be determined by allocating to the taxpayer that proportion of  
8 the tax credit acquired by the New Jersey S Corporation that is  
9 equal to the taxpayer's share, whether or not distributed, of the total  
10 pro rata share of S Corporation income of the New Jersey S  
11 Corporation for its privilege period ending within or with the  
12 taxpayer's taxable year.

13 A business entity that is not a gross income "taxpayer" as defined  
14 and used in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
15 et seq., and therefore is not directly allowed a credit under this  
16 section, but otherwise meets all the other requirements of this  
17 section, shall be considered an eligible applicant and "taxpayer" as  
18 that term is used in this section, and the application of an otherwise  
19 allowed credit amount shall be distributed to appropriate gross  
20 income taxpayers pursuant to the other requirements of this  
21 subsection.

22 e. A taxpayer, with an application for a tax credit provided for  
23 in subsection a. or subsection b. of this section, may apply to the  
24 authority and the director for a tax credit transfer certificate in lieu  
25 of the taxpayer being allowed any amount of the tax credit against  
26 the tax liability of the taxpayer. The tax credit transfer certificate,  
27 upon receipt thereof by the taxpayer from the authority and the  
28 director, may be sold or assigned, in full or in part, to any other  
29 taxpayer that may have a tax liability under the "New Jersey Gross  
30 Income Tax Act," N.J.S.54A:1-1 et seq., or the "Corporation  
31 Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), in  
32 exchange for private financial assistance to be provided by the  
33 purchaser or assignee to the taxpayer that has applied for and been  
34 granted the tax credit. The tax credit transfer certificate provided to  
35 the taxpayer shall include a statement waiving the taxpayer's right  
36 to claim that amount of the tax credit against the tax imposed  
37 pursuant to N.J.S.54A:1-1 et seq. that the taxpayer has elected to  
38 sell or assign. The sale or assignment of any amount of a tax credit  
39 transfer certificate allowed under this section shall not be  
40 exchanged for consideration received by the taxpayer of less than  
41 75 percent of the transferred tax credit amount. Any amount of a  
42 tax credit transfer certificate used by a purchaser or assignee against  
43 a tax liability under N.J.S.54A:1-1 et seq. shall be subject to the  
44 same limitations and conditions that apply to the use of a tax credit  
45 pursuant to subsections c. and d. of this section. Any amount of a  
46 tax credit transfer certificate obtained by a purchaser or assignee  
47 under subsection e. of this section may be applied against the  
48 purchaser's or assignee's tax liability under P.L.1945, c.162



1 (C.54:10A-1 et seq.) and shall be subject to the same limitations  
 2 and conditions that apply to the use of a credit pursuant to  
 3 subsection c. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b).

4 f. (1) The value of tax credits, including tax credits allowed  
 5 through the granting of tax credit transfer certificates, approved by  
 6 the director and the authority pursuant to subsection a. of this  
 7 section and pursuant to subsection a. of section 1 of P.L.2018, c.56  
 8 (C.54:10A-5.39b) to taxpayers, other than New Jersey film partners  
 9 and New Jersey film-lease partners, shall not exceed a cumulative  
 10 total of \$100,000,000 in fiscal year 2019 and in each fiscal year  
 11 thereafter prior to fiscal year 2029 to apply against the tax imposed  
 12 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
 13 et seq., and pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).  
 14 In addition to the \$100,000,000 limitation on the value of tax  
 15 credits approved by the director for New Jersey film-lease partners  
 16 and the \$100,000,000 limitation on the value of tax credits  
 17 approved by the director for other taxpayers imposed by this  
 18 paragraph, the value of tax credits, including tax credits allowed  
 19 through the granting of tax credit transfer certificates, approved by  
 20 the director and the authority pursuant to subsection a. of this  
 21 section and pursuant to subsection a. of section 2 of P.L.2018, c.56  
 22 (C.54A:4-12b) to New Jersey film partners shall not exceed a  
 23 cumulative total of \$100,000,000 in fiscal year 2021 and in each  
 24 fiscal year thereafter prior to fiscal year <sup>1</sup>[2029] 2034<sup>1</sup> to apply  
 25 against the tax imposed pursuant to section 5 of P.L.1945, c.162  
 26 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey  
 27 Gross Income Tax Act," N.J.S.54A:1-1 et seq. In addition to the  
 28 \$100,000,000 limitation on the value of tax credits approved by the  
 29 director for New Jersey film partners and the \$100,000,000  
 30 limitation on the value of tax credits approved by the director for  
 31 other taxpayers imposed by this paragraph, the value of tax credits,  
 32 including tax credits allowed through the granting of tax credit  
 33 transfer certificates, approved by the director and the authority  
 34 pursuant to subsection a. of this section and pursuant to subsection  
 35 a. of section 1 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey film-  
 36 lease partners shall not exceed a cumulative total of \$100,000,000  
 37 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal  
 38 year <sup>1</sup>[2029] 2034<sup>1</sup> to apply against the tax imposed pursuant to  
 39 section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed  
 40 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
 41 et seq.

42 If the cumulative total amount of tax credits, and tax credit  
 43 transfer certificates, allowed to taxpayers for taxable years or  
 44 privilege periods commencing during a single fiscal year under  
 45 subsection a. of this section and subsection a. of section 1 of  
 46 P.L.2018, c.56 (C.54:10A-5.39b) exceeds the amount of tax credits  
 47 available in that fiscal year, then taxpayers who have first applied  
 48 for and have not been allowed a tax credit or tax credit transfer

1 certificate amount for that reason shall be allowed, in the order in  
2 which they have submitted an application, the amount of tax credit  
3 or tax credit transfer certificate on the first day of the next  
4 succeeding fiscal year in which tax credits and tax credit transfer  
5 certificates under subsection a. of this section and subsection a. of  
6 section 1 of P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of  
7 the amount of credits available.

8 Notwithstanding any provision of paragraph (1) of this  
9 subsection to the contrary, for any fiscal year in which the amount  
10 of tax credits approved pursuant to this paragraph is less than the  
11 cumulative total amount of tax credits permitted to be approved in  
12 that fiscal year, the authority shall certify the amount of the  
13 remaining tax credits available for approval in that fiscal year, and  
14 shall increase the cumulative total amount of tax credits permitted  
15 to be approved in the subsequent fiscal year by the certified amount  
16 remaining from the prior fiscal year. The authority shall also  
17 certify, for each fiscal year, the amount of tax credits that were  
18 previously approved, but that the taxpayer is not able to redeem or  
19 transfer to another taxpayer under this section, and shall increase  
20 the cumulative total amount of tax credits permitted to be approved  
21 in the subsequent fiscal year by the amount of tax credits previously  
22 approved, but not subject to redemption or transfer. <sup>1</sup>【The  
23 combined increase to the cumulative total permitted to be approved  
24 in a subsequent fiscal year pursuant to this paragraph shall not  
25 exceed \$50,000,000】<sup>1</sup>.

26 (2) The value of tax credits, including tax credits allowed  
27 through the granting of tax credit transfer certificates, approved by  
28 the authority and the director pursuant to subsection b. of this  
29 section and pursuant to subsection b. of section 1 of P.L.2018, c.56  
30 (C.54:10A-5.39b) shall not exceed a cumulative total of  
31 \$10,000,000 in fiscal year 2019 and in each fiscal year thereafter  
32 prior to fiscal year 2029 to apply against the tax imposed pursuant  
33 to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.  
34 and the tax imposed pursuant to section 5 of P.L.1945, c.162  
35 (C.54:10A-5).

36 If the total amount of tax credits and tax credit transfer  
37 certificates allowed to taxpayers for taxable years or privilege  
38 periods commencing during a single fiscal year under subsection b.  
39 of this section and subsection b. of section 1 of P.L.2018, c.56  
40 (C.54:10A-5.39b) exceeds the amount of tax credits available in  
41 that year, then taxpayers who have first applied for and have not  
42 been allowed a tax credit or tax credit transfer certificate amount for  
43 that reason shall be allowed, in the order in which they have  
44 submitted an application, the amount of tax credit or tax credit  
45 transfer certificate on the first day of the next succeeding fiscal year  
46 in which tax credits and tax credit transfer certificates under  
47 subsection b. of this section and subsection b. of section 1 of

1 P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of the amount of  
2 credits available.

3 Notwithstanding any provision of this paragraph to the contrary,  
4 for any fiscal year in which the amount of tax credits approved  
5 pursuant to this paragraph is less than the cumulative total amount  
6 of tax credits permitted to be approved in that fiscal year, the  
7 authority shall certify the amount of the remaining tax credits  
8 available for approval in that fiscal year, and shall increase the  
9 cumulative total amount of tax credits permitted to be approved in  
10 the subsequent fiscal year by the certified amount remaining from  
11 the prior fiscal year. The authority shall also certify, for each fiscal  
12 year, the amount of tax credits that were previously approved, but  
13 that the taxpayer is not able to redeem or transfer to another  
14 taxpayer under this section, and shall increase the cumulative total  
15 amount of tax credits permitted to be approved in the subsequent  
16 fiscal year by the amount of tax credits previously approved, but not  
17 subject to redemption or transfer.

18 g. A taxpayer shall submit to the authority and the director a  
19 report prepared by an independent certified public accountant  
20 licensed in this State to verify the taxpayer's tax credit claim  
21 following the completion of the production. The report shall be  
22 prepared by the independent certified public accountant pursuant to  
23 agreed upon procedures prescribed by the authority and the director,  
24 and shall include such information and documentation as shall be  
25 determined to be necessary by the authority and the director to  
26 substantiate the qualified film production expenses or the qualified  
27 digital media content production expenses of the taxpayer. A single  
28 report with attachments deemed necessary by the authority shall be  
29 submitted electronically. Upon receipt of the report, the authority  
30 and the director shall review the findings of the independent  
31 certified public accountant's report, and shall make a determination  
32 as to the qualified film production expenses or the qualified digital  
33 media content production expenses of the taxpayer. The  
34 determination shall be provided in writing to the taxpayer, and a  
35 copy of the written determination shall be included in the filing of a  
36 return that includes a claim for a tax credit allowed pursuant to this  
37 section.

38 h. A taxpayer shall withhold from each payment to a loan out  
39 company or to an independent contractor an amount equal to 6.37  
40 percent of the payment otherwise due. The amounts withheld shall  
41 be deemed to be withholding of liability pursuant to the "New  
42 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the  
43 taxpayer shall be deemed to have the rights, duties, and  
44 responsibilities of an employer pursuant to chapter 7 of Title 54A of  
45 the New Jersey Statutes. The director shall allocate the amounts  
46 withheld for a taxable year to the accounts of the individuals who  
47 are employees of a loan out company in proportion to the  
48 employee's payment by the loan out company in connection with a

1 trade, profession, or occupation carried on in this State or for the  
2 rendition of personal services performed in this State during the  
3 taxable year. A loan out company that reports its payments to  
4 employees in connection with a trade, profession, or occupation  
5 carried on in this State or for the rendition of personal services  
6 performed in this State during a taxable year shall be relieved of its  
7 duties and responsibilities as an employer pursuant to chapter 7 of  
8 Title 54A of the New Jersey Statutes for the taxable year for any  
9 payments relating to the payments on which the taxpayer withheld.

10 i. As used in this section:

11 "Authority" means the New Jersey Economic Development  
12 Authority.

13 "Business assistance or incentive" means "business assistance or  
14 incentive" as that term is defined pursuant to section 1 of P.L.2007,  
15 c.101 (C.54:50-39).

16 "Commission" means the Motion Picture and Television  
17 Development Commission.

18 "Digital media content" means any data or information that is  
19 produced in digital form, including data or information created in  
20 analog form but reformatted in digital form, text, graphics,  
21 photographs, animation, sound, and video content. "Digital media  
22 content" shall not mean content offerings generated by the end user  
23 (including postings on electronic bulletin boards and chat rooms);  
24 content offerings comprised primarily of local news, events,  
25 weather or local market reports; public service content; electronic  
26 commerce platforms (such as retail and wholesale websites);  
27 websites or content offerings that contain obscene material as  
28 defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or  
29 content that are produced or maintained primarily for private,  
30 industrial, corporate, or institutional purposes; or digital media  
31 content acquired or licensed by the taxpayer for distribution or  
32 incorporation into the taxpayer's digital media content.

33 "Film" means a feature film, a television series, or a television  
34 show of 22 minutes or more in length, intended for a national  
35 audience, or a television series or a television show of 22 minutes  
36 or more in length intended for a national or regional audience,  
37 including, but not limited to, a game show, award show, or other  
38 gala event filmed and produced at a nonprofit arts and cultural  
39 venue receiving State funding. "Film" shall not include a  
40 production featuring news, current events, weather, and market  
41 reports or public programming, talk show, sports event, or reality  
42 show, a production that solicits funds, a production containing  
43 obscene material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-  
44 3, or a production primarily for private, industrial, corporate, or  
45 institutional purposes. "Film" shall not include an award show or  
46 other gala event that is not filmed and produced at a nonprofit arts  
47 and cultural venue receiving State funding.

1 "Full-time or full-time equivalent employee" means an individual  
2 employed by the taxpayer for consideration for at least 35 hours a  
3 week, or who renders any other standard of service generally  
4 accepted by custom or practice as full-time or full-time equivalent  
5 employment, whose wages are subject to withholding as provided in  
6 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or  
7 who is a partner of a taxpayer, who works for the partnership for at  
8 least 35 hours a week, or who renders any other standard of service  
9 generally accepted by custom or practice as full-time or full-time  
10 equivalent employment, and whose distributive share of income,  
11 gain, loss, or deduction, or whose guaranteed payments, or any  
12 combination thereof, is subject to the payment of estimated taxes, as  
13 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
14 et seq. "Full-time or full-time equivalent employee" shall not  
15 include an individual who works as an independent contractor or on  
16 a consulting basis for the taxpayer.

17 "Highly compensated individual" means an individual who  
18 directly or indirectly receives compensation in excess of \$500,000  
19 for the performance of services used directly in a production. An  
20 individual receives compensation indirectly when the taxpayer pays  
21 a loan out company that, in turn, pays the individual for the  
22 performance of services.

23 "Independent contractor" means an individual treated as an  
24 independent contractor for federal and State tax purposes who is  
25 contracted with by the taxpayer for the performance of services  
26 used directly in a production.

27 "Loan out company" means a personal service corporation or  
28 other entity that is contracted with by the taxpayer to provide  
29 specified individual personnel, such as artists, crew, actors,  
30 producers, or directors for the performance of services used directly  
31 in a production. "Loan out company" shall not include entities  
32 contracted with by the taxpayer to provide goods or ancillary  
33 contractor services such as catering, construction, trailers,  
34 equipment, or transportation.

35 "New Jersey film partner" means a film production company that  
36 has made a commitment to produce films or commercial  
37 audiovisual products in New Jersey and has developed, purchased,  
38 or executed a 10-year contract to lease a production facility of  
39 250,000 square feet or more as a "transformative project" pursuant  
40 to section 65 of P.L. , c. (C. ) (pending before the Legislature  
41 as this bill). No more than five film production companies may be  
42 designated as a New Jersey film partner.

43 "New Jersey film-lease partner" means a taxpayer, including any  
44 taxpayer that is a member of a combined group under P.L.2018,  
45 c.131 (C:54:10A-4.11), that has made a commitment to lease or  
46 acquire a New Jersey production facility with an aggregate square  
47 footage of at least 50,000 square feet, which includes a sound stage  
48 and production support space such as production offices or a

1 backlot, for a period of five or more successive years and commits  
2 to spend, on a separate-entity basis or in the aggregate with other  
3 members of the taxpayer's combined group, an annual average of  
4 \$50,000,000 of qualified film production expenses over the period  
5 of at least five but not to exceed 10 years. <sup>1</sup>【The authority shall be  
6 permitted to recapture any credits awarded to a New Jersey film-  
7 lease partner if the New Jersey film-lease partner, or any member of  
8 the New Jersey film-lease partner's combined group fails to  
9 maintain a New Jersey production facility during the period  
10 prescribed or if the New Jersey film-lease partner, on a separate-  
11 entity basis or in the aggregate with other members of the New  
12 Jersey film-lease partner's combined group, fails to spend an annual  
13 average of \$50,000,000 of qualified film production expenses over  
14 the prescribed period.】<sup>1</sup>

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

17 "Post-production costs" means the costs of the phase of  
18 production of a film that follows principal photography, in which  
19 raw footage is cut and assembled into a finished film with sound  
20 synchronization and visual effects.

21 "Pre-production costs" means the costs of the phase of  
22 production of a film that precedes principal photography, in which a  
23 detailed schedule and budget for the production is prepared, the  
24 script and location is finalized, and contracts with vendors are  
25 negotiated.

26 "Qualified digital media content production expenses" means an  
27 expense incurred in New Jersey for the production of digital media  
28 content. "Qualified digital media content production expenses"  
29 shall include but not be limited to: wages and salaries of individuals  
30 employed in the production of digital media content on which the  
31 tax imposed by the "New Jersey Gross Income Tax Act,"  
32 N.J.S.54A:1-1 et seq. has been paid or is due; and the costs of  
33 computer software and hardware, data processing, visualization  
34 technologies, sound synchronization, editing, and the rental of  
35 facilities and equipment. Payment made to a loan out company or  
36 to an independent contractor shall not be deemed a "qualified digital  
37 media content production expense" unless the payment is made in  
38 connection with a trade, profession, or occupation carried on in this  
39 State or for the rendition of personal services performed in this  
40 State and the taxpayer has made the withholding required pursuant  
41 to subsection h. of this section. "Qualified digital media content  
42 production expenses" shall not include expenses incurred in  
43 marketing, promotion, or advertising digital media or other costs  
44 not directly related to the production of digital media content.  
45 Costs related to the acquisition or licensing of digital media content  
46 by the taxpayer for distribution or incorporation into the taxpayer's  
47 digital media content shall not be deemed "qualified digital media  
48 content production expenses."

1 "Qualified film production expenses" means an expense incurred  
2 in New Jersey for the production of a film including pre-production  
3 costs and post-production costs incurred in New Jersey. "Qualified  
4 film production expenses" shall include but not be limited to:  
5 wages and salaries of individuals employed in the production of a  
6 film on which the tax imposed by the "New Jersey Gross Income  
7 Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; and the  
8 costs for tangible personal property used, and services performed,  
9 directly and exclusively in the production of a film, such as  
10 expenditures for film production facilities, props, makeup,  
11 wardrobe, film processing, camera, sound recording, set  
12 construction, lighting, shooting, editing, and meals. Payment made  
13 to a loan out company or to an independent contractor shall not be  
14 deemed a "qualified film production expense" unless the payment is  
15 made in connection with a trade, profession, or occupation carried  
16 on in this State or for the rendition of personal services performed  
17 in this State and the taxpayer has made the withholding required by  
18 subsection h. of this section. "Qualified film production expenses"  
19 shall not include: expenses incurred in marketing or advertising a  
20 film; and payment in excess of \$500,000 to a highly compensated  
21 individual for costs for a story, script, or scenario used in the  
22 production of a film and wages or salaries or other compensation  
23 for writers, directors, including music directors, producers, and  
24 performers, other than background actors with no scripted lines,  
25 except as follows:

26 (1) for a New Jersey film partner that incurs more than  
27 '[\$30,000,000] \$15,000,000<sup>1</sup> , but less than '[\$100,000,000]  
28 \$50,000,000<sup>1</sup> , in qualified film production expenses in the State, an  
29 amount, not to exceed \$15,000,000, of the wages or salaries or other  
30 compensation for writers, directors, including music directors,  
31 producers, and performers, other than background actors with no  
32 scripted lines, shall constitute qualified film production expenses;

33 (2) <sup>1</sup>for a New Jersey film partner that incurs \$50,000,000 or  
34 more, but less than \$100,000,000, in qualified film production  
35 expenses in the State, an amount, not to exceed \$25,000,000, of the  
36 wages or salaries or other compensation for writers, directors,  
37 including music directors, producers, and performers, other than  
38 background actors with no scripted lines, shall constitute qualified  
39 film production expenses;

40 (3)<sup>1</sup> for a New Jersey film partner that incurs \$100,000,000 or  
41 more, but less than \$150,000,000, in qualified film production  
42 expenses in the State, an amount, not to exceed '[\$30,000,000]  
43 \$40,000,000<sup>1</sup> , of the wages or salaries or other compensation for  
44 writers, directors, including music directors, producers, and  
45 performers, other than background actors with no scripted lines,  
46 shall constitute qualified film production expenses; and

1 <sup>1</sup>[(3)] (4)<sup>1</sup> for a New Jersey film partner that incurs  
2 \$150,000,000 or more in qualified film production expenses in the  
3 State, an amount, not to exceed \$60,000,000, of the wages or  
4 salaries or other compensation for writers, directors, including  
5 music directors, producers, and performers, other than background  
6 actors with no scripted lines, shall constitute qualified film  
7 production expenses.

8 "Total digital media content production expenses" means costs  
9 for services performed and property used or consumed in the  
10 production of digital media content.

11 "Total film production expenses" means costs for services  
12 performed and tangible personal property used or consumed in the  
13 production of a film.

