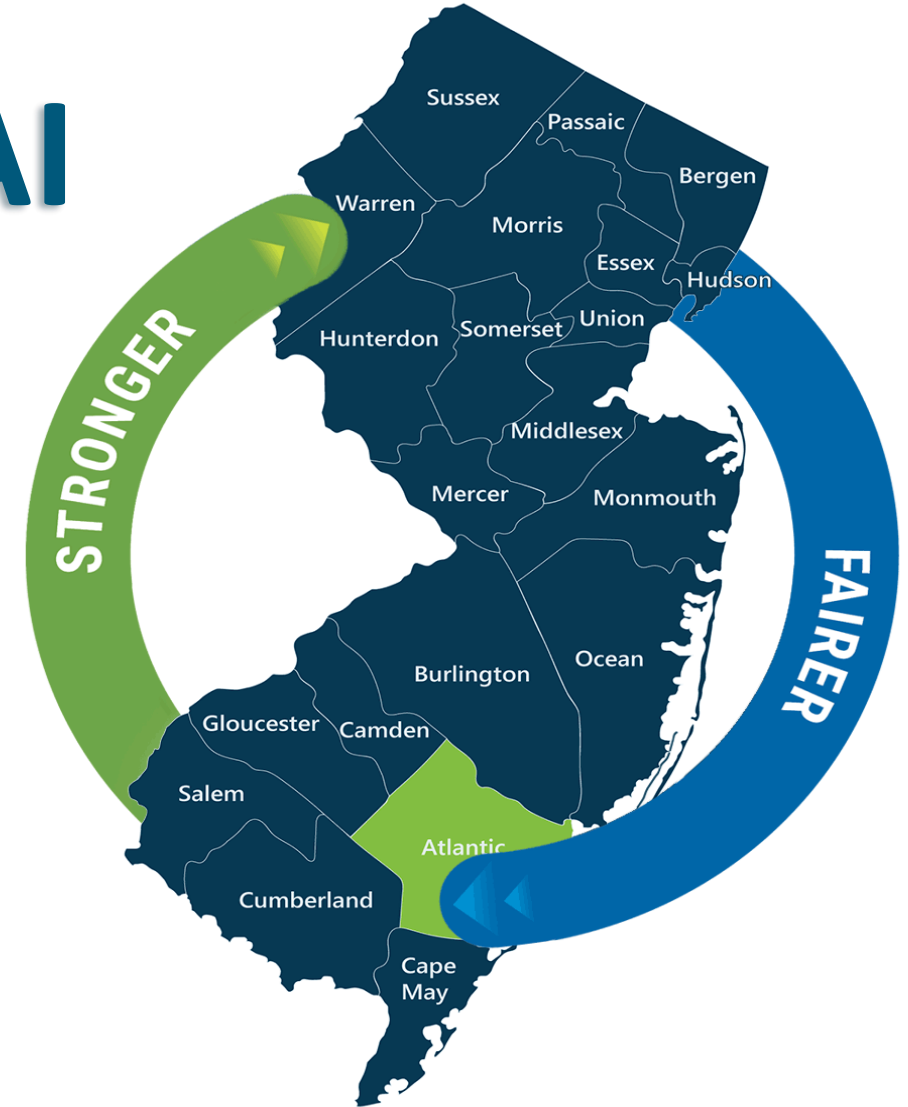


# Next NJ Program-AI EO 63 Listening Session

November 22, 2024



# Recording of Public Feedback Sessions

Members of the public can submit written feedback on the Next NJ Program-AI Rules via [www.njeda.gov/public\\_information/#rules](http://www.njeda.gov/public_information/#rules) through December 2, 2024 at 5PM ET

This NJEDA Next NJ Program-AI public feedback session will be recorded and posted on the [www.njeda.gov](http://www.njeda.gov) so that members of the public unable to participate in a virtual session have the opportunity to review.

# Executive Order No. 63

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Pursuant to Governor Murphy's Executive Order No. 63, the NJEDA is providing opportunities for groups and stakeholders to engage with the NJEDA in crafting rules around Next NJ Program Incentive Program.

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We welcome constructive input on how to ensure new programs created are structured and administered in a manner that drives opportunities for all residents and communities.

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The NJEDA will begin the session with a presentation to summarize the information – opportunity for public feedback will be available following the NJEDA's presentation. It is expected that the entirety of the session will take up to 90 minutes.

# Public Feedback Policy

- ▶ **Feedback may be submitted verbally by using the “raise hand” function in Zoom, or in writing through the Q&A feature.** Input will not be accepted verbally until the NJEDA has concluded its presentation.
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- ▶ **Speakers should not expect to engage in a dialogue. NJEDA staff may respond to basic questions or clarify a speaker’s input.** However, NJEDA staff are not obligated to answer impromptu questions or address remarks from members of the public.
- ▶ **Speakers and members of the public should at all times maintain proper decorum and shall provide their remarks in a civil manner.**

# Please Note

**For this presentation, please note the following:**

Non-highlighted text indicates areas where the NJEDA has used the rules to add clarity to the legislation

Highlighted text is written into law which NJEDA does not have discretion to change

# NEXT NEW JERSEY PROGRAM



**50** YEARS  
**NUJEDA**  
ECONOMIC DEVELOPMENT AUTHORITY

# Introduction

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**The Next NJ Program - AI** is a robust tax credit program aimed at:

- Attracting significant investment.
- Creating high-paying jobs.
- Cementing New Jersey's position as a leader in the AI industry economy.

It offers