14 (cf: P.L.2019, c.506, s.2)

15

16 <sup>1</sup>[112. Section 1 of P.L.1979, c.303 (C.34:1b-5.1) is amended to  
17 read as follows:

18 1. a. The New Jersey Economic Development Authority shall  
19 adopt rules and regulations requiring that not less than the  
20 prevailing wage rate be paid to workers employed in the  
21 performance of any construction contract, including contracts for  
22 millwork fabrication, undertaken in connection with authority  
23 financial assistance or any of its projects, those projects which it  
24 undertakes pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.), or  
25 undertaken to fulfill any condition of receiving authority financial  
26 assistance, including the performance of any contract to construct,  
27 renovate or otherwise prepare a facility for operations which are  
28 necessary for the receipt of authority financial assistance, unless the  
29 work performed under the contract is performed on a facility owned  
30 by a landlord of the entity receiving the assistance and less than  
31 55% of the facility is leased by the entity at the time of the contract  
32 and under any agreement to subsequently lease the facility. The  
33 prevailing wage rate shall be the rate determined by the  
34 Commissioner of Labor and Workforce Development pursuant to  
35 the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.). For the  
36 purposes of this section, "authority financial assistance" means any  
37 loan, loan guarantee, grant, incentive, tax exemption or other  
38 financial assistance that is approved, funded, authorized,  
39 administered or provided by the authority to any entity and is  
40 provided before, during or after completion of a project, including  
41 but not limited to, all authority financial assistance received by the  
42 entity pursuant to the "Business Employment Incentive Program  
43 Act," P.L.1996, c.26 (C.34:1B-124 et al.) that enables the entity to  
44 engage in a construction contract, but this section shall not be  
45 construed as requiring the payment of the prevailing wage for  
46 construction commencing more than two years after an entity has  
47 executed with the authority a commitment letter regarding authority



1 financial assistance and the first payment or other provision of the  
2 assistance is received.

3 b. The New Jersey Economic Development Authority shall adopt  
4 rules and regulations requiring that not less than the prevailing  
5 wage rate be paid to workers employed in the performance of any  
6 contract, for construction, demolition, remediation, removal of  
7 hazardous substances, alteration, custom fabrication, repair work, or  
8 maintenance work, including painting and decorating, or  
9 excavation, grading, pile driving, concrete form, or other types of  
10 foundation work in connection with the "New Jersey Aspire  
11 Program Act," sections 54 through 67 of P.L. , c. (C. )  
12 (pending before the Legislature as this bill) and the "New Jersey  
13 Community-Anchored Development Act," sections 43 through 53 of  
14 P.L. , c. (C. ) (pending before the Legislature as this bill).  
15 The requirements of this subsection shall apply to any site  
16 preparation work performed 24 months prior to and during the  
17 incentive eligibility period of any project receiving tax credits under  
18 the "New Jersey Aspire Program Act," sections 54 through 67 of  
19 P.L. , c. (C. ) (pending before the Legislature as this bill)  
20 and the "New Jersey Community-Anchored Development Act,"  
21 sections 43 through 53 of P.L. , c. (C. ) (pending before the  
22 Legislature as this bill), in which there is a continuity of ownership  
23 in the site of the redevelopment project, including work undertaken  
24 to fulfill any condition of receiving tax credits under the programs.  
25 Work that is subject to the requirements of this subsection shall  
26 include the performance of any contract for construction,  
27 demolition, remediation, removal of hazardous substances,  
28 alteration, custom fabrication, repair work, or maintenance work,  
29 including painting and decorating, or excavation, grading, pile  
30 driving, concrete form, or other types of foundation work  
31 undertaken on a facility for operations which are necessary for the  
32 receipt of tax credits under the "New Jersey Aspire Program Act,"  
33 sections 54 through 67 of P.L. , c. (C. ) (pending before the  
34 Legislature as this bill) and the "New Jersey Community-Anchored  
35 Development Act," sections 43 through 53 of P.L. , c. (C. )  
36 (pending before the Legislature as this bill), unless the work  
37 performed under the contract is performed on a facility owned by a  
38 landlord of the entity receiving the tax credit and less than 35  
39 percent of the facility is leased by the entity at the time of the  
40 contract and under any agreement to subsequently lease the facility.  
41 The prevailing wage rate shall be the rate determined by the  
42 Commissioner of Labor and Workforce Development pursuant to  
43 the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.), and all  
44 contractors and subcontractors subject to the prevailing wage  
45 requirement set forth in this section shall be registered with the  
46 Department of Labor and Workforce Development pursuant to the  
47 provisions of section 5 of P.L.1999, c.238 (C.34:11-56.52). An  
48 applicant for tax credits under the "New Jersey Aspire Program

1 Act," sections 54 through 67 of P.L. , c. (C. ) (pending  
2 before the Legislature as this bill) and the "New Jersey Community-  
3 Anchored Development Act," sections 43 through 53 of P.L. , c.  
4 (C. ) (pending before the Legislature as this bill), shall certify  
5 under penalty of perjury as part of its application that all  
6 construction contracts undertaken on any project in connection with  
7 an award under the programs comply with the prevailing wage  
8 requirements of this subsection. If at any time the authority  
9 determines that the developer made a material misrepresentation  
10 regarding compliance with the provisions of this subsection on the  
11 developer's application, the developer shall forfeit 35 percent of the  
12 tax credits allowed under the programs, and pay to the affected  
13 workers back wages in an amount that compensates the workers at  
14 the prevailing wage rate for the work performed.】<sup>1</sup>

15 (cf: P.L.2007, c.245, s.1)

16

17 <sup>1</sup>112. Section 1 of P.L.1979, c.303 (C.34:1b-5.1) is amended to  
18 read as follows:

19 1. a. The New Jersey Economic Development Authority shall  
20 adopt rules and regulations requiring that not less than the  
21 prevailing wage rate be paid to workers employed in the  
22 performance of any construction contract, including contracts for  
23 millwork fabrication, undertaken in connection with authority  
24 financial assistance or any of its projects, those projects which it  
25 undertakes pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.), or  
26 undertaken to fulfill any condition of receiving authority financial  
27 assistance, including the performance of any contract to construct,  
28 renovate or otherwise prepare a facility for operations which are  
29 necessary for the receipt of authority financial assistance, unless the  
30 work performed under the contract is performed on a facility owned  
31 by a landlord of the entity receiving the assistance and less than  
32 **【55%】** 35 percent of the facility is leased by the entity at the time  
33 of the contract and under any agreement to subsequently lease the  
34 facility. The prevailing wage rate shall be the rate determined by  
35 the Commissioner of Labor and Workforce Development pursuant  
36 to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.). For  
37 the purposes of this section, "authority financial assistance" means  
38 any loan, loan guarantee, grant, incentive, tax exemption or other  
39 financial assistance that is approved, funded, authorized,  
40 administered or provided by the authority to any entity and is  
41 provided before, during or after completion of a project, including  
42 but not limited to, all authority financial assistance received by the  
43 entity pursuant to the "Business Employment Incentive Program  
44 Act," P.L.1996, c.26 (C.34:1B-124 et al.) that enables the entity to  
45 engage in a construction contract, but this section shall not be  
46 construed as requiring the payment of the prevailing wage for  
47 construction commencing more than two years after an entity has  
48 executed with the authority a commitment letter regarding authority

1 financial assistance and the first payment or other provision of the  
2 assistance is received.

3 b. The New Jersey Economic Development Authority shall adopt  
4 rules and regulations requiring that not less than the prevailing  
5 wage rate be paid to workers employed in the performance of any  
6 contract, for construction, demolition, remediation, removal of  
7 hazardous substances, alteration, custom fabrication, repair work, or  
8 maintenance work, including painting and decorating, or  
9 excavation, grading, pile driving, concrete form, or other types of  
10 foundation work in connection with the "New Jersey Community-  
11 Anchored Development Act," sections 43 through 53 of P.L. , c.  
12 (C. ) (pending before the Legislature as this bill), the "New  
13 Jersey Aspire Program Act," sections 54 through 67 of P.L. , c.  
14 (C. ) (pending before the Legislature as this bill), and the "New  
15 Jersey Emerge Program Act," sections 68 through 81 of P.L. , c.  
16 (C. ) (pending before the Legislature as this bill). The  
17 requirements of this subsection shall apply to any site preparation  
18 work performed 24 months prior to and during the incentive  
19 eligibility period of any project receiving tax credits under the  
20 "New Jersey Community-Anchored Development Act," sections 43  
21 through 53 of P.L. , c. (C. ) (pending before the Legislature  
22 as this bill), the "New Jersey Aspire Program Act," sections 54  
23 through 67 of P.L. , c. (C. ) (pending before the Legislature  
24 as this bill), and the "New Jersey Emerge Program Act," sections 68  
25 through 81 of P.L. , c. (C. ) (pending before the Legislature  
26 as this bill), in which there is a continuity of ownership in the site  
27 of the redevelopment project, including work undertaken to fulfill  
28 any condition of receiving tax credits under the programs. Work  
29 that is subject to the requirements of this subsection shall include  
30 the performance of any contract for construction, demolition,  
31 remediation, removal of hazardous substances, alteration, custom  
32 fabrication, repair work, or maintenance work, including painting  
33 and decorating, or excavation, grading, pile driving, concrete form,  
34 or other types of foundation work undertaken on a facility for  
35 operations which are necessary for the receipt of tax credits under  
36 the "New Jersey Community-Anchored Development Act," sections  
37 43 through 53 of P.L. , c. (C. ) (pending before the  
38 Legislature as this bill), the "New Jersey Aspire Program Act,"  
39 sections 54 through 67 of P.L. , c. (C. ) (pending before the  
40 Legislature as this bill), and the "New Jersey Emerge Program Act,"  
41 sections 68 through 81 of P.L. , c. (C. ) (pending before the  
42 Legislature as this bill), unless the work performed under the  
43 contract is performed on a facility owned by a landlord of the entity  
44 receiving the tax credit and less than 35 percent of the facility is  
45 leased by the entity at the time of the contract and under any  
46 agreement to subsequently lease the facility. The prevailing wage  
47 rate shall be the rate determined by the Commissioner of Labor and  
48 Workforce Development pursuant to the provisions of P.L.1963,

1 c.150 (C.34:11-56.25 et seq.), and all contractors and  
2 subcontractors subject to the prevailing wage requirement set forth  
3 in this section shall be registered with the Department of Labor and  
4 Workforce Development pursuant to the provisions of section 5 of  
5 P.L.1999, c.238 (C.34:11-56.52). An applicant for tax credits under  
6 the "New Jersey Community-Anchored Development Act," sections  
7 43 through 53 of P.L. , c. (C. ) (pending before the  
8 Legislature as this bill), the "New Jersey Aspire Program Act,"  
9 sections 54 through 67 of P.L. , c. (C. ) (pending before the  
10 Legislature as this bill), and the "New Jersey Emerge Program Act,"  
11 sections 68 through 81 of P.L. , c. (C. ) (pending before the  
12 Legislature as this bill), shall certify under penalty of perjury as part  
13 of its application that all construction contracts undertaken on any  
14 project in connection with an award under the programs comply  
15 with the prevailing wage requirements of this subsection. If at any  
16 time the authority determines that the developer made a material  
17 misrepresentation regarding compliance with the provisions of this  
18 subsection on the developer's application, the developer shall  
19 forfeit 35 percent of the tax credits allowed under the programs, and  
20 pay to the affected workers back wages in an amount that  
21 compensates the workers at the prevailing wage rate for the work  
22 performed.

23 (cf: P.L.2007, c.245, s.1) <sup>1</sup>

24

25 <sup>1</sup>[113. Section 1 of P.L.1997, c. 334 (C.34:1B-7.42a) is amended  
26 to read as follows:

27 1. a. The New Jersey Economic Development Authority shall  
28 establish within the New Jersey Emerging Technology and  
29 Biotechnology Financial Assistance Program established pursuant  
30 to P.L.1995, c.137 (C.34:1B-7.37 et seq.), a corporation business  
31 tax benefit certificate transfer program to allow new or expanding  
32 emerging technology and biotechnology companies in this State  
33 with unused amounts of research and development tax credits  
34 otherwise allowable which cannot be applied for the credit's tax  
35 year due to the limitations of subsection b. of section 1 of P.L.1993,  
36 c.175 (C.54:10A-5.24) and unused net operating loss carryover  
37 pursuant to subparagraph (B) of paragraph (6) of subsection (k) of  
38 section 4 of P.L.1945, c.162 (C.54:10A-4), to surrender those tax  
39 benefits for use by other corporation business taxpayers in this  
40 State, provided that the taxpayer receiving the surrendered tax  
41 benefits is not affiliated with a corporation that is surrendering its  
42 tax benefits under the program established under P.L.1997, c.334.  
43 For the purposes of this section, the test of affiliation is whether the  
44 same entity directly or indirectly owns or controls 5% or more of  
45 the voting rights or 5% or more of the value of all classes of stock  
46 of both the taxpayer receiving the benefits and a corporation that is  
47 surrendering the benefits. The tax benefits may be used on the  
48 corporation business tax returns to be filed by those taxpayers in

1 exchange for private financial assistance to be provided by the  
2 corporation business taxpayer that is the recipient of the corporation  
3 business tax benefit certificate to assist in the funding of costs  
4 incurred by the new or expanding emerging technology and  
5 biotechnology company.

6 b. The authority, in cooperation with the Division of Taxation  
7 in the Department of the Treasury, shall review and approve  
8 applications by new or expanding emerging technology and  
9 biotechnology companies in this State with unused but otherwise  
10 allowable carryover of research and development tax credits  
11 pursuant to section 1 of P.L.1993, c.175 (C.54:10A-5.24), and  
12 unused but otherwise allowable net operating loss carryover  
13 pursuant to paragraph (6) of subsection (k) of section 4 of P.L.1945,  
14 c.162 (C.54:10A-4), to surrender those tax benefits in exchange for  
15 private financial assistance to be made by the corporation business  
16 taxpayer that is the recipient of the corporation business tax benefit  
17 certificate in an amount equal to at least 80% of the amount of the  
18 surrendered tax benefit. Provided that the amount of the surrendered  
19 tax benefit for a surrendered research and development tax credit  
20 carryover is the amount of the credit, and provided that the amount  
21 of the surrendered tax benefit for a surrendered net operating loss  
22 carryover is the amount of the loss multiplied by the new or  
23 expanding emerging technology or biotechnology company's  
24 anticipated allocation factor, as determined pursuant to section 6 of  
25 P.L.1945, c.162 (C.54:10A-6) for the tax year in which the benefit  
26 is transferred and subsequently multiplied by the corporation  
27 business tax rate provided pursuant to subsection (c) of section 5 of  
28 P.L.1945, c.162 (C.54:10A-5). The authority shall be authorized to  
29 approve the transfer of no more than ~~【\$60,000,000】~~ \$75,000,000  
30 of tax benefits in a State fiscal year. If the total amount of transferable  
31 tax benefits requested to be surrendered by approved applicants  
32 exceeds ~~【\$60,000,000】~~ \$75,000,000 for a State fiscal year, the  
33 authority, in cooperation with the Division of Taxation in the  
34 Department of the Treasury, shall not be authorized to approve the  
35 transfer of more than ~~【\$60,000,000】~~ \$75,000,000 for that State  
36 fiscal year and shall allocate the transfer of tax benefits by approved  
37 companies using the following method:

38 (1) an eligible applicant with \$250,000 or less of transferable  
39 tax benefits shall be authorized to surrender the entire amount of its  
40 transferable tax benefits;

41 (2) an eligible applicant with more than \$250,000 of transferable  
42 tax benefits shall be authorized to surrender a minimum of  
43 \$250,000 of its transferable tax benefits;

44 (3) (Deleted by amendment, P.L.2009, c.90.)

45 (4) an eligible applicant with more than \$250,000 shall also be  
46 authorized to surrender additional transferable tax benefits  
47 determined by multiplying the applicant's transferable tax benefits  
48 less the minimum transferable tax benefits that company is

1 authorized to surrender under paragraph (2) of this subsection by a  
2 fraction, the numerator of which is the total amount of transferable  
3 tax benefits that the authority is authorized to approve less the total  
4 amount of transferable tax benefits approved under paragraphs (1),  
5 (2), and (5) of this subsection and the denominator of which is the  
6 total amount of transferable tax benefits requested to be surrendered  
7 by all eligible applicants less the total amount of transferable tax  
8 benefits approved under paragraphs (1), (2), and (5) of this  
9 subsection;

10 (5) The authority shall establish the boundaries for three  
11 innovation zones to be geographically distributed in the northern,  
12 central, and southern portions of this State. Of the **[\$60,000,000]**  
13 \$75,000,000 of transferable tax benefits authorized for each State  
14 fiscal year, \$10,000,000 shall be allocated for the surrender of  
15 transferable tax benefits exclusively by new and expanding  
16 emerging technology and biotechnology companies that operate  
17 within the boundaries of the innovation zones, except that any  
18 portion of the \$10,000,000 that is not so approved shall be available  
19 for that State fiscal year for the surrender of transferable tax  
20 benefits by new and expanding emerging technology and  
21 biotechnology companies that do not operate within the boundaries  
22 of an innovation zone.

23 If the total amount of transferable tax benefits that would be  
24 authorized using the above method exceeds **[\$60,000,000]**  
25 \$75,000,000 for a State fiscal year, then the authority, in  
26 cooperation with the Division of Taxation in the Department of the  
27 Treasury, shall limit the total amount of tax benefits authorized to  
28 be transferred to **[\$60,000,000]** \$75,000,000 by applying the above  
29 method on an apportioned basis.

30 For purposes of this section transferable tax benefits include an  
31 eligible applicant's unused but otherwise allowable carryover of net  
32 operating losses multiplied by the applicant's anticipated allocation  
33 factor as determined pursuant to section 6 of P.L.1945, c.162  
34 (C.54:10A-6) for the tax year in which the benefit is transferred and  
35 subsequently multiplied by the corporation business tax rate as  
36 provided in subsection (c) of section 5 of P.L.1945, c.162  
37 (C.54:10A-5) plus the total amount of the applicant's unused but  
38 otherwise allowable carryover of research and development tax  
39 credits. An eligible applicant's transferable tax benefits shall be  
40 limited to net operating losses and research and development tax  
41 credits that the applicant requests to surrender in its application to  
42 the authority and shall not, in total, exceed the maximum amount of  
43 tax benefits that the applicant is eligible to surrender.

44 No application for a corporation business tax benefit transfer  
45 certificate shall be approved in which the new or expanding  
46 emerging technology or biotechnology company (1) has  
47 demonstrated positive net operating income in any of the two  
48 previous full years of ongoing operations as determined on its

1 financial statements issued according to generally accepted  
2 accounting standards endorsed by the Financial Accounting  
3 Standards Board; or (2) is directly or indirectly at least 50 percent  
4 owned or controlled by another corporation that has demonstrated  
5 positive net operating income in any of the two previous full years  
6 of ongoing operations as determined on its financial statements  
7 issued according to generally accepted accounting standards  
8 endorsed by the Financial Accounting Standards Board or is part of  
9 a consolidated group of affiliated corporations, as filed for federal  
10 income tax purposes, that in the aggregate has demonstrated  
11 positive net operating income in any of the two previous full years  
12 of ongoing operations as determined on its combined financial  
13 statements issued according to generally accepted accounting  
14 standards endorsed by the Financial Accounting Standards Board.

15 The maximum lifetime value of surrendered tax benefits that a  
16 corporation shall be permitted to surrender pursuant to the program  
17 is ~~[\$15,000,000]~~ \$20,000,000. Applications must be received on or  
18 before June 30 of each State fiscal year.

19 The authority, in consultation with the Division of Taxation,  
20 shall establish rules for the recapture of all, or a portion of, the  
21 amount of a grant of a corporation business tax benefit certificate  
22 from the new or emerging technology and biotechnology company  
23 having surrendered tax benefits pursuant to this section in the event  
24 the taxpayer fails to use the private financial assistance received for  
25 the surrender of tax benefits as required by this section or fails to  
26 maintain a headquarters or a base of operation in this State during  
27 the five years following receipt of the private financial assistance;  
28 except if the failure to maintain a headquarters or a base of  
29 operation in this State is due to the liquidation of the new or  
30 expanding emerging technology and biotechnology company.

31 c. The authority, in cooperation with the Division of Taxation  
32 in the Department of the Treasury, shall review and approve  
33 applications by taxpayers under the Corporation Business Tax Act  
34 (1945), P.L.1945, c.162 (C.54:10A- 1 et seq.), to acquire  
35 surrendered tax benefits approved pursuant to subsection b. of this  
36 section which shall be issued in the form of corporation business  
37 tax benefit transfer certificates, in exchange for private financial  
38 assistance to be made by the taxpayer in an amount equal to at least  
39 80% of the amount of the surrendered tax benefit of an emerging  
40 technology or biotechnology company in the State. A corporation  
41 business tax benefit transfer certificate shall not be issued unless the  
42 applicant certifies that as of the date of the exchange of the  
43 corporation business tax benefit certificate it is operating as a new  
44 or expanding emerging technology or biotechnology company and  
45 has no current intention to cease operating as a new or expanding  
46 emerging technology or biotechnology company.

47 The private financial assistance shall assist in funding expenses  
48 incurred in connection with the operation of the new or expanding

1 emerging technology or biotechnology company in the State,  
2 including but not limited to the expenses of fixed assets, such as the  
3 construction and acquisition and development of real estate,  
4 materials, start-up, tenant fit-out, working capital, salaries, research  
5 and development expenditures and any other expenses determined  
6 by the authority to be necessary to carry out the purposes of the  
7 New Jersey Emerging Technology and Biotechnology Financial  
8 Assistance Program.

9 The authority shall require a corporation business taxpayer that  
10 acquires a corporation business tax benefit certificate to enter into a  
11 written agreement with the new or expanding emerging technology  
12 or biotechnology company concerning the terms and conditions of  
13 the private financial assistance made in exchange for the certificate.  
14 The written agreement may contain terms concerning the  
15 maintenance by the new or expanding emerging technology or  
16 biotechnology company of a headquarters or a base of operation in  
17 this State.

18 d. (Deleted by amendment, P.L.2009, c.90.)<sup>1</sup>  
19 (cf: P.L.2009, c.90, s.29)

20

21 <sup>1</sup>113. Section 1 of P.L.1997, c. 334 (C.34:1B-7.42a) is amended  
22 to read as follows:

23 1. a. The New Jersey Economic Development Authority shall  
24 establish within the New Jersey Emerging Technology and  
25 Biotechnology Financial Assistance Program established pursuant  
26 to P.L.1995, c.137 (C.34:1B-7.37 et seq.), a corporation business  
27 tax benefit certificate transfer program to allow new or expanding  
28 emerging technology and biotechnology companies in this State  
29 with unused amounts of research and development tax credits  
30 otherwise allowable which cannot be applied for the credit's tax  
31 year due to the limitations of subsection b. of section 1 of P.L.1993,  
32 c.175 (C.54:10A-5.24) and unused prior net operating loss  
33 conversion carryover or net operating loss carryover pursuant to  
34 section 4 of P.L.1945, c.162 (C.54:10A-4), to surrender those tax  
35 benefits for use by other corporation business taxpayers in this  
36 State, provided that the taxpayer receiving the surrendered tax  
37 benefits is not affiliated with a corporation that is surrendering its  
38 tax benefits under the program established under P.L.1997, c.334.  
39 For the purposes of this section, the test of affiliation is whether the  
40 same entity directly or indirectly owns or controls **【5%】** five  
41 percent or more of the voting rights or **【5%】** five percent or more of  
42 the value of all classes of stock of both the taxpayer receiving the  
43 benefits and a corporation that is surrendering the benefits. The tax  
44 benefits may be used on the corporation business tax returns to be  
45 filed by those taxpayers in exchange for private financial assistance  
46 to be provided by the corporation business taxpayer that is the  
47 recipient of the corporation business tax benefit certificate to assist



1 in the funding of costs incurred by the new or expanding emerging  
2 technology and biotechnology company. For purposes of this  
3 subsection, a member of a combined group may sell prior net  
4 operating loss conversion carryover to other members of the  
5 combined group, if otherwise applicable and allowable under  
6 section 2 of P.L.1997, c.334 (C.54:10A-4.2) and this section;  
7 provided, however, such sale of prior net operating loss conversion  
8 carryover shall be made at arm's length price at the same rate as  
9 though the sale was to an unrelated taxpayer.

10 b. The authority, in cooperation with the Division of Taxation  
11 in the Department of the Treasury, shall review and approve  
12 applications by new or expanding emerging technology and  
13 biotechnology companies in this State with unused but otherwise  
14 allowable carryover of research and development tax credits  
15 pursuant to section 1 of P.L.1993, c.175 (C.54:10A-5.24), and  
16 unused but otherwise allowable prior net operating loss conversion  
17 carryover or net operating loss carryover pursuant to section 4 of  
18 P.L.1945, c.162 (C.54:10A-4), to surrender those tax benefits in  
19 exchange for private financial assistance to be made by the  
20 corporation business taxpayer that is the recipient of the corporation  
21 business tax benefit certificate in an amount equal to at least 80% of  
22 the amount of the surrendered tax benefit. Provided that the amount  
23 of the surrendered tax benefit for a surrendered research and  
24 development tax credit carryover is the amount of the credit, and  
25 provided that the amount of the surrendered tax benefit for a  
26 surrendered prior net operating loss conversion carryover or net  
27 operating loss carryover is that amount for the tax year in which the  
28 benefit is transferred and subsequently multiplied by the  
29 corporation business tax rate provided pursuant to subsection (c) of  
30 section 5 of P.L.1945, c.162 (C.54:10A-5). The authority shall be  
31 authorized to approve the transfer of no more than **【\$60,000,000】**  
32 \$75,000,000 of tax benefits in a State fiscal year. If the total  
33 amount of transferable tax benefits requested to be surrendered by  
34 approved applicants exceeds **【\$60,000,000】** \$75,000,000 for a State  
35 fiscal year, the authority, in cooperation with the Division of  
36 Taxation in the Department of the Treasury, shall not be authorized  
37 to approve the transfer of more than **【\$60,000,000】** \$75,000,000 for  
38 that State fiscal year and shall allocate the transfer of tax benefits  
39 by approved companies using the following method:

40 (1) an eligible applicant with \$250,000 or less of transferable  
41 tax benefits shall be authorized to surrender the entire amount of its  
42 transferable tax benefits;

43 (2) an eligible applicant with more than \$250,000 of transferable  
44 tax benefits shall be authorized to surrender a minimum of  
45 \$250,000 of its transferable tax benefits;

46 (3) (Deleted by amendment, P.L.2009, c.90.)

47 (4) an eligible applicant with more than \$250,000 shall also be  
48 authorized to surrender additional transferable tax benefits

1 determined by multiplying the applicant's transferable tax benefits  
2 less the minimum transferable tax benefits that company is  
3 authorized to surrender under paragraph (2) of this subsection by a  
4 fraction, the numerator of which is the total amount of transferable  
5 tax benefits that the authority is authorized to approve less the total  
6 amount of transferable tax benefits approved under paragraphs (1),  
7 (2), and (5) of this subsection and the denominator of which is the  
8 total amount of transferable tax benefits requested to be surrendered  
9 by all eligible applicants less the total amount of transferable tax  
10 benefits approved under paragraphs (1), (2), and (5) of this  
11 subsection;

12 (5) The authority shall establish the boundaries for three  
13 innovation zones to be geographically distributed in the northern,  
14 central, and southern portions of this State. Of the **[\$60,000,000]**  
15 \$75,000,000 of transferable tax benefits authorized for each State  
16 fiscal year, \$10,000,000 shall be allocated for the surrender of  
17 transferable tax benefits exclusively by new and expanding  
18 emerging technology and biotechnology companies that operate  
19 within the boundaries of the innovation zones, except that any  
20 portion of the \$10,000,000 that is not so approved shall be available  
21 for that State fiscal year for the surrender of transferable tax  
22 benefits by new and expanding emerging technology and  
23 biotechnology companies that do not operate within the boundaries  
24 of an innovation zone.

25 If the total amount of transferable tax benefits that would be  
26 authorized using the above method exceeds **[\$60,000,000]**  
27 \$75,000,000 for a State fiscal year, then the authority, in  
28 cooperation with the Division of Taxation in the Department of the  
29 Treasury, shall limit the total amount of tax benefits authorized to  
30 be transferred to **[\$60,000,000]** \$75,000,000 by applying the above  
31 method on an apportioned basis.

32 For purposes of this section transferable tax benefits include an  
33 eligible applicant's unused but otherwise allowable prior net  
34 operating loss conversion carryover or net operating loss carryover  
35 determined pursuant to section 4 of P.L.1945, c.162 (C.54:10A-4)  
36 for the tax year in which the benefit is transferred and subsequently  
37 multiplied by the corporation business tax rate as provided in  
38 subsection (c) of section 5 of P.L.1945, c.162 (C.54:10A-5) plus the  
39 total amount of the applicant's unused but otherwise allowable  
40 carryover of research and development tax credits. An eligible  
41 applicant's transferable tax benefits shall be limited to net operating  
42 losses and research and development tax credits that the applicant  
43 requests to surrender in its application to the authority and shall not,  
44 in total, exceed the maximum amount of tax benefits that the  
45 applicant is eligible to surrender.

46 No application for a corporation business tax benefit transfer  
47 certificate shall be approved in which the new or expanding  
48 emerging technology or biotechnology company (1) has

1 demonstrated positive net operating income in any of the two  
2 previous full years of ongoing operations as determined on its  
3 financial statements issued according to generally accepted  
4 accounting standards endorsed by the Financial Accounting  
5 Standards Board; or (2) is directly or indirectly at least 50 percent  
6 owned or controlled by another corporation that has demonstrated  
7 positive net operating income in any of the two previous full years  
8 of ongoing operations as determined on its financial statements  
9 issued according to generally accepted accounting standards  
10 endorsed by the Financial Accounting Standards Board or is part of  
11 a consolidated group of affiliated corporations, as filed for federal  
12 income tax purposes, that in the aggregate has demonstrated  
13 positive net operating income in any of the two previous full years  
14 of ongoing operations as determined on its combined financial  
15 statements issued according to generally accepted accounting  
16 standards endorsed by the Financial Accounting Standards Board.

17 For purposes of this subsection, a member of a combined group  
18 may sell prior net operating loss conversion carryover to other  
19 members of the combined group, if otherwise applicable and  
20 allowable under section 2 of P.L.1997, c.334 (C.54:10A-4.2) and  
21 this section; provided, however, such sale of prior net operating loss  
22 conversion carryover shall be made at arm's length price at the same  
23 rate as though the sale was to an unrelated taxpayer.

24 The maximum lifetime value of surrendered tax benefits that a  
25 corporation shall be permitted to surrender pursuant to the program  
26 is **[\$15,000,000]** \$20,000,000. Applications must be received on or  
27 before June 30 of each State fiscal year.

28 The authority, in consultation with the Division of Taxation,  
29 shall establish rules for the recapture of all, or a portion of, the  
30 amount of a grant of a corporation business tax benefit certificate  
31 from the new or expanding emerging technology and biotechnology  
32 company having surrendered tax benefits pursuant to this section in  
33 the event the taxpayer fails to use the private financial assistance  
34 received for the surrender of tax benefits as required by this section  
35 or fails to maintain a headquarters or a base of operation in this  
36 State during the five years following receipt of the private financial  
37 assistance; except if the failure to maintain a headquarters or a base  
38 of operation in this State is due to the liquidation of the new or  
39 expanding emerging technology and biotechnology company.

40 c. The authority, in cooperation with the Division of Taxation  
41 in the Department of the Treasury, shall review and approve  
42 applications by taxpayers under the Corporation Business Tax Act  
43 (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), to acquire  
44 surrendered tax benefits approved pursuant to subsection b. of this  
45 section which shall be issued in the form of corporation business  
46 tax benefit transfer certificates, in exchange for private financial  
47 assistance to be made by the taxpayer in an amount equal to at least  
48 80% of the amount of the surrendered tax benefit of an emerging

1 technology or biotechnology company in the State. A corporation  
2 business tax benefit transfer certificate shall not be issued unless the  
3 applicant certifies that as of the date of the exchange of the  
4 corporation business tax benefit certificate it is operating as a new  
5 or expanding emerging technology or biotechnology company and  
6 has no current intention to cease operating as a new or expanding  
7 emerging technology or biotechnology company.

8 The managerial member of a combined group shall be the  
9 member that acquires a corporation business tax benefit certificate  
10 on behalf of the combined group for use on the combined return.

11 The private financial assistance shall assist in funding expenses  
12 incurred in connection with the operation of the new or expanding  
13 emerging technology or biotechnology company in the State,  
14 including but not limited to the expenses of fixed assets, such as the  
15 construction and acquisition and development of real estate,  
16 materials, start-up, tenant fit-out, working capital, salaries, research  
17 and development expenditures and any other expenses determined  
18 by the authority to be necessary to carry out the purposes of the  
19 New Jersey Emerging Technology and Biotechnology Financial  
20 Assistance Program.

21 The authority shall require a corporation business taxpayer that  
22 acquires a corporation business tax benefit certificate to enter into a  
23 written agreement with the new or expanding emerging technology  
24 or biotechnology company concerning the terms and conditions of  
25 the private financial assistance made in exchange for the certificate.  
26 The written agreement may contain terms concerning the  
27 maintenance by the new or expanding emerging technology or  
28 biotechnology company of a headquarters or a base of operation in  
29 this State.

30 d. (Deleted by amendment, P.L.2009, c.90.)

31 (cf: P.L.2020, c.118, s.1) <sup>1</sup>

32

33 114. Section 1 of P.L.1999, c.140 (C.34:1B-7.42b) is amended to  
34 read as follows:

35 1. As used in P.L.1997, c.334 (C.34:1B-7.42a et al.):

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

39 “Biotechnology” means the continually expanding body of  
40 fundamental knowledge about the functioning of biological systems  
41 from the macro level to the molecular and sub-atomic levels, as  
42 well as novel products, services, technologies and sub-technologies  
43 developed as a result of insights gained from research advances that  
44 add to that body of fundamental knowledge. This definition may be  
45 modified by regulation to conform to definitions in other programs  
46 administered by the authority.

47 “Biotechnology company” means an emerging corporation that  
48 has its headquarters or base of operations in this State; that owns,

1 has filed for, or has a valid license to use protected, proprietary  
2 intellectual property; and that is engaged in the research,  
3 development, production, or provision of biotechnology for the  
4 purpose of developing or providing products or processes for  
5 specific commercial or public purposes, including but not limited  
6 to, medical, pharmaceutical, nutritional, and other health-related  
7 purposes, agricultural purposes, and environmental purposes. This  
8 definition may be modified by regulation to conform to definitions  
9 in other programs administered by the authority.

10 “Full-time employee” means a person employed by a new or  
11 expanding emerging technology or biotechnology company for  
12 consideration for at least 35 hours a week, or who renders any other  
13 standard of service generally accepted by custom or practice as full-  
14 time employment and whose wages are subject to withholding as  
15 provided in the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1  
16 et seq., or who is a partner of a new or expanding emerging  
17 technology or biotechnology company who works for the  
18 partnership for at least 35 hours a week, or who renders any other  
19 standard of service generally accepted by custom or practice as full-  
20 time employment, and whose distributive share of income, gain,  
21 loss, or deduction, or whose guaranteed payments, or any  
22 combination thereof, is subject to the payment of estimated taxes, as  
23 provided in the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1  
24 et seq. To qualify as a “full-time employee,” an employee shall also  
25 receive from the new or expanding emerging technology or  
26 biotechnology company health benefits under [a group health plan  
27 as defined under section 14 of P.L.1997, c.146 (C.17B:27-54), a  
28 health benefits plan as defined under section 1 of P.L.1992, c.162  
29 (C.17B:27A-17), or a policy or contract of health insurance  
30 covering more than one person issued pursuant to Article 2  
31 [N.J.S.17B:27-26 et seq.] of chapter 27 of Title 17B of the New  
32 Jersey Statutes] a health benefits plan authorized pursuant to State  
33 or federal law. “Full-time employee” shall not include any person  
34 who works as an independent contractor or on a consulting basis for  
35 the new or expanding emerging technology or biotechnology  
36 company.

37 “New or expanding” means a technology or biotechnology  
38 company that (1) on June 30 of the year in which the company files  
39 an application for surrender of unused but otherwise allowable tax  
40 benefits under P.L.1997, c.334 (C.34:1B-7.42a et al.) and on the  
41 date of the exchange of the corporation business tax benefit  
42 certificate, has fewer than 225 employees in the United States of  
43 America; (2) on June 30 of the year in which the company files  
44 such an application, has at least one full-time employee working in  
45 this State if the company has been incorporated for less than three  
46 years, has at least five full-time employees working in this State if  
47 the company has been incorporated for more than three years but  
48 less than five years, and has at least 10 full-time employees working

1 in this State if the company has been incorporated for more than  
2 five years; and (3) on the date of the exchange of the corporation  
3 business tax benefit certificate, the company has the requisite  
4 number of full-time employees in New Jersey that were required on  
5 June 30 as set forth in part (2) of this definition.

6 "Technology company" means an emerging corporation that has  
7 its headquarters or base of operations in this State; that owns, has  
8 filed for, or has a valid license to use protected, proprietary  
9 intellectual property; and that employs some combination of the  
10 following: highly educated or trained managers and workers, or  
11 both, employed in this State who use sophisticated scientific  
12 research service or production equipment, processes or knowledge  
13 to discover, develop, test, transfer or manufacture a product or  
14 service. This definition may be modified by regulation to conform  
15 to definitions in other programs administered by the authority.

16 (cf: P.L.2010, c.10, s.2)

17

18 115. Section 5 of P.L.1974, c.80 (C.34:1B-5) is amended to read  
19 as follows:

20 5. The authority shall have the following powers:

21 a. To adopt bylaws for the regulation of its affairs and the  
22 conduct of its business;

23 b. To adopt and have a seal and to alter the same at pleasure;

24 c. To sue and be sued;

25 d. To acquire in the name of the authority by purchase or  
26 otherwise, on such terms and conditions and such manner as it may  
27 deem proper, or by the exercise of the power of eminent domain in  
28 the manner provided by the "Eminent Domain Act of 1971,"  
29 P.L.1971, c.361 (C.20:3-1 et seq.), any lands or interests therein or  
30 other property which it may determine is reasonably necessary for  
31 any project; provided, however, that the authority in connection  
32 with any project shall not take by exercise of the power of eminent  
33 domain any real property except upon consent thereto given by  
34 resolution of the governing body of the municipality in which such  
35 real property is located; and provided further that the authority shall  
36 be limited in its exercise of the power of eminent domain in  
37 connection with any project in qualifying municipalities as defined  
38 under the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.), or to  
39 municipalities which had a population, according to the latest  
40 federal decennial census, in excess of 10,000;

41 e. To enter into contracts with a person upon such terms and  
42 conditions as the authority shall determine to be reasonable,  
43 including, but not limited to, reimbursement for the planning,  
44 designing, financing, construction, reconstruction, improvement,  
45 equipping, furnishing, operation and maintenance of the project and  
46 to pay or compromise any claims arising therefrom;

47 f. To establish and maintain reserve and insurance funds with  
48 respect to the financing of the project or the school facilities project

- 1 and any project financed pursuant to the "Municipal Rehabilitation  
2 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et  
3 al.);
- 4 g. To sell, convey or lease to any person all or any portion of a  
5 project for such consideration and upon such terms as the authority  
6 may determine to be reasonable;
- 7 h. To mortgage, pledge or assign or otherwise encumber all or  
8 any portion of a project, or revenues, whenever it shall find such  
9 action to be in furtherance of the purposes of this act, P.L.2000,  
10 c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and  
11 Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.),  
12 P.L.2007, c.137 (C.52:18A-235 et al.), and sections 3 through 18 of  
13 P.L.2009, c.90 (C.52:27D-489c et al.);
- 14 i. To grant options to purchase or renew a lease for any of its  
15 projects on such terms as the authority may determine to be  
16 reasonable;
- 17 j. To contract for and to accept any gifts or grants or loans of  
18 funds or property or financial or other aid in any form from the  
19 United States of America or any agency or instrumentality thereof,  
20 or from the State or any agency, instrumentality or political  
21 subdivision thereof, or from any other source and to comply,  
22 subject to the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.),  
23 section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72  
24 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic  
25 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), and  
26 P.L.2007, c.137 (C.52:18A-235 et al.), with the terms and  
27 conditions thereof;
- 28 k. In connection with any action undertaken by the authority in  
29 the performance of its duties and any application for assistance or  
30 commitments therefor and modifications thereof, to require and  
31 collect such fees and charges as the authority shall determine to be  
32 reasonable, including but not limited to fees and charges for the  
33 authority's administrative, organizational, insurance, operating,  
34 legal, and other expenses;
- 35 l. To adopt, amend and repeal regulations to carry out the  
36 provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of  
37 P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.),  
38 the "Municipal Rehabilitation and Economic Recovery Act,"  
39 P.L.2002, c.43 (C.52:27BBB-1 et al.), and P.L.2007, c.137  
40 (C.52:18A-235 et al.);
- 41 m. To acquire, purchase, manage and operate, hold and dispose  
42 of real and personal property or interests therein, take assignments  
43 of rentals and leases and make and enter into all contracts, leases,  
44 agreements and arrangements necessary or incidental to the  
45 performance of its duties;
- 46 n. To purchase, acquire and take assignments of notes,  
47 mortgages and other forms of security and evidences of  
48 indebtedness;

1 o. To purchase, acquire, attach, seize, accept or take title to any  
2 project or school facilities project by conveyance or by foreclosure,  
3 and sell, lease, manage or operate any project or school facilities  
4 project for a use specified in this act, P.L.2000, c.72 (C.18A:7G-1  
5 et al.), the "Municipal Rehabilitation and Economic Recovery Act,"  
6 P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-  
7 235 et al.), and sections 3 through 18 of P.L.2009, c.90 (C.52:27D-  
8 489c et al.);

9 p. To borrow money and to issue bonds of the authority and to  
10 provide for the rights of the holders thereof, as provided in  
11 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401  
12 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal  
13 Rehabilitation and Economic Recovery Act," P.L.2002, c.43  
14 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and  
15 sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.);

16 q. To extend credit or make loans to any person for the  
17 planning, designing, acquiring, constructing, reconstructing,  
18 improving, equipping and furnishing of a project or school facilities  
19 project, which credits or loans may be secured by loan and security  
20 agreements, mortgages, leases and any other instruments, upon such  
21 terms and conditions as the authority shall deem reasonable,  
22 including provision for the establishment and maintenance of  
23 reserve and insurance funds, and to require the inclusion in any  
24 mortgage, lease, contract, loan and security agreement or other  
25 instrument, of such provisions for the construction, use, operation  
26 and maintenance and financing of a project or school facilities  
27 project as the authority may deem necessary or desirable;

28 r. To guarantee up to 90% of the amount of a loan to a person,  
29 if the proceeds of the loan are to be applied to the purchase and  
30 installation, in a building devoted to industrial or commercial  
31 purposes, or in an office building, of an energy improvement  
32 system;

33 s. To employ consulting engineers, architects, attorneys, real  
34 estate counselors, appraisers, and such other consultants and  
35 employees as may be required in the judgment of the redevelopment  
36 utility to carry out the purposes of P.L.1974, c.80 (C.34:1B-1 et  
37 seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72  
38 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic  
39 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007,  
40 c.137 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009,  
41 c.90 (C.52:27D-489c et al.), and to fix and pay their compensation  
42 from funds available to the redevelopment utility therefor, all  
43 without regard to the provisions of Title 11A of the New Jersey  
44 Statutes;

45 t. To do and perform any acts and things authorized by  
46 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401  
47 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal  
48 Rehabilitation and Economic Recovery Act," P.L.2002, c.43



1 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and  
2 sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.),  
3 under, through or by means of its own officers, agents and  
4 employees, or by contract with any person;

5 u. To procure insurance against any losses in connection with  
6 its property, operations or assets in such amounts and from such  
7 insurers as it deems desirable;

8 v. To do any and all things necessary or convenient to carry out  
9 its purposes and exercise the powers given and granted in P.L.1974,  
10 c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-  
11 4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal  
12 Rehabilitation and Economic Recovery Act," P.L.2002, c.43  
13 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and  
14 sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.);

15 w. To construct, reconstruct, rehabilitate, improve, alter, equip,  
16 maintain or repair or provide for the construction, reconstruction,  
17 improvement, alteration, equipping or maintenance or repair of any  
18 development property and lot, award and enter into construction  
19 contracts, purchase orders and other contracts with respect thereto,  
20 upon such terms and conditions as the authority shall determine to  
21 be reasonable, including, but not limited to, reimbursement for the  
22 planning, designing, financing, construction, reconstruction,  
23 improvement, equipping, furnishing, operation and maintenance of  
24 any such development property and the settlement of any claims  
25 arising therefrom and the establishment and maintenance of reserve  
26 funds with respect to the financing of such development property;

27 x. When authorized by the governing body of a municipality  
28 exercising jurisdiction over an urban growth zone, to construct,  
29 cause to be constructed or to provide financial assistance to projects  
30 in an urban growth zone which shall be exempt from the terms and  
31 requirements of the land use ordinances and regulations, including,  
32 but not limited to, the master plan and zoning ordinances, of such  
33 municipality;

34 y. To enter into business employment incentive agreements as  
35 provided in the "Business Employment Incentive Program Act,"  
36 P.L.1996, c.26 (C.34:1B-124 et al.);

37 z. To enter into agreements or contracts, execute instruments,  
38 and do and perform all acts or things necessary, convenient or  
39 desirable for the purposes of the redevelopment utility to carry out  
40 any power expressly provided pursuant to P.L.1974, c.80 (C.34:1B-  
41 1 et seq.), P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007, c.137  
42 (C.52:18A-235 et al.), including, but not limited to, entering into  
43 contracts with the State Treasurer, the Commissioner of Education,  
44 districts, the New Jersey Schools Development Authority, and any  
45 other entity which may be required in order to carry out the  
46 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.2007, c.137  
47 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009, c.90  
48 (C.52:27D-489c et al.);

- 1       aa. (Deleted by amendment, P.L.2007, c.137);
- 2       bb. To make and contract to make loans to local units to finance  
3 the cost of school facilities projects and to acquire and contract to  
4 acquire bonds, notes or other obligations issued or to be issued by  
5 local units to evidence the loans, all in accordance with the  
6 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007,  
7 c.137 (C.52:18A-235 et al.);
- 8       cc. Subject to any agreement with holders of its bonds issued to  
9 finance a project or school facilities project, obtain as security or to  
10 provide liquidity for payment of all or any part of the principal of  
11 and interest and premium on the bonds of the authority or for the  
12 purchase upon tender or otherwise of the bonds, lines of credit,  
13 letters of credit, reimbursement agreements, interest rate exchange  
14 agreements, currency exchange agreements, interest rate floors or  
15 caps, options, puts or calls to hedge payment, currency, rate, spread  
16 or similar exposure or similar agreements, float agreements,  
17 forward agreements, insurance contract, surety bond, commitment  
18 to purchase or sell bonds, purchase or sale agreement, or  
19 commitments or other contracts or agreements, and other security  
20 agreements or instruments in any amounts and upon any terms as  
21 the authority may determine and pay any fees and expenses required  
22 in connection therewith;
- 23       dd. To charge to and collect from local units, the State and any  
24 other person, any fees and charges in connection with the  
25 authority's actions undertaken with respect to school facilities  
26 projects, including, but not limited to, fees and charges for the  
27 authority's administrative, organization, insurance, operating and  
28 other expenses incident to the financing of school facilities projects;
- 29       ee. To make loans to refinance solid waste facility bonds  
30 through the issuance of bonds or other obligations and the execution  
31 of any agreements with counties or public authorities to effect the  
32 refunding or rescheduling of solid waste facility bonds, or otherwise  
33 provide for the payment of all or a portion of any series of solid  
34 waste facility bonds. Any county or public authority refunding or  
35 rescheduling its solid waste facility bonds pursuant to this  
36 subsection shall provide for the payment of not less than fifty  
37 percent of the aggregate debt service for the refunded or  
38 rescheduled debt of the particular county or public authority for the  
39 duration of the loan; except that, whenever the solid waste facility  
40 bonds to be refinanced were issued by a public authority and the  
41 county solid waste facility was utilized as a regional county solid  
42 waste facility, as designated in the respective adopted district solid  
43 waste management plans of the participating counties as approved  
44 by the department prior to November 10, 1997, and the utilization  
45 of the facility was established pursuant to tonnage obligations set  
46 forth in their respective interdistrict agreements, the public  
47 authority refunding or rescheduling its solid waste facility bonds  
48 pursuant to this subsection shall provide for the payment of a

1 percentage of the aggregate debt service for the refunded or  
2 rescheduled debt of the public authority not to exceed the  
3 percentage of the specified tonnage obligation of the host county for  
4 the duration of the loan. Whenever the solid waste facility bonds  
5 are the obligation of a public authority, the relevant county shall  
6 execute a deficiency agreement with the authority, which shall  
7 provide that the county pledges to cover any shortfall and to pay  
8 deficiencies in scheduled repayment obligations of the public  
9 authority. All costs associated with the issuance of bonds pursuant  
10 to this subsection may be paid by the authority from the proceeds of  
11 these bonds. Any county or public authority is hereby authorized to  
12 enter into any agreement with the authority necessary, desirable or  
13 convenient to effectuate the provisions of this subsection.

14 The authority shall not issue bonds or other obligations to effect  
15 the refunding or rescheduling of solid waste facility bonds after  
16 December 31, 2002. The authority may refund its own bonds issued  
17 for the purposes herein at any time;

18 ff. To pool loans for any local government units that are  
19 refunding bonds and do and perform any and all acts or things  
20 necessary, convenient or desirable for the purpose of the authority  
21 to achieve more favorable interest rates and terms for those local  
22 governmental units;

23 gg. To finance projects approved by the board, provide staff  
24 support to the board, oversee and monitor progress on the part of  
25 the board in carrying out the revitalization, economic development  
26 and restoration projects authorized pursuant to the "Municipal  
27 Rehabilitation and Economic Recovery Act," P.L.2002, c.43  
28 (C.52:27BBB-1 et al.) and otherwise fulfilling its responsibilities  
29 pursuant thereto;

30 hh. To offer financial assistance to qualified film production  
31 companies as provided in the "New Jersey Film Production  
32 Assistance Act," P.L.2003, c.182 (C.34:1B-178 et al.);

33 ii. To finance or develop private or public parking facilities or  
34 structures, which may include the use of solar photovoltaic  
35 equipment, in municipalities qualified to receive State aid pursuant  
36 to the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.) and  
37 municipalities that contain areas designated pursuant to P.L.1985,  
38 c.398 (C.52:18A-196 et al.) as Planning Area 1 (Metropolitan),  
39 Planning Area 2 (Suburban), or a town center, and to provide  
40 appropriate assistance, including but not limited to, extensions of  
41 credit, loans, and guarantees, to municipalities qualified to receive  
42 State aid pursuant to the provisions of P.L.1978, c.14 (C.52:27D-  
43 178 et seq.) and municipalities that contain areas designated  
44 pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning  
45 Area 1 (Metropolitan), Planning Area 2 (Suburban), or a town  
46 center, and their agencies and instrumentalities or to private entities  
47 whose projects are located in those municipalities, in order to  
48 facilitate the financing and development of parking facilities or

1 structures in such municipalities. The authority may serve as the  
2 issuing agent of bonds to finance the undertaking of a project for  
3 the purposes of this subsection; **[and]**

4 jj. To make grants for the planning, designing, acquiring,  
5 constructing, reconstructing, improving, equipping, and furnishing  
6 of a project, including, but not limited to, grants for working capital  
7 and meeting payroll requirements, upon such terms and conditions  
8 as the authority shall deem reasonable, during periods of emergency  
9 declared by the Governor and for the duration of economic  
10 disruptions due to the emergency;

11 kk. To purchase and lease real property at a nominal rate when it  
12 would result in a net economic benefit to the State, enhance access  
13 to employment and investment for underserved populations, or  
14 increase investment and employment in high-growth technology  
15 sectors; and

16 (cf: P.L.2020, c.8, s.1)

17

18 116. Section 4 of P.L.1992, c.16 (C.34:1B-7.13) is amended to  
19 read as follows:

20 4. The authority may use the moneys in the fund to pay  
21 principal of, premium, if any, and interest on bonds or notes, which  
22 shall be entitled "Economic Recovery Fund Bonds or Notes," as  
23 appropriate, the proceeds, or net proceeds, of which shall be  
24 deposited into the fund, or used for purposes of the fund, and  
25 moneys in the fund, including money received from the sale of  
26 bonds shall, in such manner as is determined by the authority, and  
27 pursuant to subsections d., e., and f. of this section, be used for the  
28 financing of projects as set forth in section 3 of P.L.1974, c.80  
29 (C.34:1B-3) and to establish:

30 a. an economic growth account for **[business]** programs and  
31 initiatives, which will support and invest in small and medium-size  
32 businesses and other entities engaged in economic, community, and  
33 workforce development that have the greatest potential for creating  
34 jobs and stimulating economic growth through such elements **[as]**  
35 including, but not limited to:

36 (1) a Statewide lending pool and guarantee pool for small  
37 business, whether directly or through a community development  
38 financial institution;

39 (2) a business composite bond guarantee **[.]** ;

40 (3) a fund to further supplement the export finance program of  
41 the authority to provide direct loans and working capital necessary  
42 for New Jersey businesses to compete in the global market, real  
43 estate partnerships **[.]** ;

44 (4) a Statewide composite bond pool to assist municipalities in  
45 acquiring needed financing for capital expenditures **[.]** ;

46 (5) **[community-based]** financial assistance to assist  
47 municipalities **[in establishing local development corporations]** ,

1 municipal entities, counties, county entities, regional entities, State  
 2 instrumentalities, and not-for-profit local economic and community  
 3 development entities to execute programs and initiative to stimulate  
 4 community and economic development **[,]** ;

5 (6) a venture, seed, or angel capital fund for start-up costs for  
 6 businesses developing new concepts and inventions **[,]** ;

7 (7) a fund to assist businesses, either directly or through a not-  
 8 for-profit or for-profit entity with expansion or transition to a new  
 9 business model in such areas **[as]** including, but not limited to,  
 10 manufacturing retooling to improve quality, to reduce production  
 11 costs and to train employees to apply the latest technology **[, and]** ;

12 (8) a "Main Street Business Assistance Program" to provide  
 13 guarantees and loans to small and mid-size businesses and not-for-  
 14 profit **[corporations]** entities to stimulate the economy;

15 (9) in consultation with the Department of Labor and Workforce  
 16 Development and the Office of the Secretary of Higher Education, a  
 17 fund to support and invest in innovative workforce development  
 18 approaches and programs, including those that could benefit  
 19 individuals directly, either undertaken directly by the authority or  
 20 through a governmental, not-for-profit, or for-profit entity, that  
 21 align with targeted industries as defined by the authority's board or  
 22 support a high-demand occupation;

23 (10) a fund to provide grants, financing, or equity to  
 24 collaborations between large corporations, small-to-medium sized  
 25 businesses, academic institutions, government entities, or not-for-  
 26 profit entities, where one of the purposes of the collaboration is to  
 27 stimulate community or economic development;

28 (11) a fund to provide grants, financing, or equity in innovation  
 29 centers, research centers, incubators, and accelerators, and other  
 30 similar innovation-oriented entities, which are focused on the  
 31 targeted industries as defined by the authority's board or support  
 32 increasing diversity and inclusion within the state's entrepreneurial  
 33 economy; the fund may also be used to pay for membership fees, or  
 34 other similar arrangements, for the authority to join or participate in  
 35 such innovation-oriented entities;

36 (12) a fund to provide grants or competition prizes to fund  
 37 initiative-based activities which stimulate growth in targeted  
 38 industries as defined by the authority's board or supports increasing  
 39 diversity and inclusion within the **'[state's] State's'** entrepreneurial  
 40 economy; this fund may also support not-for-profit industry, trade,  
 41 and labor organization initiatives; and

42 (13) a fund to provide grants or competition prizes, either  
 43 directly or through a not-for-profit entity, that is consistent with  
 44 economic development priorities as defined by the authority's  
 45 board, where funds have been specifically allocated to the economic  
 46 recovery fund for this purpose, including but not limited to an  
 47 appropriation or transfer from another government entity **'[ ]'**.

1 The authority may promulgate rules and regulations for the  
2 effective implementation of the "Main Street Business Assistance  
3 Program." Notwithstanding any provision of the "Administrative  
4 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the  
5 contrary, the authority may adopt, immediately upon filing with the  
6 Office of Administrative Law, such regulations as are necessary to  
7 implement the provisions of this act, which shall be effective for a  
8 period not to exceed 12 months following enactment, and may  
9 thereafter be amended, adopted, or readopted by the authority in  
10 accordance with the requirements of the "Administrative Procedure  
11 Act," P.L.1968, c.410 (C.52:14B-1 et seq.). **During periods of**  
12 **emergency declared by the Governor and for the duration of**  
13 **economic disruptions due to the emergency, the** The authority may  
14 use the economic growth account for the planning, designing,  
15 acquiring, constructing, reconstructing, improving, equipping, and  
16 furnishing by small and medium-size businesses and not-for-profit  
17 corporations of a project as defined in section 3 of P.L.1974, c. 80  
18 (C.34:1B-3), including, but not limited to, grants for working  
19 capital and meeting payroll requirements, upon such terms and  
20 conditions as the authority shall deem reasonable;

21 b. an economic development infrastructure program account,  
22 which shall provide for the financing and development of  
23 infrastructure and transportation projects, including but not limited  
24 to ports, terminal and transit facilities, roads and airports, parking  
25 facilities used in connection with transit facilities, and related  
26 facilities, including public-private partnerships, that are integral to  
27 economic growth;

28 c. an account for a cultural, recreational, fine and performing  
29 arts, military and veterans memorial, historic preservation project  
30 and tourism facilities and improvements program, which shall  
31 provide for the financing and development of cultural, recreational,  
32 fine and performing arts, military and veterans memorial, historic  
33 preservation and tourism projects, including partnerships with  
34 public, private and nonprofit entities;

35 d. an account, into which shall be deposited an amount not less  
36 than \$45,000,000, out of the total amounts deposited or credited to  
37 the fund from the proceeds of the sale of Economic Recovery Fund  
38 Bonds or Notes, for the financing of capital facilities for primary  
39 and secondary schools in the State for the purpose of the  
40 renovation, repair or alteration of existing school buildings, the  
41 construction of new school buildings or the conversion of existing  
42 school buildings to other instructional purposes.

43 (1) Of the amount deposited in the account, not less than  
44 \$25,000,000 shall be deposited in the "Public School Facilities  
45 Code Compliance Loan Fund" established pursuant to section 4 of  
46 P.L.1993, c.102 (C.34:1B-7.23).

47 (2) Of the amount deposited in the account, not less than  
48 \$20,000,000 shall be deposited in the "Public School Facilities

1 Loan Assistance Fund" established pursuant to section 5 of  
2 P.L.1993, c.102 (C.34:1B-7.24);

3 e. an environmental cleanup assistance account, into which  
4 shall be deposited an amount not less than \$10,000,000, out of the  
5 total amounts deposited or credited to the fund from the proceeds of  
6 the sale of Economic Recovery Fund Bonds or Notes, to provide  
7 financial assistance to the persons and other entities entitled to  
8 apply for financial assistance pursuant to P.L.1993, c.139; and

9 f. an account, into which shall be deposited an amount not less  
10 than \$15,000,000, out of the total amounts deposited or credited to  
11 the fund from the proceeds of the sale of Economic Recovery Fund  
12 Bonds or Notes, for the financing of shore restoration, maintenance,  
13 monitoring, protection and preservation projects pursuant to the  
14 shore protection master plan prepared by the Department of  
15 Environmental Protection pursuant to P.L.1978, c.157.

16 (cf: P.L.2020, c.8, s.2)

17

18 117. Section 2 of P.L.1997, c.349 (C.54:10A-5.29) is amended  
19 to read as follows:

20 2. As used in sections 1 through 3 of P.L.1997, c.349  
21 (C.54:10A-5.28 through C.54:10A-5.30):

22 "Advanced computing" means a technology used in the  
23 designing and developing of computing hardware and software,  
24 including innovations in designing the full spectrum of hardware  
25 from hand- held calculators to super computers, and peripheral  
26 equipment.

27 "Advanced materials" means materials with engineered  
28 properties created through the development of specialized  
29 processing and synthesis technology, including ceramics, high  
30 value-added metals, electronic materials, composites, polymers, and  
31 biomaterials.

32 "Biotechnology" means the continually expanding body of  
33 fundamental knowledge about the functioning of biological systems  
34 from the macro level to the molecular and sub-atomic levels, as  
35 well as novel products, services, technologies, and sub-technologies  
36 developed as a result of insights gained from research advances  
37 which add to that body of fundamental knowledge.

38 "Carbon footprint reduction technology" means a technology  
39 using equipment for the commercial, institutional, and industrial  
40 sectors that: increases energy efficiency; develops and delivers  
41 renewable or non-carbon-emitting energy technologies; develops  
42 innovative carbon emissions abatement with significant carbon  
43 emissions reduction potential; or promotes measurable electricity  
44 end-use energy efficiency.

45 "Control" with respect to a corporation means ownership,  
46 directly or indirectly, of stock possessing 80 percent or more of the  
47 total combined voting power of all classes of the stock of the  
48 corporation entitled to vote; and "control" with respect to a trust

1 means ownership, directly or indirectly, of 80 percent or more of  
2 the beneficial interest in the principal or income of the trust. The  
3 ownership of stock in a corporation, of a capital or profits interest in  
4 a partnership or association or of a beneficial interest in a trust shall  
5 be determined in accordance with the rules for constructive  
6 ownership of stock provided in subsection (c) of section 267 of the  
7 federal Internal Revenue Code of 1986 (26 U.S.C. § 267), other  
8 than paragraph (3) of subsection (c) of that section.

9 “Controlled group” means one or more chains of corporations  
10 connected through stock ownership with a common parent  
11 corporation if stock possessing at least 80 percent of the voting  
12 power of all classes of stock of each of the corporations is owned  
13 directly or indirectly by one or more of the corporations and the  
14 common parent owns directly stock possessing at least 80 percent of  
15 the voting power of all classes of stock of at least one of the other  
16 corporations.

17 “Director” means the Director of the Division of Taxation in the  
18 Department of the Treasury.

19 “Diverse entrepreneur” means a New Jersey based business that  
20 meets the criteria for a minority business or female business set  
21 forth in section <sup>1</sup>[2] <sup>3</sup> of P.L.1983, c.482 (C.52:32-19).

22 “Electronic device technology” means a technology involving  
23 microelectronics, semiconductors, electronic equipment and  
24 instrumentation, radio frequency, microwave and millimeter  
25 electronics, and optical and optic-electrical devices, or data and  
26 digital communications and imaging devices.

27 “Information technology” means software publishing, motion  
28 picture and video production, television production and post-  
29 production services, telecommunications, data processing, hosting  
30 and related services, custom computer programming services,  
31 computer system design, computer facilities management services,  
32 other computer related services, and computer training.

33 “Life sciences” means the production of medical equipment,  
34 ophthalmic goods, medical or dental instruments, diagnostic  
35 substances, biopharmaceutical products, or physical and biological  
36 research.

37 “Medical device technology” means a technology involving any  
38 medical equipment or product (other than a pharmaceutical product)  
39 that has therapeutic value, diagnostic value, or both, and is  
40 regulated by the federal Food and Drug Administration.

41 “Mobile communications technology” means a technology  
42 involving the functionality and reliability of the transmission of  
43 voice and multimedia data using a communication infrastructure via  
44 a computer or a mobile device, that shall include, but not be limited  
45 to, smartphones, electronic books and tablets, digital audio players,  
46 motor vehicle electronics, home entertainment systems, and other  
47 wireless appliances, without having connected to any physical or  
48 fixed link.



1       “New Jersey based business” means a company with fewer than  
2 225 employees, of whom at least 75 percent are filling a position in  
3 New Jersey, that is doing business, employing or owning capital or  
4 property, or maintaining an office in this State.

5       “New Jersey emerging technology business” means a company  
6 with fewer than 225 employees, of whom at least 75 percent are  
7 filling a position in New Jersey, that is doing business, employing  
8 or owning capital or property, or maintaining an office in this State  
9 and: has qualified research expenses paid or incurred for research  
10 conducted in this State; conducts pilot scale manufacturing in this  
11 State; or conducts technology commercialization in this State in the  
12 fields of advanced computing, advanced materials, biotechnology,  
13 carbon footprint reduction technology, electronic device  
14 technology, information technology, life sciences, medical device  
15 technology, mobile communications technology, or renewable  
16 energy technology.

17       “New Jersey emerging technology business holding company”  
18 means any corporation, association, firm, partnership, trust, or other  
19 form of business organization, but not a natural person, which  
20 directly or indirectly, owns, has the power or right to control, or has  
21 the power to vote, a controlling share of the outstanding voting  
22 securities of a corporation or other form of a New Jersey emerging  
23 technology business.

24       “Partnership” means a syndicate, group, pool, joint venture, or  
25 other unincorporated organization through or by means of which  
26 any business, financial operation, or venture is carried on, and  
27 which is not a trust or estate, a corporation, or a sole proprietorship.

28       “Pilot scale manufacturing” means the design, construction, and  
29 testing of preproduction prototypes and models in the fields of  
30 advanced computing, advanced materials, biotechnology, carbon  
31 footprint reduction technology electronic device technology,  
32 information technology, life sciences, medical device technology,  
33 mobile communications technology, and renewable energy  
34 technology, other than for commercial sale, excluding sales of  
35 prototypes or sales for market testing if the total gross receipts, as  
36 calculated in the manner provided in section 6 of P.L.1945, c.162  
37 (C.54:10A-6), from the sales of the product, service, or process do  
38 not exceed \$1,000,000.

39       “Qualified investment” means the non-refundable transfer of  
40 cash to a New Jersey emerging technology business or to a New  
41 Jersey emerging technology business holding company by a  
42 taxpayer that is not a related person of the New Jersey emerging  
43 technology business or the New Jersey emerging technology  
44 business holding company, the transfer of which is in connection  
45 with either: a transaction between or among the taxpayer and the  
46 New Jersey emerging technology business or the New Jersey  
47 emerging technology holding company or both in exchange for  
48 stock, interests in partnerships or joint ventures, licenses (exclusive

1 or non-exclusive), rights to use technology, marketing rights,  
2 warrants, options, or any items similar to those included herein,  
3 including, but not limited to, options or rights to acquire any of the  
4 items included herein; or a purchase, production, or research  
5 agreement between or among the taxpayer and the New Jersey  
6 emerging technology business or the New Jersey emerging  
7 technology holding company or both. “Qualified investment” also  
8 means the non-refundable transfer of cash or irrevocable contractual  
9 commitment to <sup>1</sup>[transfer cash to]<sup>1</sup> a qualified venture fund.

10 “Qualified research expenses” means qualified research  
11 expenses, as defined in section 41 of the federal Internal Revenue  
12 Code of 1986 (26 U.S.C. § 41), as in effect on June 30, 1992, in the  
13 fields of advanced computing, advanced materials, biotechnology,  
14 carbon footprint reduction technology, electronic device  
15 technology, information technology, life sciences, medical device  
16 technology, mobile communications technology, or renewable  
17 energy technology.

18 “Qualified venture fund” means a venture fund required by  
19 contract to invest a minimum of 50 percent of its funds in New  
20 Jersey based businesses that the authority, in its sole discretion,  
21 based upon the qualified venture fund’s investment history, if any,  
22 its private placement memorandum and other relevant information,  
23 has determined has the capacity to make the minimum investment.

24 “Related person” means:

25 a corporation, partnership, association or trust controlled by the  
26 taxpayer;

27 an individual, corporation, partnership, association or trust that is  
28 in the control of the taxpayer;

29 a corporation, partnership, association or trust controlled by an  
30 individual, corporation, partnership, association or trust that is in  
31 the control of the taxpayer; or

32 a member of the same controlled group as the taxpayer.

33 “Renewable energy technology” means a technology involving  
34 the generation of electricity from solar energy; wind energy; wave  
35 or tidal action; geothermal energy; the combustion of gas from the  
36 anaerobic digestion of food waste and sewage sludge at a biomass  
37 generating facility; the combustion of methane gas captured from a  
38 landfill; and a fuel cell powered by methanol, ethanol, landfill gas,  
39 digester gas, biomass gas, or other renewable fuel but not powered  
40 by a fossil fuel.

41 “Tax year” means the fiscal or calendar accounting period of a  
42 taxpayer.

43 “Venture fund” means a partnership, corporation, trust, or  
44 limited liability company that invests cash in a business during the  
45 early or expansion stages of a business in exchange for an equity  
46 stake in the business in, <sup>1</sup>[”]<sup>1</sup> which the investment is made.  
47 Venture firm may include a venture capital fund, a family office

1 fund, or a corporate investor fund, provided that a professional  
 2 manager administers the venture firm.

3 “Verified transfer of funds” means a non-refundable transfer of  
 4 funds equal to 100 percent of the taxpayer’s qualified investment in  
 5 the New Jersey emerging technology business holding company to a  
 6 New Jersey emerging technology business by the New Jersey  
 7 emerging technology business holding company that is  
 8 accompanied by documentation, as required by the New Jersey  
 9 Economic Development Authority, which provides proof of a cash  
 10 transaction originating with a taxpayer and concluding with a New  
 11 Jersey emerging technology business, provided that the transactions  
 12 from origin to destination occur within the same tax year.

13 The definitions of “advanced computing,” “advanced materials,”  
 14 “biotechnology,” <sup>1</sup>“carbon footprint reduction technology,”  
 15 “electronic device technology,” “information technology,” <sup>1</sup>“  
 16 “life sciences,”<sup>1</sup>“ “medical device technology,” <sup>1</sup>“mobile  
 17 communications technology,” <sup>1</sup>“ “New Jersey emerging  
 18 technology business,” “pilot scale manufacturing,” and “renewable  
 19 energy technology<sup>1</sup>”<sup>1</sup> may be modified by regulation to conform to  
 20 definitions in other programs administered by the authority.

21 (cf: P.L.2017, c.40, s.1)

22  
 23 <sup>1</sup>[118. Section 3 of P.L.1997, c.349 (C.54:10A-5.30) is amended  
 24 to read as follows:

25 3. a. (1) A taxpayer, upon approval of the taxpayer’s application  
 26 therefor by the New Jersey Economic Development Authority and  
 27 in consultation with the director, shall be allowed a credit against  
 28 the tax imposed pursuant to section 5 of P.L.1945, c.162  
 29 (C.54:10A-5), in an amount equal to 20 percent of the qualified  
 30 investment made by the taxpayer in a New Jersey emerging  
 31 technology business, **[or]** in a New Jersey emerging technology  
 32 business holding company that makes a verified transfer of funds to  
 33 a New Jersey emerging technology business, or in a qualified  
 34 venture fund; provided, however, a taxpayer may be allowed a tax  
 35 credit in an amount equal to 25 percent of the qualified investment  
 36 if the taxpayer satisfies one of the requirements set forth in  
 37 paragraph (2) of this subsection. The value of tax credits allowed to  
 38 a taxpayer pursuant to this section shall not exceed \$500,000 for the  
 39 privilege period for each qualified investment made by the  
 40 taxpayer.

41 (2) Subject to the limits established in paragraph (1) of this  
 42 subsection, the New Jersey Economic Development Authority, in  
 43 consultation with the director, shall increase the amount of a tax  
 44 credit allowed pursuant to this section by five percent if the  
 45 taxpayer makes a qualified investment in a New Jersey emerging  
 46 technology business, or in a New Jersey emerging technology  
 47 business holding company that makes a verified transfer of funds to

1 a New Jersey emerging technology business, or in a qualified  
2 venture fund, if the New Jersey emerging technology business is **【**:

3 (a) **】** either located in a qualified opportunity zone pursuant to 26  
4 U.S.C. § 1400Z-1, or a low-income community as defined in  
5 subparagraph (e) of 26 U.S.C. § 45D **【;】** or

6 **【(b)】** certified by the State as a minority business or a women’s  
7 business pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.) and,  
8 in the case of a qualified venture fund, if the qualified venture fund  
9 commits by contract to invest 50 percent of its funds in diverse  
10 entrepreneurs.

11 b. A credit shall not be allowed pursuant to section 1 of  
12 P.L.1993, c.175 (C.54:10A-5.24), for expenses paid from funds for  
13 which a credit is allowed, or which are includable in the calculation  
14 of a credit allowed, under this section.

15 Notwithstanding any other provision of law, the order of priority in  
16 which the credit allowed by this section and any other credits  
17 allowed by law may be taken shall be as prescribed by the director.

18 c. Except as provided in subsection d. of this section, the  
19 amount of credit otherwise allowable under this section which  
20 cannot be applied for the privilege period against tax liability  
21 otherwise due for that privilege period may either be carried over, if  
22 necessary, to the 15 privilege periods following the privilege period  
23 for which the credit was allowed or, at the election of the taxpayer,  
24 be claimed as and treated as an overpayment for the purposes of  
25 R.S.54:49-15, provided, however, that section 7 of P.L.1992, c.175  
26 (C.54:49-15.1) shall not apply.

27 d. A taxpayer may not carry over any amount of credit allowed  
28 under subsection a. of this section to a privilege period during  
29 which a corporate acquisition with respect to which the taxpayer  
30 was a target corporation occurred or during which the taxpayer was  
31 a party to a merger or a consolidation, or to any subsequent  
32 privilege period, if the credit was allowed for a privilege period  
33 prior to the year of acquisition, merger or consolidation, except that  
34 if in the case of a corporate merger or corporate consolidation the  
35 taxpayer can demonstrate, through the submission of a copy of the  
36 plan of merger or consolidation and such other evidence as may be  
37 required by the director, the identity of the constituent corporation  
38 which was the acquiring person, a credit allowed to the acquiring  
39 person may be carried over by the taxpayer. As used in this  
40 subsection, “acquiring person” means the constituent corporation  
41 the stockholders of which own the largest proportion of the total  
42 voting power in the surviving or consolidated corporation after the  
43 merger or consolidation.

44 e. The Executive Director of the New Jersey Economic  
45 Development Authority, in consultation with the director, shall  
46 adopt, pursuant to the “Administrative Procedure Act,” P.L.1968,  
47 c.410 (C.52:14B-1 et seq.), rules and regulations that are necessary

1 to implement sections 1 through 3 of P.L.1997, c.349 (C.54:10A-  
2 5.28 through C.54:10A-5.30) and section 4 of P.L.2013, c.14  
3 (C.54A:4-13), including, but not limited to: examples of and the  
4 determination of qualified investments of which applicants shall  
5 provide documentation with their tax credit application; the  
6 promulgation of procedures and forms necessary to apply for a  
7 credit; provisions for recapture in the event a taxpayer receives a  
8 credit on the basis of its commitment to transfer cash to a qualified  
9 venture fund and it does not fund its commitment; and provisions  
10 for credit applicants to be charged an initial application fee and  
11 ongoing service fees to cover the administrative costs related to the  
12 credit.

13 The amount of credits approved by the Executive Director of the  
14 New Jersey Economic Development Authority, and in consultation  
15 with the director, pursuant to subsection a. of this section and  
16 pursuant to section 4 of P.L.2013, c.14 (C.54A:4-13), shall not  
17 exceed a cumulative total of **[\$25,000,000]** \$35,000,000 in any  
18 calendar year to apply against the tax imposed pursuant to section 5  
19 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to  
20 the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1 et seq. If  
21 the cumulative amount of credits allowed to taxpayers in a calendar  
22 year exceeds the amount of credits available in that year, then  
23 taxpayers who have first applied for and have not been allowed a  
24 credit amount for that reason shall be allowed, in the order in which  
25 they have submitted an application, the amount of the tax credit on  
26 the first day of the next succeeding calendar year in which tax  
27 credits under this section and section 4 of P.L.2013, c.14 (C.54A:4-  
28 13) are not in excess of the amount of credits available. **】<sup>1</sup>**  
29 (cf: P.L.2017, c.40, s.2)

30  
31 <sup>1</sup>118. Section 3 of P.L.1997, c.349 (C.54:10A-5.30) is amended  
32 to read as follows:

33 3. a. (1) A taxpayer, upon approval of the taxpayer’s  
34 application therefor by the New Jersey Economic Development  
35 Authority and in consultation with the director, shall be allowed a  
36 credit against the tax imposed pursuant to section 5 of P.L.1945,  
37 c.162 (C.54:10A-5), in an amount equal to 20 percent of the  
38 qualified investment made by the taxpayer in a New Jersey  
39 emerging technology business, **[or]** in a New Jersey emerging  
40 technology business holding company that makes a verified transfer  
41 of funds to a New Jersey emerging technology business, or in a  
42 qualified venture fund; provided, however, a taxpayer may be  
43 allowed a tax credit in an amount equal to 25 percent of the  
44 qualified investment if the taxpayer satisfies one of the  
45 requirements set forth in paragraph (2) of this subsection. The value  
46 of tax credits allowed to a taxpayer pursuant to this section shall not

1 exceed \$500,000 for the privilege period for each qualified  
2 investment made by the taxpayer.

3 (2) Subject to the limits established in paragraph (1) of this  
4 subsection, the New Jersey Economic Development Authority, in  
5 consultation with the director, shall increase the amount of a tax  
6 credit allowed pursuant to this section by five percent if the  
7 taxpayer makes a qualified investment in a New Jersey emerging  
8 technology business, or in a New Jersey emerging technology  
9 business holding company that makes a verified transfer of funds to  
10 a New Jersey emerging technology business, or in a qualified  
11 venture fund, if the New Jersey emerging technology business is **【**:

12 (a) **】** either located in a qualified opportunity zone pursuant to 26  
13 U.S.C. § 1400Z-1, or a low-income community as defined in  
14 subparagraph (e) of 26 U.S.C. § 45D **【;** **】** or

15 **【(b)】** certified by the State as a minority business or a women's  
16 business pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.) and,  
17 in the case of a qualified venture fund, if the qualified venture fund  
18 commits by contract to invest 50 percent of its funds in diverse  
19 entrepreneurs.

20 b. A credit shall not be allowed pursuant to section 1 of  
21 P.L.1993, c.175 (C.54:10A-5.24), for expenses paid from funds for  
22 which a credit is allowed, or which are includable in the calculation  
23 of a credit allowed, under this section.

24 Notwithstanding any other provision of law, the order of priority in  
25 which the credit allowed by this section and any other credits  
26 allowed by law may be taken shall be as prescribed by the director.

27 c. Except as provided in subsection d. of this section, the  
28 amount of credit otherwise allowable under this section which  
29 cannot be applied for the privilege period against tax liability  
30 otherwise due for that privilege period may either be carried over, if  
31 necessary, to the 15 privilege periods following the privilege period  
32 for which the credit was allowed or, at the election of the taxpayer,  
33 be claimed as and treated as an overpayment for the purposes of  
34 R.S.54:49-15, provided, however, that section 7 of P.L.1992, c.175  
35 (C.54:49-15.1) shall not apply.

36 d. A taxpayer may not carry over any amount of credit allowed  
37 under subsection a. of this section to a privilege period during  
38 which a corporate acquisition with respect to which the taxpayer  
39 was a target corporation occurred or during which the taxpayer was  
40 a party to a merger or a consolidation, or to any subsequent  
41 privilege period, if the credit was allowed for a privilege period  
42 prior to the year of acquisition, merger or consolidation, except that  
43 if in the case of a corporate merger or corporate consolidation the  
44 taxpayer can demonstrate, through the submission of a copy of the  
45 plan of merger or consolidation and such other evidence as may be  
46 required by the director, the identity of the constituent corporation  
47 which was the acquiring person, a credit allowed to the acquiring

1 person may be carried over by the taxpayer. As used in this  
 2 subsection, "acquiring person" means the constituent corporation  
 3 the stockholders of which own the largest proportion of the total  
 4 voting power in the surviving or consolidated corporation after the  
 5 merger or consolidation.

6 e. The Executive Director of the New Jersey Economic  
 7 Development Authority, in consultation with the director, shall  
 8 adopt, pursuant to the "Administrative Procedure Act," P.L.1968,  
 9 c.410 (C.52:14B-1 et seq.), rules and regulations that are necessary  
 10 to implement sections 1 through 3 of P.L.1997, c.349 (C.54:10A-  
 11 5.28 through C.54:10A-5.30) and section 4 of P.L.2013, c.14  
 12 (C.54A:4-13), including, but not limited to: examples of and the  
 13 determination of qualified investments of which applicants shall  
 14 provide documentation with their tax credit application; the  
 15 promulgation of procedures and forms necessary to apply for a  
 16 credit; provisions for recapture in the event a taxpayer receives a  
 17 credit on the basis of its commitment to transfer cash to a qualified  
 18 venture fund and it does not fund its commitment; and provisions  
 19 for credit applicants to be charged an initial application fee and  
 20 ongoing service fees to cover the administrative costs related to the  
 21 credit.

22 The amount of credits approved by the Executive Director of the  
 23 New Jersey Economic Development Authority, and in consultation  
 24 with the director, pursuant to subsection a. of this section and  
 25 pursuant to section 4 of P.L.2013, c.14 (C.54A:4-13), shall not  
 26 exceed a cumulative total of ~~【\$25,000,000】~~ \$35,000,000 in any  
 27 calendar year to apply against the tax imposed pursuant to section 5  
 28 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to  
 29 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. If  
 30 the cumulative amount of credits allowed to taxpayers in a calendar  
 31 year exceeds the amount of credits available in that year, then  
 32 taxpayers who have first applied for and have not been allowed a  
 33 credit amount for that reason shall be allowed, in the order in which  
 34 they have submitted an application, the amount of the tax credit on  
 35 the first day of the next succeeding calendar year in which tax  
 36 credits under this section and section 4 of P.L.2013, c.14 (C.54A:4-  
 37 13) are not in excess of the amount of credits available.

38 (cf: P.L.2019, c.145, s.2)<sup>1</sup>

39

40 119. Section 4 of P.L.2013, c.14 (C.54A:4-13) is amended to  
 41 read as follows:

42 4. a. (1) A taxpayer, upon approval of the taxpayer's  
 43 application therefor by the New Jersey Economic Development  
 44 Authority, and in consultation with the director, shall be allowed a  
 45 credit against the tax otherwise due for the taxable year under the  
 46 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an  
 47 amount equal to 20 percent of the qualified investment made by the  
 48 taxpayer in a New Jersey emerging technology business, **【or】** in a

1 New Jersey emerging technology business holding company that  
2 makes a verified transfer of funds to a New Jersey emerging  
3 technology business, or in a qualified venture fund; provided,  
4 however, a taxpayer may be allowed a tax credit in an amount equal  
5 to 25 percent of the qualified investment if the taxpayer satisfies  
6 one of the requirements set forth in paragraph (2) of this subsection.  
7 The value of tax credits allowed to a taxpayer pursuant to this  
8 section shall not exceed \$500,000 for the taxable year for each  
9 qualified investment made by the taxpayer.

10 (2) Subject to the limits established in paragraph (1) of this  
11 subsection, the New Jersey Economic Development Authority, in  
12 consultation with the director, shall increase the amount of a tax  
13 credit allowed pursuant to this section by five percent if the  
14 taxpayer makes a qualified investment in a New Jersey emerging  
15 technology business, **or** in a New Jersey emerging technology  
16 business holding company that makes a verified transfer of funds to  
17 a New Jersey emerging technology business, or in a qualified  
18 venture fund, if the New Jersey emerging technology business is **:**

19 (a) **either** located in a qualified opportunity zone pursuant to 26  
20 U.S.C. § 1400Z-1, or a low-income community as defined in  
21 subparagraph (e) of 26 U.S.C. § 45D **;** or

22 **(b)** certified by the State as a minority business or a women's  
23 business pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.) and,  
24 in the case of a qualified venture fund, if the qualified venture fund  
25 commits by contract to invest 50 percent of its funds in diverse  
26 entrepreneurs.

27 b. The amount of the credit allowed pursuant to this section  
28 shall be applied against the tax otherwise due under the "New  
29 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., after all other  
30 credits and payments. If the credit exceeds the amount of tax  
31 liability otherwise due, that amount of excess shall be an  
32 overpayment for the purposes of N.J.S.54A:9-7, provided, however,  
33 that subsection (f) of N.J.S.54A:9-7 shall not apply.

34 c. (1) A partnership shall not be allowed a credit under this  
35 section directly, but the amount of credit of a taxpayer in respect of  
36 a distributive share of partnership income under the "New Jersey  
37 Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be determined  
38 by allocating to the taxpayer that proportion of the credit acquired  
39 by the partnership that is equal to the taxpayer's share, whether or  
40 not distributed, of the total distributive income or gain of the  
41 partnership for its taxable year ending within or with the taxpayer's  
42 taxable year. For the purposes of subsection b. of this section, the  
43 amount of tax liability that would be otherwise due of a taxpayer is  
44 that proportion of the total liability of the taxpayer that the  
45 taxpayer's share of the partnership income or gain included in gross  
46 income bears to the total gross income of the taxpayer.



1 (2) The credit for a corporation that has made a valid election as  
2 a New Jersey S corporation pursuant to section 3 of P.L.1993, c.173  
3 (C.54:10A-5.22) may be applied by the shareholders of the S  
4 corporation against the tax liability otherwise due under the "New  
5 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., provided that  
6 the amount of credit that may be used by a shareholder of the S  
7 corporation shall be determined by allocating to each shareholder of  
8 the S corporation that proportion of the tax credit of the S  
9 corporation that is equal to the shareholder's proportionate share of  
10 the S corporation, whether or not distributed, of the total  
11 distributive income or gain of the S corporation for its tax period  
12 ending with or within the shareholder's tax period, and the credit  
13 may be applied by the shareholders against the tax liability  
14 otherwise due pursuant to the "New Jersey Gross Income Tax Act,"  
15 N.J.S.54A:1-1 et seq.

16 d. The Executive Director of the New Jersey Economic  
17 Development Authority, in consultation with the director, shall  
18 adopt, pursuant to the "Administrative Procedure Act," P.L.1968,  
19 c.410 (C.52:14B-1 et seq.), rules and regulations that are necessary  
20 to implement sections 1 through 3 of P.L.1997, c.349 (C.54:10A-  
21 5.28 through C.54:10A-5.30) and this section, including, but not  
22 limited to: examples of and the determination of qualified  
23 investments of which applicants shall provide documentation with  
24 their tax credit application; the promulgation of procedures and  
25 forms necessary to apply for a credit; provisions for recapture in the  
26 event a taxpayer receives a credit on the basis of its commitment to  
27 transfer cash to a qualified venture fund and it does not fund its  
28 commitment; and provisions for credit applicants to be charged an  
29 initial application fee and ongoing service fees to cover the  
30 administrative costs related to the credit.

31 The amount of credits approved by the Executive Director of the  
32 New Jersey Economic Development Authority and the Director of  
33 the Division of Taxation in the Department of the Treasury,  
34 pursuant to subsection a. of this section and pursuant to section 3 of  
35 P.L.1997, c.349 (C.54:10A-5.30), shall not exceed a cumulative  
36 total of ~~【\$25,000,000】~~ \$35,000,000 in any calendar year to apply  
37 against the tax imposed pursuant to section 5 of P.L.1945, c.162  
38 (C.54:10A-5), and the tax imposed pursuant to the "New Jersey  
39 Gross Income Tax Act," N.J.S.54A:1-1 et seq. If the cumulative  
40 amount of credits allowed to taxpayers in a calendar year exceeds  
41 the amount of credits available in that year, then taxpayers who  
42 have first applied for and have not been allowed a credit amount for  
43 that reason shall be allowed, in the order in which they have  
44 submitted an application, the amount of the tax credit on the first  
45 day of the next succeeding calendar year in which tax credits under  
46 this section and section 3 of P.L.1997, c.349 (C.54:10A-5.30) are  
47 not in excess of the amount of credits available.

48 e. As used in this section:

1 "Advanced computing" means a technology used in the  
2 designing and developing of computing hardware and software,  
3 including innovations in designing the full spectrum of hardware  
4 from hand-held calculators to super computers, and peripheral  
5 equipment.

6 "Advanced materials" means materials with engineered  
7 properties created through the development of specialized  
8 processing and synthesis technology, including ceramics, high  
9 value-added metals, electronic materials, composites, polymers, and  
10 biomaterials.

11 "Biotechnology" means the continually expanding body of  
12 fundamental knowledge about the functioning of biological systems  
13 from the macro level to the molecular and sub-atomic levels, as  
14 well as novel products, services, technologies, and sub-technologies  
15 developed as a result of insights gained from research advances  
16 which add to that body of fundamental knowledge.

17 "Carbon footprint reduction technology" means a technology  
18 using equipment for the commercial, institutional, and industrial  
19 sectors that: increases energy efficiency; develops and delivers  
20 renewable or non-carbon-emitting energy technologies; develops  
21 innovative carbon emissions abatement with significant carbon  
22 emissions reduction potential; or promotes measurable electricity  
23 end-use energy efficiency.

24 "Control" with respect to a corporation, means ownership,  
25 directly or indirectly, of stock possessing 80 percent or more of the  
26 total combined voting power of all classes of the stock of the  
27 corporation entitled to vote; and "control," with respect to a trust,  
28 means ownership, directly or indirectly, of 80 percent or more of  
29 the beneficial interest in the principal or income of the trust. The  
30 ownership of stock in a corporation, of a capital or profits interest in  
31 a partnership or association or of a beneficial interest in a trust shall  
32 be determined in accordance with the rules for constructive  
33 ownership of stock provided in subsection (c) of section 267 of the  
34 federal Internal Revenue Code of 1986 (26 U.S.C. s.267), other than  
35 paragraph (3) of subsection (c) of that section.

36 "Controlled group" means one or more chains of corporations  
37 connected through stock ownership with a common parent  
38 corporation if stock possessing at least 80 percent of the voting  
39 power of all classes of stock of each of the corporations is owned  
40 directly or indirectly by one or more of the corporations and the  
41 common parent owns directly stock possessing at least 80 percent of  
42 the voting power of all classes of stock of at least one of the other  
43 corporations.

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

46 "Diverse entrepreneur" means a New Jersey based business that  
47 meets the criteria for a minority business or female business set  
48 forth in section 1[2] 3<sup>1</sup> of P.L.1983, c.482 (C.52:32-19).

1 "Electronic device technology" means a technology involving  
2 microelectronics, semiconductors, electronic equipment and  
3 instrumentation, radio frequency, microwave and millimeter  
4 electronics, and optical and optic-electrical devices, or data and  
5 digital communications and imaging devices.

6 "Information technology" means software publishing, motion  
7 picture and video production, television production and post-  
8 production services, telecommunications, data processing, hosting  
9 and related services, custom computer programming services,  
10 computer system design, computer facilities management services,  
11 other computer related services, and computer training.

12 "Life sciences" means the production of medical equipment,  
13 ophthalmic goods, medical or dental instruments, diagnostic  
14 substances, biopharmaceutical products, or physical and biological  
15 research.

16 "Medical device technology" means a technology involving any  
17 medical equipment or product (other than a pharmaceutical product)  
18 that has therapeutic value, diagnostic value, or both, and is  
19 regulated by the federal Food and Drug Administration.

20 "Mobile communications technology" means a technology  
21 involving the functionality and reliability of the transmission of  
22 voice and multimedia data using a communication infrastructure via  
23 a computer or a mobile device, that shall include, but not be limited  
24 to, smartphones, electronic books and tablets, digital audio players,  
25 motor vehicle electronics, home entertainment systems, and other  
26 wireless appliances, without having connected to any physical or  
27 fixed link.

28 "New Jersey based business" means a company with fewer than  
29 225 employees, of whom at least 75 percent are filling a position in  
30 New Jersey, that is doing business, employing or owning capital or  
31 property, or maintaining an office in this State.

32 "New Jersey emerging technology business" means a company  
33 with fewer than 225 employees, of whom at least 75 percent are  
34 filling a position in New Jersey, that is doing business, employing  
35 or owning capital or property, or maintaining an office in this State  
36 and: has qualified research expenses paid or incurred for research  
37 conducted in this State; conducts pilot scale manufacturing in this  
38 State; or conducts technology commercialization in this State in the  
39 fields of advanced computing, advanced materials, biotechnology,  
40 carbon footprint reduction technology, electronic device  
41 technology, information technology, life sciences, medical device  
42 technology, mobile communications technology, or renewable  
43 energy technology.

44 "New Jersey emerging technology business holding company"  
45 means any corporation, association, firm, partnership, trust or other  
46 form of business organization, but not a natural person, which  
47 directly or indirectly, owns, has the power or right to control, or has  
48 the power to vote, a controlling share of the outstanding voting

1 securities of a corporation or other form of a New Jersey emerging  
2 technology business.

3 "Partnership" means a syndicate, group, pool, joint venture, or  
4 other unincorporated organization through or by means of which  
5 any business, financial operation, or venture is carried on, and  
6 which is not a trust or estate, a corporation, or a sole proprietorship.

7 "Pilot scale manufacturing" means design, construction, and  
8 testing of preproduction prototypes and models in the fields of  
9 advanced computing, advanced materials, biotechnology, carbon  
10 footprint reduction technology electronic device technology,  
11 information technology, life sciences, medical device technology,  
12 mobile communications technology, or renewable energy  
13 technology, other than for commercial sale, excluding sales of  
14 prototypes or sales for market testing if the total gross receipts, as  
15 calculated in the manner provided in section 6 of P.L.1945, c.162  
16 (C.54:10A-6), from the sales of the product, service, or process do  
17 not exceed \$1,000,000.

18 "Qualified investment" means the non-refundable transfer of  
19 cash to a New Jersey emerging technology business or to a New  
20 Jersey emerging technology business holding company by a  
21 taxpayer that is not a related person of the New Jersey emerging  
22 technology business or the New Jersey emerging technology  
23 business holding company, the transfer of which is in connection  
24 with either: a transaction between or among the taxpayer and the  
25 New Jersey emerging technology business or the New Jersey  
26 emerging technology holding company or both in exchange for  
27 stock, interests in partnerships or joint ventures, licenses (exclusive  
28 or non-exclusive), rights to use technology, marketing rights,  
29 warrants, options, or any items similar to those included herein,  
30 including, but not limited to, options or rights to acquire any of the  
31 items included herein; or a purchase, production, or research  
32 agreement between or among the taxpayer and the New Jersey  
33 emerging technology business or the New Jersey emerging  
34 technology holding company or both. "Qualified investment" also  
35 means the non-refundable transfer of cash or irrevocable contractual  
36 commitment to transfer cash to a qualified venture fund.

37 "Qualified research expenses" means qualified research  
38 expenses, as defined in section 41 of the federal Internal Revenue  
39 Code of 1986 (26 U.S.C. s.41), as in effect on June 30, 1992, in the  
40 fields of advanced computing, advanced materials, biotechnology,  
41 electronic device technology, information technology, life sciences,  
42 medical device technology, mobile communications technology, or  
43 renewable energy technology.

44 "Qualified venture fund" means a venture fund required by  
45 contract to invest a minimum of 50 percent of its funds in New  
46 Jersey based businesses that the authority, in its sole discretion,  
47 based upon the qualified venture fund's investment history, if any,

1 its private placement memorandum and other relevant information,  
2 has determined has the capacity to make the minimum investment.

3 "Related person" means:

4 a corporation, partnership, association or trust controlled by the  
5 taxpayer;

6 an individual, corporation, partnership, association or trust that is  
7 in the control of the taxpayer;

8 a corporation, partnership, association or trust controlled by an  
9 individual, corporation, partnership, association or trust that is in  
10 the control of the taxpayer; or

11 a member of the same controlled group as the taxpayer.

12 "Renewable energy technology" means a technology involving  
13 the generation of electricity from solar energy; wind energy; wave  
14 or tidal action; geothermal energy; the combustion of gas from the  
15 anaerobic digestion of food waste and sewage sludge at a biomass  
16 generating facility; the combustion of methane gas captured from a  
17 landfill; and a fuel cell powered by methanol, ethanol, landfill gas,  
18 digester gas, biomass gas, or other renewable fuel but not powered  
19 by a fossil fuel.

20 "Venture fund" means a partnership, corporation, trust, or  
21 limited liability company that invests cash in a business during the  
22 early or expansion stages of a business in exchange for an equity  
23 stake in the business in, [""]<sup>1</sup> which the investment is made.  
24 Venture firm may include a venture capital fund, a family office  
25 fund, or a corporate investor fund, provided that a professional  
26 manager administers the venture firm.

27 "Verified transfer of funds" means a non-refundable transfer of  
28 funds equal to 100 percent of the taxpayer's qualified investment in  
29 the New Jersey emerging technology business holding company to a  
30 New Jersey emerging technology business by the New Jersey  
31 emerging technology business holding company that is  
32 accompanied by documentation, as required by the New Jersey  
33 Economic Development Authority, which provides proof of a cash  
34 transaction originating with a taxpayer and concluding with a New  
35 Jersey emerging technology business, provided that the transactions  
36 from origin to destination occur within the same taxable year.

37 The definitions of "advanced computing," "advanced materials,"  
38 "biotechnology," [""]<sup>1</sup> "carbon footprint reduction technology,"  
39 "electronic device technology," "information technology," [""]  
40 "life sciences," [""]<sup>1</sup> "medical device technology," [""]<sup>1</sup> "mobile  
41 communications technology," [""]<sup>1</sup> "New Jersey emerging  
42 technology business," "pilot scale manufacturing," and "renewable  
43 energy technology"<sup>1</sup> may be modified by regulation to conform to  
44 definitions in other programs administered by the authority.

45 (cf: P.L.2019, c.145, s.3)

1       <sup>1</sup>[120. Section 2 of P.L.2011, c.149 (C.34:1B-243) is amended to  
2 read as follows:

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

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

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

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

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

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

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

36       a partnership;

37       an S corporation;

38       a limited liability company; or

39       a non-profit corporation.

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

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

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

7 a. site preparation and construction, repair, renovation,  
8 improvement, equipping, or furnishing on real property or of a  
9 building, structure, facility, or improvement to real property;

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

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

19 d. any of the foregoing.

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

29 In addition to the foregoing, if a business acquires or leases a  
30 qualified business facility, the capital investment made or acquired  
31 by the seller or owner, as the case may be, if pertaining primarily to  
32 the premises of the qualified business facility, shall be considered a  
33 capital investment by the business and, if pertaining generally to the  
34 qualified business facility being acquired or leased, shall be  
35 allocated to the premises of the qualified business facility on the  
36 basis of the gross leasable area of the premises in relation to the  
37 total gross leasable area in the qualified business facility. The  
38 capital investment described herein may include any capital  
39 investment made or acquired within 24 months prior to the date of  
40 application so long as the amount of capital investment made or  
41 acquired by the business, any affiliate of the business, or any owner  
42 after the date of application equals at least 50 percent of the amount  
43 of capital investment, allocated to the premises of the qualified  
44 business facility being acquired or leased on the basis of the gross  
45 leasable area of the premises in relation to the total gross leasable  
46 area in the qualified business facility made or acquired prior to the  
47 date of application.

1 "College or university" means a county college, an independent  
2 institution of higher education, a public research university, or a  
3 State college.

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

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

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

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

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

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

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



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

4 "Full-time employee" means a person:

5 a. who is employed by a business for consideration for at least  
6 35 hours a week, or who renders any other standard of service  
7 generally accepted by custom or practice as full-time employment;  
8 or

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

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

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

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

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

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

41 35 hours of employment per week at a qualified business facility  
42 shall constitute one "full-time employee," regardless of whether or  
43 not the hours of work were performed by one or more persons.

44 For any project located in a Garden State Growth Zone which  
45 qualifies under the "Municipal Rehabilitation and Economic  
46 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or any  
47 project located in the Atlantic City Tourism District as established  
48 pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated

1 by the Casino Reinvestment Development Authority, and which  
2 will include a retail facility of at least 150,000 square feet, of which  
3 at least 50 percent will be occupied by either a full-service  
4 supermarket or grocery store, 30 hours of employment per week at a  
5 qualified business facility shall constitute one "full-time employee,"  
6 regardless of whether the hours of work were performed by one or  
7 more persons, and the requirement that employee health benefits are  
8 to be provided shall be deemed to be satisfied if the employees of  
9 the business are covered by a collective bargaining agreement.

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

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

19 "Garden State Create Zone" means the campus of a doctoral  
20 university, and the area within a three-mile radius of the outermost  
21 boundary of the campus of a doctoral university, according to a map  
22 appearing in the doctoral university's official catalog or other  
23 official publication on the effective date of P.L.2017, c.221.

24 "Garden State Growth Zone" or "growth zone" means the four  
25 New Jersey cities with the lowest median family income based on  
26 the 2009 American Community Survey from the US Census, (Table  
27 708. Household, Family, and Per Capita Income and Individuals,  
28 and Families Below Poverty Level by City: 2009); a municipality  
29 which contains a Tourism District as established pursuant to section  
30 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino  
31 Reinvestment Development Authority; or an aviation district.

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

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

42 "Incentive effective date" means the date **【**the authority issues a  
43 tax credit based on**】** a business submits the documentation  
44 **【**submitted by a business**】** required pursuant to paragraph (1) of  
45 subsection b. of section 6 of P.L.2011, c.149 (C.34:1B-247) in a  
46 form satisfactory to the authority.

47 "Independent institution of higher education" means a college or  
48 university incorporated and located in New Jersey, which by virtue

1 of law or character or license is a nonprofit educational institution  
2 authorized to grant academic degrees and which provides a level of  
3 education which is equivalent to the education provided by the  
4 State's public institutions of higher education, as attested by the  
5 receipt of and continuation of regional accreditation by the Middle  
6 States Association of Colleges and Schools, and which is eligible to  
7 receive State aid under the provisions of the Constitution of the  
8 United States and the Constitution of the State of New Jersey, but  
9 does not include any educational institution dedicated primarily to  
10 the education or training of ministers, priests, rabbis or other  
11 professional persons in the field of religion.

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

16 "Mega project" means:

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

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

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

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

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

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

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

39 d. a project located in an area designated in need of  
40 redevelopment, pursuant to P.L.1992, c.79 (C.40A:12A-1 et al.)  
41 prior to the enactment of P.L.2014, c.63 (C.34:1B-251 et al.) within  
42 Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester,  
43 Ocean, or Salem counties having a capital investment in excess of  
44 \$20,000,000, and at which more than 150 full-time employees of  
45 the business are created or retained; or

46 e. a qualified business facility primarily used by a business  
47 principally engaged in research, development, or manufacture of a  
48 drug or device, as defined in R.S.24:1-1, or primarily used by a

1 business licensed to conduct a clinical laboratory and business  
2 facility pursuant to the "New Jersey Clinical Laboratory  
3 Improvement Act," P.L.1975, c.166 (C.45:9-42.26 et seq.), either:

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

7 (2) at which more than 1,000 full-time employees of the  
8 business are created or retained.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 "Qualified incentive area" means:

45 a. an aviation district;

46 b. a port district;

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

- 1 d. an area (1) designated pursuant to the "State Planning Act,"  
2 P.L.1985, c.398 (C.52:18A-196 et seq.), as:
- 3 (a) Planning Area 1 (Metropolitan);
  - 4 (b) Planning Area 2 (Suburban); or
  - 5 (c) Planning Area 3 (Fringe Planning Area);
- 6 (2) located within a smart growth area and planning area  
7 designated in a master plan adopted by the New Jersey  
8 Meadowlands Commission pursuant to subsection (i) of section 6 of  
9 P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan  
10 adopted by the New Jersey Meadowlands Commission pursuant to  
11 section 20 of P.L.1968, c.404 (C.13:17-21);
- 12 (3) located within any land owned by the New Jersey Sports and  
13 Exposition Authority, established pursuant to P.L.1971, c.137  
14 (C.5:10-1 et seq.), within the boundaries of the Hackensack  
15 Meadowlands District as delineated in section 4 of P.L.1968, c.404  
16 (C.13:17-4);
- 17 (4) located within a regional growth area, rural development  
18 area zoned for industrial use as of the effective date of P.L.2016,  
19 c.75, town, village, or a military and federal installation area  
20 designated in the comprehensive management plan prepared and  
21 adopted by the Pinelands Commission pursuant to the "Pinelands  
22 Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.);
- 23 (5) located within the planning area of the Highlands Region as  
24 defined in section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands  
25 development credit receiving area or redevelopment area;
- 26 (6) located within a Garden State Growth Zone;
- 27 (7) located within land approved for closure under any federal  
28 Commission on Base Realignment and Closure action; or
- 29 (8) located only within the following portions of the areas  
30 designated pursuant to the "State Planning Act," P.L.1985, c.398  
31 (C.52:18A-196 et seq.), as Planning Area 4A (Rural Planning  
32 Area), Planning Area 4B (Rural/Environmentally Sensitive) or  
33 Planning Area 5 (Environmentally Sensitive) if Planning Area 4A  
34 (Rural Planning Area), Planning Area 4B (Rural/Environmentally  
35 Sensitive) or Planning Area 5 (Environmentally Sensitive) is  
36 located within:
- 37 (a) a designated center under the State Development and  
38 Redevelopment Plan;
  - 39 (b) a designated growth center in an endorsed plan until the  
40 State Planning Commission revises and readopts New Jersey's State  
41 Strategic Plan and adopts regulations to revise this definition as it  
42 pertains to Statewide planning areas;
  - 43 (c) any area determined to be in need of redevelopment pursuant  
44 to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and  
45 C.40A:12A-6) or in need of rehabilitation pursuant to section 14 of  
46 P.L.1992, c.79 (C.40A:12A-14);
  - 47 (d) any area on which a structure exists or previously existed  
48 including any desired expansion of the footprint of the existing or

1 previously existing structure provided the expansion otherwise  
2 complies with all applicable federal, State, county, and local  
3 permits and approvals;

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

7 (f) any area on which an existing tourism destination project is  
8 located.

9 "Qualified incentive area" shall not include any property located  
10 within the preservation area of the Highlands Region as defined in  
11 section 3 of P.L.2004, c.120 (C.13:20-3).

12 "Qualified incubator facility" means a commercial building  
13 located within a qualified incentive area: which contains 50,000 or  
14 more square feet of office, laboratory, or industrial space; which is  
15 located near, and presents opportunities for collaboration with, a  
16 research institution, teaching hospital, college, or university; and  
17 within which, at least 50 percent of the gross leasable area is  
18 restricted for use by one or more technology startup companies  
19 during the commitment period.

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

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

43 "SDA municipality" means a municipality in which an SDA  
44 district is situate.

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

47 "Targeted industry" means any industry identified from time to  
48 time by the authority which shall initially include advanced

1 transportation and logistics, advanced manufacturing, aviation,  
2 autonomous vehicle and zero-emission vehicle research or  
3 development, clean energy, life sciences, hemp processing,  
4 information and high technology, finance and insurance,  
5 professional services, film and digital media, and non-retail food  
6 and beverage businesses, including food innovation and other  
7 innovative industries that disrupt current technologies or business  
8 models.

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

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

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

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

34 "Urban transit hub municipality" means a municipality: a. which  
35 qualifies for State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et  
36 seq.), or which has continued to be a qualified municipality  
37 thereunder pursuant to P.L.2007, c.111; and b. in which 30 percent  
38 or more of the value of real property was exempt from local  
39 property taxation during tax year 2006. The percentage of exempt  
40 property shall be calculated by dividing the total exempt value by  
41 the sum of the net valuation which is taxable and that which is tax  
42 exempt.】<sup>1</sup>

43 (cf: P.L.2018, c.120, s.1)

44

45 <sup>1</sup>120. Section 2 of P.L.2011, c.149 (C.34:1B-243) is amended to  
46 read as follows:

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



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

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

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

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

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

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

33 a partnership;

34 an S corporation;

35 a limited liability company; or

36 a non-profit corporation.

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

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

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

4 a. site preparation and construction, repair, renovation,  
5 improvement, equipping, or furnishing on real property or of a  
6 building, structure, facility, or improvement to real property;

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

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

16 d. any of the foregoing.

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

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

45 "College or university" means a county college, an independent  
46 institution of higher education, a public research university, or a  
47 State college.

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

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

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

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

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

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

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

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

47 "Full-time employee" means a person:

1 a. who is employed by a business for consideration for at least  
2 35 hours a week, or who renders any other standard of service  
3 generally accepted by custom or practice as full-time employment;  
4 or

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

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

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

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

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

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

37 35 hours of employment per week at a qualified business facility  
38 shall constitute one "full-time employee," regardless of whether or  
39 not the hours of work were performed by one or more persons.

40 For any project located in a Garden State Growth Zone which  
41 qualifies under the "Municipal Rehabilitation and Economic  
42 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or any  
43 project located in the Atlantic City Tourism District as established  
44 pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated  
45 by the Casino Reinvestment Development Authority, and which  
46 will include a retail facility of at least 150,000 square feet, of which  
47 at least 50 percent will be occupied by either a full-service  
48 supermarket or grocery store, 30 hours of employment per week at a

1 qualified business facility shall constitute one "full-time employee,"  
2 regardless of whether the hours of work were performed by one or  
3 more persons, and the requirement that employee health benefits are  
4 to be provided shall be deemed to be satisfied if the employees of  
5 the business are covered by a collective bargaining agreement.

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

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

15 "Garden State Create Zone" means the campus of a doctoral  
16 university, and the area within a three-mile radius of the outermost  
17 boundary of the campus of a doctoral university, according to a map  
18 appearing in the doctoral university's official catalog or other  
19 official publication on the effective date of P.L.2017, c.221.

20 "Garden State Growth Zone" or "growth zone" means the four  
21 New Jersey cities with the lowest median family income based on  
22 the 2009 American Community Survey from the US Census, (Table  
23 708. Household, Family, and Per Capita Income and Individuals,  
24 and Families Below Poverty Level by City: 2009); a municipality  
25 which contains a Tourism District as established pursuant to section  
26 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino  
27 Reinvestment Development Authority; or an aviation district.

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

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

38 "Incentive effective date" means the date [the authority issues a  
39 tax credit based on] a business submits the documentation  
40 [submitted by a business] required pursuant to paragraph (1) of  
41 subsection b. of section 6 of P.L.2011, c.149 (C.34:1B-247) in a  
42 form satisfactory to the authority.

43 "Independent institution of higher education" means a college or  
44 university incorporated and located in New Jersey, which by virtue  
45 of law or character or license is a nonprofit educational institution  
46 authorized to grant academic degrees and which provides a level of  
47 education which is equivalent to the education provided by the  
48 State's public institutions of higher education, as attested by the

1 receipt of and continuation of regional accreditation by the Middle  
2 States Association of Colleges and Schools, and which is eligible to  
3 receive State aid under the provisions of the Constitution of the  
4 United States and the Constitution of the State of New Jersey, but  
5 does not include any educational institution dedicated primarily to  
6 the education or training of ministers, priests, rabbis or other  
7 professional persons in the field of religion.

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

12 "Mega project" means:

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

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

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

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

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

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

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

35 d. a project located in an area designated in need of  
36 redevelopment, pursuant to P.L.1992, c.79 (C.40A:12A-1 et al.)  
37 prior to the enactment of P.L.2014, c.63 (C.34:1B-251 et al.) within  
38 Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester,  
39 Ocean, or Salem counties having a capital investment in excess of  
40 \$20,000,000, and at which more than 150 full-time employees of  
41 the business are created or retained; or

42 e. a qualified business facility primarily used by a business  
43 principally engaged in research, development, or manufacture of a  
44 drug or device, as defined in R.S.24:1-1, or primarily used by a  
45 business licensed to conduct a clinical laboratory and business  
46 facility pursuant to the "New Jersey Clinical Laboratory  
47 Improvement Act," P.L.1975, c.166 (C.45:9-42.26 et seq.), either:

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

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

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

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

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

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

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

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

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

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

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

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

46 a. are designated pursuant to the "State Planning Act,"  
47 P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1  
48 (Metropolitan), Planning Area 2 (Suburban), a designated center

1 under the State Development and Redevelopment Plan, or a  
2 designated growth center in an endorsed plan until June 30, 2013, or  
3 until the State Planning Commission revises and readopts New  
4 Jersey's State Strategic Plan and adopts regulations to revise this  
5 definition;

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

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

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

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

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

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

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

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

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

41 "Qualified incentive area" means:

42 a. an aviation district;

43 b. a port district;

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

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

47 (a) Planning Area 1 (Metropolitan);

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



- 1 (c) Planning Area 3 (Fringe Planning Area);
- 2 (2) located within a smart growth area and planning area
- 3 designated in a master plan adopted by the New Jersey
- 4 Meadowlands Commission pursuant to subsection (i) of section 6 of
- 5 P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan
- 6 adopted by the New Jersey Meadowlands Commission pursuant to
- 7 section 20 of P.L.1968, c.404 (C.13:17-21);
- 8 (3) located within any land owned by the New Jersey Sports and
- 9 Exposition Authority, established pursuant to P.L.1971, c.137
- 10 (C.5:10-1 et seq.), within the boundaries of the Hackensack
- 11 Meadowlands District as delineated in section 4 of P.L.1968, c.404
- 12 (C.13:17-4);
- 13 (4) located within a regional growth area, rural development
- 14 area zoned for industrial use as of the effective date of P.L.2016,
- 15 c.75, town, village, or a military and federal installation area
- 16 designated in the comprehensive management plan prepared and
- 17 adopted by the Pinelands Commission pursuant to the "Pinelands
- 18 Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.);
- 19 (5) located within the planning area of the Highlands Region as
- 20 defined in section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands
- 21 development credit receiving area or redevelopment area;
- 22 (6) located within a Garden State Growth Zone;
- 23 (7) located within land approved for closure under any federal
- 24 Commission on Base Realignment and Closure action; or
- 25 (8) located only within the following portions of the areas
- 26 designated pursuant to the "State Planning Act," P.L.1985, c.398
- 27 (C.52:18A-196 et seq.), as Planning Area 4A (Rural Planning
- 28 Area), Planning Area 4B (Rural/Environmentally Sensitive) or
- 29 Planning Area 5 (Environmentally Sensitive) if Planning Area 4A
- 30 (Rural Planning Area), Planning Area 4B (Rural/Environmentally
- 31 Sensitive) or Planning Area 5 (Environmentally Sensitive) is
- 32 located within:
  - 33 (a) a designated center under the State Development and
  - 34 Redevelopment Plan;
  - 35 (b) a designated growth center in an endorsed plan until the
  - 36 State Planning Commission revises and readopts New Jersey's State
  - 37 Strategic Plan and adopts regulations to revise this definition as it
  - 38 pertains to Statewide planning areas;
  - 39 (c) any area determined to be in need of redevelopment pursuant
  - 40 to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and
  - 41 C.40A:12A-6) or in need of rehabilitation pursuant to section 14 of
  - 42 P.L.1992, c.79 (C.40A:12A-14);
  - 43 (d) any area on which a structure exists or previously existed
  - 44 including any desired expansion of the footprint of the existing or
  - 45 previously existing structure provided the expansion otherwise
  - 46 complies with all applicable federal, State, county, and local
  - 47 permits and approvals;

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

4 (f) any area on which an existing tourism destination project is  
5 located.

6 "Qualified incentive area" shall not include any property located  
7 within the preservation area of the Highlands Region as defined in  
8 section 3 of P.L.2004, c.120 (C.13:20-3).

9 "Qualified incubator facility" means a commercial building  
10 located within a qualified incentive area: which contains 50,000 or  
11 more square feet of office, laboratory, or industrial space; which is  
12 located near, and presents opportunities for collaboration with, a  
13 research institution, teaching hospital, college, or university; and  
14 within which, at least 50 percent of the gross leasable area is  
15 restricted for use by one or more technology startup companies  
16 during the commitment period.

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

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

40 "SDA municipality" means a municipality in which an SDA  
41 district is situate.

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

44 "Targeted industry" means any industry identified from time to  
45 time by the authority **【including】** which shall initially [ , a ] include  
46 advanced transportation and logistics, advanced manufacturing,  
47 【defense, energy, logistics】 aviation, autonomous vehicle and zero-  
48 emission vehicle research or development, clean energy, life

1 sciences, hemp processing, information and high technology,  
2 **【health, and】** finance **【business, but excluding a primarily**  
3 **warehouse or distribution business】** and insurance, professional  
4 services, film and digital media, 【and】 non-retail food and beverage  
5 businesses 【.】 including food innovation, and other innovative  
6 industries that disrupt current technologies or business models.

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

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

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

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

32 "Urban transit hub municipality" means a municipality: a. which  
33 qualifies for State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et  
34 seq.), or which has continued to be a qualified municipality  
35 thereunder pursuant to P.L.2007, c.111; and b. in which 30 percent  
36 or more of the value of real property was exempt from local  
37 property taxation during tax year 2006. The percentage of exempt  
38 property shall be calculated by dividing the total exempt value by  
39 the sum of the net valuation which is taxable and that which is tax  
40 exempt.<sup>1</sup>

41 (cf: P.L.2018, c.120, s.1)

42

43 121. Section 4 of P.L.2011, c.149 (C.34:1B-245) is amended to  
44 read as follows:

45 4. The authority shall require an eligible business to enter into  
46 an incentive agreement prior to the issuance of tax credits. The  
47 incentive agreement shall include, but shall not be limited to, the  
48 following:

- 1 a. A detailed description of the proposed project which will  
2 result in job creation or retention, and the number of new or  
3 retained full-time jobs that are approved for tax credits.
- 4 b. The eligibility period of the tax credits, including the first  
5 year for which the tax credits may be claimed.
- 6 c. Personnel information that will enable the authority to  
7 administer the program.
- 8 d. A requirement that the applicant maintain the project at a  
9 location in New Jersey for the commitment period, with at least the  
10 minimum number of full-time employees as required by this  
11 program, except as otherwise agreed to pursuant to subsection h. of  
12 section 6 of P.L.2011, c.159 (C.34:1B-247) and a provision to  
13 permit the authority to recapture all or part of any tax credits  
14 awarded, at its discretion, if the business does not remain in  
15 compliance with this provision for the required term, and in the  
16 instance of the business terminating an existing incentive agreement  
17 in order to participate in an incentive agreement authorized pursuant  
18 to the "New Jersey Economic Opportunity Act of 2013," P.L.2013,  
19 c.161 (C.52:27D-489p et al.), such permitted recapture may be  
20 calculated to recognize the period of time that the business was in  
21 compliance prior to termination.
- 22 e. A method for the business to certify that it has met the  
23 capital investment and employment requirements of the program  
24 pursuant to paragraph (1) of subsection a. of section 3 of P.L.2011,  
25 c.149 (C.34:1B-244) and to report annually to the authority the  
26 number of full-time employees for which the tax credits are to be  
27 made.
- 28 f. A provision permitting an audit of the payroll records of the  
29 business from time to time, as the authority deems necessary.
- 30 g. A provision which permits the authority to amend the  
31 agreement.
- 32 h. A provision establishing the conditions under which the  
33 agreement may be terminated.
- 34 (cf: P.L.2013, c.161, s.9)

35  
36 122. Section 5 of P.L.2009, c.90 (C.52:27D-489e) is amended to  
37 read as follows:

- 38 5. a. The New Jersey Economic Development Authority, in  
39 consultation with the State Treasurer, shall establish an Economic  
40 Redevelopment and Growth Grant program for the purpose of  
41 encouraging redevelopment projects in qualifying economic  
42 redevelopment and growth grant incentive areas that do not qualify  
43 as such areas solely by virtue of being a transit village, through the  
44 provision of incentive grants to reimburse developers for certain  
45 project financing gap costs.
- 46 b. (1) A developer shall submit an application for a State  
47 incentive grant prior to July 1, 2019, except: (a) a developer of a  
48 qualified residential project or a mixed use parking project seeking

1 an award of credits toward the funding of its incentive grant for a  
2 project restricted under category (viii) of subparagraph (b) of  
3 paragraph (3) of subsection b. of section 6 of P.L.2009, c.90  
4 (C.52:27D-489f) shall submit an incentive grant application prior to  
5 December 31, 2021 and (b) a developer seeking an award of credits  
6 toward the funding of its incentive grant under subparagraphs (f)  
7 and (g) of paragraph (3) of subsection b. of section 6 of P.L.2009,  
8 c.90 (C.52:27D-489f) shall submit an incentive grant application  
9 prior to December 31, 2021. A developer that submits an  
10 application for a State incentive grant shall indicate on the  
11 application whether it is also applying for a local incentive grant.  
12 Tax credits awarded to developers who apply after the effective  
13 date of P.L. , c. (C. )(pending before the Legislature as this  
14 bill) under subparagraphs (f) and (g) of paragraph (3) of subsection  
15 b. of section 6 of P.L.2009, c.90 (C.52:27D-489f) shall not exceed  
16 \$200,000,000 subject to the limitations of subparagraphs (f) and (g)  
17 of that paragraph.

18 (2) When an applicant indicates it is also applying for a local  
19 incentive grant, the authority shall forward a copy of the application  
20 to the municipality wherein the redevelopment project is to be  
21 located for approval by municipal ordinance.

22 c. An application for a State incentive grant shall be reviewed  
23 and approved by the authority. The authority shall not approve an  
24 application for a State incentive grant unless the application was  
25 submitted prior to July 1, 2019, except: (1) the authority shall not  
26 approve an application for a State incentive grant by a developer of  
27 a qualified residential project or a mixed use parking project  
28 seeking an award of credits toward the funding of its incentive grant  
29 for a project restricted under category (viii) of subparagraph (b) of  
30 paragraph (3) of subsection b. of section 6 of P.L.2009, c.90  
31 (C.52:27D-489f) unless the application was submitted prior to  
32 December 31, 2021 and (2) the authority shall not approve an  
33 application for a State incentive grant by a developer under  
34 subparagraphs (f) and (g) of paragraph (3) of subsection b. of  
35 section 6 of P.L.2009, c.90 (C.52:27D-489f) unless the application  
36 was submitted prior to December 31, 2021.

37 d. A developer shall not be required to purchase pinelands  
38 development credits under the "Pinelands Protection Act,"  
39 P.L.1979, c.111 (C.13:18A-1 et seq.), the pinelands comprehensive  
40 management plan, or any other rule or regulation adopted pursuant  
41 to that act in connection with any approval or relief obtained related  
42 to a redevelopment project located in an aviation district on or after  
43 the effective date of P.L.2018, c.120, except if seeking to develop in  
44 permanently protected open space pursuant to the Pinelands  
45 Protection Act. The provisions of this subsection shall not apply to  
46 a developer of a qualified residential project.

47 (cf: P.L.2018, c.120, s.6)

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

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

1 projects in a Garden State Growth Zone. The non-profit  
2 organization may make an application on behalf of a developer  
3 which meets the requirements for the tax credit, or a group of non-  
4 qualifying developers, such that these will be considered a unified  
5 project for the purposes of the incentives provided under this  
6 section.

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

11 (2) In the case of a qualified residential project or a project  
12 involving university infrastructure, if the authority determines that  
13 the estimated amount of incremental revenues pledged towards the  
14 State portion of an incentive grant is inadequate to fully fund the  
15 amount of the State portion of the incentive grant, then in lieu of an  
16 incentive grant based on the incremental revenues, the developer  
17 shall be awarded tax credits equal to the full amount of the  
18 incentive grant.

19 (3) In the case of a mixed use parking project, if the authority  
20 determines that the estimated amount of incremental revenues  
21 pledged towards the State portion of an incentive grant is  
22 inadequate to fully fund the amount of the State portion of the  
23 incentive grant, then, in lieu of an incentive grant based on the  
24 incremental revenues, the developer shall be awarded tax credits  
25 equal to the full amount of the incentive grant.

26 The value of all credits approved by the authority pursuant to  
27 paragraphs (2) and (3) of this subsection shall not exceed  
28 ~~[\$823,000,000]~~ \$1,043,000,000, of which:

29 (a) \$250,000,000 shall be restricted to qualified residential  
30 projects within Atlantic, Burlington, Camden, Cape May,  
31 Cumberland, Gloucester, Ocean, and Salem counties, of which  
32 \$175,000,000 of the credits shall be restricted to the following  
33 categories of projects: (i) qualified residential projects located in a  
34 Garden State Growth Zone located within the aforementioned  
35 counties; and (ii) mixed use parking projects located in a Garden  
36 State Growth Zone or urban transit hub located within the  
37 aforementioned counties; (iii) and \$75,000,000 of the credits shall  
38 be restricted to qualified residential projects in municipalities with a  
39 2007 Municipal Revitalization Index of 400 or higher as of the date  
40 of enactment of the "New Jersey Economic Opportunity Act of  
41 2013," P.L.2013, c.161 (C.52:27D-489p et al.) and located within  
42 the aforementioned counties;

43 (b) \$395,000,000 shall be restricted to the following categories  
44 of projects: (i) qualified residential projects located in urban transit  
45 hubs that are commuter rail in nature that otherwise do not qualify  
46 under subparagraph (a) of this paragraph; (ii) qualified residential  
47 projects located in Garden State Growth Zones that do not qualify  
48 under subparagraph (a) of this paragraph; (iii) mixed use parking

1 projects located in urban transit hubs or Garden State Growth Zones  
2 that do not qualify under subparagraph (a) of this paragraph,  
3 provided however, an urban transit hub shall be allocated no more  
4 than \$25,000,000 for mixed use parking projects; (iv) qualified  
5 residential projects which are disaster recovery projects that  
6 otherwise do not qualify under subparagraph (a) of this paragraph;  
7 (v) qualified residential projects in SDA municipalities located in  
8 Hudson County that were awarded State Aid in State Fiscal Year  
9 2013 through the Transitional Aid to Localities program and  
10 otherwise do not qualify under subparagraph (a) of this paragraph;  
11 (vi) \$25,000,000 of credits shall be restricted to mixed use parking  
12 projects in Garden State Growth Zones which have a population in  
13 excess of 125,000 and do not qualify under subparagraph (a) of this  
14 paragraph; (vii) \$40,000,000 of credits shall be restricted to  
15 qualified residential projects that include a theater venue for the  
16 performing arts and do not qualify under subparagraph (a) of this  
17 paragraph, which projects are located in a municipality with a  
18 population of less than 100,000 according to the latest federal  
19 decennial census, and within which municipality is located an urban  
20 transit hub and a campus of a public research university, as defined  
21 in section 1 of P.L.2009, c.308 (C.18A:3B-46); and (viii)  
22 **[\$105,000,000]** \$125,000,000 of credits shall be restricted to  
23 qualified residential projects and mixed use parking projects in  
24 Garden State Growth Zones having a population in excess of  
25 125,000 and do not qualify under subparagraph (a) of this  
26 paragraph;

27 (c) \$87,000,000 shall be restricted to the following categories of  
28 projects: (i) qualified residential projects located in distressed  
29 municipalities, deep poverty pockets, highlands development credit  
30 receiving areas or redevelopment areas, otherwise not qualifying  
31 pursuant to subparagraph (a) or (b) of this paragraph; and (ii) mixed  
32 use parking projects that do not qualify under subparagraph (a) or  
33 (b) of this paragraph, and which are used by an independent  
34 institution of higher education, a school of medicine, a nonprofit  
35 hospital system, or any combination thereof; provided, however,  
36 that \$20,000,000 of the \$87,000,000 shall be allocated to mixed use  
37 parking projects that do not qualify under subparagraph (a) or (b) of  
38 this paragraph;

39 (d) (i) \$16,000,000 shall be restricted to qualified residential  
40 projects that are located within a qualifying economic  
41 redevelopment and growth grant incentive area otherwise not  
42 qualifying under subparagraph (a), (b), or (c) of this paragraph; and

43 (ii) an additional \$50,000,000 shall be restricted to qualified  
44 residential projects which, as of the effective date of P.L.2016, c.51,  
45 are located in a city of the first class with a population in excess of  
46 270,000, are subject to a Renewal Contract for a Section 8 Mark-  
47 Up-To-Market Project from the United States Department of  
48 Housing and Urban Development, and for which an application for



1 the award of tax credits under this subsection was submitted prior to  
2 January 1, 2016; **and**

3 (e) \$25,000,000 shall be restricted to projects involving  
4 university infrastructure;

5 (f) \$150,000,000 shall be restricted to applications submitted  
6 after the effective date of P.L. , c. (C. )(pending before the  
7 Legislature as this bill) for projects which are predominantly  
8 commercial and contain 100,000 or more square feet of office and  
9 retail space, or industrial space for purchase or lease and may  
10 include a parking component; and

11 (g) \$50,000,000 shall be restricted to applications submitted after  
12 the effective date of P.L. , c. (C. )(pending before the  
13 Legislature as this bill) for residential projects in any county of the  
14 State.

15 **[(f)] (h)** For subparagraphs (a) through (d) of this paragraph,  
16 not more than \$40,000,000 of credits shall be awarded to any  
17 qualified residential project in a deep poverty pocket or distressed  
18 municipality and not more than \$20,000,000 of credits shall be  
19 awarded to any other qualified residential project. The developer of  
20 a qualified residential project seeking an award of credits towards  
21 the funding of its incentive grant shall submit an incentive grant  
22 application prior to July 1, 2016 and if approved after September  
23 18, 2013, the effective date of P.L.2013, c.161 (C.52:27D-489p et  
24 al.) shall submit a temporary certificate of occupancy for the project  
25 no later than **[July 28, 2021]** December 31, 2023. The developer of  
26 a mixed use parking project seeking an award of credits towards the  
27 funding of its incentive grant pursuant to subparagraph (c) of this  
28 paragraph and if approved after the effective date of P.L.2015,  
29 c.217, shall submit a temporary certificate of occupancy for the  
30 project no later than **[July 28, 2021]** December 31, 2023. The  
31 developer of a qualified residential project or a mixed use parking  
32 project seeking an award of credits toward the funding of its  
33 incentive grant for a project restricted under categories (vi) and  
34 (viii) of subparagraph (b) of this paragraph shall submit an  
35 incentive grant application prior to July 1, 2019 or, in the case of a  
36 project restricted under category (viii) of subparagraph (b) of this  
37 paragraph, December 31, 2021, and if approved after the effective  
38 date of P.L.2017, c.59, shall submit a temporary certificate of  
39 occupancy for the project no later than **[July 28, 2022]** December  
40 31, 2023 provided that the municipality in which the project is  
41 located shall have submitted to the chief executive officer of the  
42 authority a letter of support identifying up to six projects prior to  
43 July 1, 2018. The letter of support is to contain a project scope for  
44 each of the projects and may be supplemented or amended from  
45 time to time until July 1, 2019 or, in the case of a project restricted  
46 under category (viii) of subparagraph (b) of this paragraph,  
47 December 31, 2021. Applications for tax credits pursuant to this

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

17 (i) The developer of a project seeking an award of credits for a  
18 project restricted under subparagraphs (f) and (g) of this paragraph  
19 shall submit an incentive grant application prior to December 31,  
20 2021, and if approved after the effective date of P.L. \_\_\_\_\_, c.  
21 (C. \_\_\_\_\_) (pending before the Legislature as this bill), shall submit a  
22 temporary certificate of occupancy for the project no later than  
23 December 31, 2024. In addition to the requirements for an award of  
24 credits set forth in P.L.2009, c.90 (C.52:27D-489a et al.), a  
25 developer shall be eligible to receive an award of credits for a  
26 project restricted under subparagraphs (f) and (g) of this paragraph  
27 only if the developer demonstrates to the authority at that time of  
28 application that: (i) the project shall comply with minimum  
29 environmental and sustainability standards; (ii) the project shall  
30 comply with the authority's affirmative action requirements,  
31 adopted pursuant to section 4 of P.L.1979, c.303 (C.34:1B-5.4); (iii)  
32 each worker employed by the developer or subcontractor of a  
33 developer working at the project shall be paid not less than \$15 per  
34 hour or 120 percent of the minimum wage fixed under subsection a.  
35 of section 5 of P.L.1966, c.113 (C.34:11-56a4), whichever is  
36 higher; and (iv) during the eligibility period, each worker employed  
37 to perform construction work or building services work at the  
38 project shall be paid not less than the prevailing wage rate for the  
39 worker's craft or trade, as determined by the Commissioner of  
40 Labor and Workforce Development pursuant to P.L.1963, c.150  
41 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.).

42 Prior to the board considering an application submitted by a  
43 developer for a project restricted under subparagraphs (f) and (g) of  
44 this paragraph, the Department of Labor and Workforce  
45 Development, the Department of Environmental Protection, and the  
46 Department of the Treasury shall each report to the chief executive  
47 officer of the authority whether the developer is in substantial good  
48 standing with the respective department, or has entered into an

1 agreement with the respective department that includes a practical  
2 corrective action plan for the developer. The developer, or an  
3 authorized agent of the developer, shall certify to the authority that  
4 all factual assertions made in the developer's application are true  
5 under the penalty of perjury. If at any time the authority determines  
6 that the developer made a material misrepresentation on the  
7 developer's application, the developer shall forfeit the award of  
8 credits and the authority shall recapture any tax credits awarded to  
9 the developer.

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

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

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

44 e. The municipality is authorized to collect any information  
45 necessary to facilitate grants under this program and remit that  
46 information in order to assist in the calculation of incremental  
47 revenue.

48 (cf: P.L.2018, c.44, s.2)

1       124. Section 8 of P.L.2009, c.90 (C.52:27D-489h) is amended to  
2 read as follows:

3       8. a. (1) The authority, in consultation with the State Treasurer,  
4 shall promulgate an incentive grant application form and procedure  
5 for the Economic Redevelopment and Growth Grant program.

6       (2) (a) The Local Finance Board, in consultation with the  
7 authority, shall develop a minimum standard incentive grant  
8 application form for municipal Economic Redevelopment and  
9 Growth Grant programs.

10       (b) Through regulation, the authority shall establish standards  
11 for redevelopment projects seeking State or local incentive grants  
12 based on the green building manual prepared by the Commissioner  
13 of Community Affairs pursuant to section 1 of P.L.2007, c.132  
14 (C.52:27D-130.6), regarding the use of renewable energy, energy-  
15 efficient technology, and non-renewable resources in order to  
16 reduce environmental degradation and encourage long-term cost  
17 reduction.

18       b. Within each incentive grant application, a developer shall  
19 certify information concerning:

20       (1) the status of control of the entire redevelopment project site;

21       (2) all required State and federal government permits that have  
22 been issued for the redevelopment project, or will be issued pending  
23 resolution of financing issues;

24       (3) local planning and zoning board approvals, as required, for  
25 the redevelopment project;

26       (4) estimates of the revenue increment base, the eligible  
27 revenues for the project, and the assumptions upon which those  
28 estimates are made.

29       c. (1) With regard to State tax revenues proposed to be pledged  
30 for an incentive grant the authority and the State Treasurer shall  
31 review the project costs, evaluate and validate the project financing  
32 gap estimated by the developer, and conduct a State fiscal impact  
33 analysis to ensure that the overall public assistance provided to the  
34 project, except with regards to a qualified residential project, a  
35 mixed use parking project, or a project involving university  
36 infrastructure, will result in net benefits to the State including,  
37 without limitation, both direct and indirect economic benefits and  
38 non-financial community revitalization objectives, including but not  
39 limited to, the promotion of the use of public transportation in the  
40 case of the ancillary infrastructure project portion of any transit  
41 project.

42       (2) With regard to local incremental revenues proposed to be  
43 pledged for an incentive grant the authority and the Local Finance  
44 Board shall review the project costs, and except with respect to an  
45 application by a municipal redeveloper, evaluate and validate the  
46 project financing gap projected by the developer, and conduct a  
47 local fiscal impact analysis to ensure that the overall public  
48 assistance provided to the project, except with regards to a qualified

1 residential project, a mixed use parking project, or a project  
2 involving university infrastructure, will result in net benefits to the  
3 municipality wherein the redevelopment project is located  
4 including, without limitation, both direct and indirect economic  
5 benefits and non-financial community revitalization objectives,  
6 including but not limited to, the promotion of the use of public  
7 transportation in the case of the ancillary infrastructure project  
8 portion of any transit project.

9 (3) The authority, State Treasurer, and Local Finance Board  
10 may act cooperatively to administer and review applications, and  
11 shall consult with the Office of State Planning on matters  
12 concerning State, regional, and local development and planning  
13 strategies.

14 (4) The costs of the aforementioned reviews shall be assessed to  
15 the applicant as an application fee, except for applications  
16 submitted on or after January 1, 2018, but before June 30, 2018,  
17 which are amended after the effective date of P.L. , c. (C. )  
18 (pending before the Legislature as this bill), the authority may  
19 waive fees.

20 (5) A developer who has already applied for an incentive grant  
21 award prior to the effective date of the "New Jersey Economic  
22 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.),  
23 but who has not yet been approved for the grant, or has not  
24 executed an agreement with the authority, may proceed under that  
25 application or seek to amend the application or reapply for an  
26 incentive grant award for the same project or any part thereof for  
27 the purpose of availing himself or herself of any more favorable  
28 provisions of the Economic Redevelopment and Growth Grant  
29 program established pursuant to the "New Jersey Economic  
30 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.),  
31 except that projects with costs exceeding \$200,000,000 shall not be  
32 eligible for revised percentage caps under subsection d. of section  
33 19 of P.L.2013, c.161 (C.52:27D-489i).

34 (cf: P.L.2015, c.242, s.3)

35

36 125. R.S.54:50-8 is amended to read as follows:

37 54:50-8. a. The records and files of the director respecting the  
38 administration of the State Uniform Tax Procedure Law or of any  
39 State tax law shall be considered confidential and privileged and  
40 neither the director nor any employee engaged in the administration  
41 thereof or charged with the custody of any such records or files, nor  
42 any former officer or employee, nor any person who may have  
43 secured information therefrom under subsection d., e., f., g., p.,  
44 **[or]** q., or r. of R.S.54:50-9 or any other provision of State law,  
45 shall divulge, disclose, use for their own personal advantage, or  
46 examine for any reason other than a reason necessitated by the  
47 performance of official duties any information obtained from the  
48 said records or files or from any examination or inspection of the

1 premises or property of any person. Neither the director nor any  
2 employee engaged in such administration or charged with the  
3 custody of any such records or files shall be required to produce any  
4 of them for the inspection of any person or for use in any action or  
5 proceeding except when the records or files or the facts shown  
6 thereby are directly involved in an action or proceeding under the  
7 provisions of the State Uniform Tax Procedure Law or of the State  
8 tax law affected, or where the determination of the action or  
9 proceeding will affect the validity or amount of the claim of the  
10 State under some State tax law, or in any lawful proceeding for the  
11 investigation and prosecution of any violation of the criminal  
12 provisions of the State Uniform Tax Procedure Law or of any State  
13 tax law.

14 b. The prohibitions of this section, against unauthorized  
15 disclosure, use or examination by any present or former officer or  
16 employee of this State or any other individual having custody of  
17 such information obtained pursuant to the explicit authority of State  
18 law, shall specifically include, without limitation, violations  
19 involving the divulgence or examination of any information from or  
20 any copy of a federal return or federal return information required  
21 by New Jersey law to be attached to or included in any New Jersey  
22 return. Any person violating this section by divulging, disclosing or  
23 using information shall be guilty of a crime of the fourth degree.  
24 Any person violating this section by examining records or files for  
25 any reason other than a reason necessitated by the performance of  
26 official duties shall be guilty of a disorderly persons offense.

27 c. Whenever records and files are used in connection with the  
28 prosecution of any person for violating the provisions of this section  
29 by divulging, disclosing or using records or files or examining  
30 records and files for any reason other than a reason necessitated by  
31 the performance of official duties, the defendant shall be given  
32 access to those records and files. The court shall review such  
33 records and files in camera, and that portion of the court record  
34 containing the records and files shall be sealed by the court.

35 (cf: P.L.2019, c.367, s.1)

36

37 126. R.S.54:50-9 is amended to read as follows:

38 54:50-9. Nothing herein contained shall be construed to prevent:

39 a. The delivery to a taxpayer or the taxpayer's duly authorized  
40 representative of a copy of any report or any other paper filed by  
41 the taxpayer pursuant to the provisions of this subtitle or of any  
42 such State tax law;

43 b. The publication of statistics so classified as to prevent the  
44 identification of a particular report and the items thereof;

45 c. The director, in the director's discretion and subject to  
46 reasonable conditions imposed by the director, from disclosing the  
47 name and address of any licensee under any State tax law, unless  
48 expressly prohibited by such State tax law;

1 d. The inspection by the Attorney General or other legal  
2 representative of this State of the reports or files relating to the  
3 claim of any taxpayer who shall bring an action to review or set  
4 aside any tax imposed under any State tax law or against whom an  
5 action or proceeding has been instituted in accordance with the  
6 provisions thereof;

7 e. The examination of said records and files by the  
8 Comptroller, State Auditor or State Commissioner of Finance, or by  
9 their respective duly authorized agents;

10 f. The furnishing, at the discretion of the director, of any  
11 information contained in tax reports or returns or any audit thereof  
12 or the report of any investigation made with respect thereto, filed  
13 pursuant to the tax laws, to the taxing officials of any other state,  
14 the District of Columbia, the United States and the territories  
15 thereof, providing said jurisdictions grant like privileges to this  
16 State and providing such information is to be used for tax purposes  
17 only;

18 g. The furnishing, at the discretion of the director, of any  
19 material information disclosed by the records or files to any law  
20 enforcing authority of this State who shall be charged with the  
21 investigation or prosecution of any violation of the criminal  
22 provisions of this subtitle or of any State tax law;

23 h. The furnishing by the director to the State agency  
24 responsible for administering the Child Support Enforcement  
25 program pursuant to Title IV-D of the federal Social Security Act,  
26 Pub.L.93-647 (42 U.S.C. s.651 et seq.), with the names, home  
27 addresses, social security numbers and sources of income and assets  
28 of all absent parents who are certified by that agency as being  
29 required to pay child support, upon request by the State agency and  
30 pursuant to procedures and in a form prescribed by the director;

31 i. The furnishing by the director to the Board of Public  
32 Utilities any information contained in tax information statements,  
33 reports or returns or any audit thereof or a report of any  
34 investigation made with respect thereto, as may be necessary for the  
35 administration of P.L.1991, c.184 (C.54:30A-18.6 et al.) and  
36 P.L.1997, c.162 (C.54:10A-5.25 et al.);

37 j. The furnishing by the director to the Director of the Division  
38 of Alcoholic Beverage Control in the Department of Law and  
39 Public Safety any information contained in tax information  
40 statements, reports or returns or any audit thereof or a report of any  
41 investigation made with respect thereto, as may be relevant, in the  
42 discretion of the director, in any proceeding conducted for the  
43 issuance, suspension or revocation of any license authorized  
44 pursuant to Title 33 of the Revised Statutes;

45 k. The inspection by the Attorney General or other legal  
46 representative of this State of the reports or files of any tobacco  
47 product manufacturer, as defined in section 2 of P.L.1999, c.148  
48 (C.52:4D-2), for any period in which that tobacco product

1 manufacturer was not or is not in compliance with subsection a. of  
2 section 3 of P.L.1999, c.148 (C.52:4D-3), or of any licensed  
3 distributor as defined in section 102 of P.L.1948, c.65 (C.54:40A-  
4 2), for the purpose of facilitating the administration of the  
5 provisions of P.L.1999, c.148 (C.52:4D-1 et seq.);

6 l. The furnishing, at the discretion of the director, of  
7 information as to whether a contractor or subcontractor holds a  
8 valid business registration as defined in section 1 of P.L.2001, c.134  
9 (C.52:32-44);

10 m. The furnishing by the director to a State agency as defined in  
11 section 1 of P.L.1995, c.158 (C.54:50-24) the names of licensees  
12 subject to suspension for non-payment of State tax indebtedness  
13 pursuant to P.L.2004, c.58 (C.54:50-26.1 et al.);

14 n. The release to the United States Department of the Treasury,  
15 Bureau of Financial Management Service, or its successor of  
16 relevant taxpayer information for purposes of implementing a  
17 reciprocal collection and offset of indebtedness agreement entered  
18 into between the State of New Jersey and the federal government  
19 pursuant to section 1 of P.L.2006, c.32 (C.54:49-12.7);

20 o. The examination of said records and files by the  
21 Commissioner of Health and Senior Services, the Commissioner of  
22 Human Services, the Medicaid Inspector General, or their  
23 respective duly authorized agents, pursuant to section 5 of  
24 P.L.2007, c.217 (C.26:2H-18.60e), section 3 of P.L.1968, c.413  
25 (C.30:4D-3), or section 5 of P.L.2005, c.156 (C.30:4J-12);

26 p. The furnishing at the discretion of the director of employer  
27 provided wage and tax withholding information contained in tax  
28 reports or returns filed pursuant to N.J.S.54A:7-2, 54A:7-4 and  
29 54A:7-7, to the designated municipal officer of a municipality  
30 authorized to impose an employer payroll tax pursuant to the  
31 provisions of Article 5 (Employer Payroll Tax) of the "Local Tax  
32 Authorization Act," P.L.1970, c.326 (C.40:48C-14 et seq.), for the  
33 limited purpose of verifying the payroll information reported by  
34 employers subject to the employer payroll tax;

35 q. The furnishing by the director to the Commissioner of Labor  
36 and Workforce Development of any information, including, but not  
37 limited to, tax information statements, reports, audit files, returns,  
38 or reports of any investigation for the purpose of labor market  
39 research or assisting in investigations pursuant to any State wage,  
40 benefit or tax law as enumerated in section 1 of P.L.2009, c.194  
41 (C.34:1A-1.11); or pursuant to P.L.1940, c.153 (C.34:2-21.1 et  
42 seq.).

43 r. The furnishing by the director to the New Jersey Economic  
44 Development Authority any information contained in tax  
45 information statements, reports or returns, or any audit thereof or a  
46 report of any investigation made with respect thereto, as may be  
47 relevant to assist the authority in the implementation of programs  
48 through which grants, loans, tax credits, or other forms of financial



1 assistance are provided. The director shall provide to the New  
2 Jersey Economic Development Authority, upon request, such  
3 information.

4

5 127. There is appropriated from the General Fund:

6 a. to the Main Street Recovery Fund, the sum of \$50,000,000 to  
7 implement the provisions of sections 82 through 88 of P.L. , c.  
8 (C. ) (pending before the Legislature as this bill)

9 b. to the <sup>1</sup>Office of the Economic Development Inspector  
10 General in the<sup>1</sup> Economic Development Authority, the sum of  
11 \$250,000 to implement the provisions of sections 99 through 105 of  
12 P.L. , c. (C. ) (pending before the Legislature as this bill);

13 c. to the Economic Development Authority, the sum of \$250,000  
14 to implement the provisions of sections 92 through 97 of P.L. , c.  
15 (C. ) (pending before the Legislature as this bill); and

16 d. to the Economic Development Authority, the sum of  
17 \$5,000,000 to be used to award competitive grants for zoning and  
18 economic planning services in government-restricted municipalities  
19 or economic redevelopment plans for distressed assets in other  
20 municipalities.

21

22 128. This act shall take effect immediately.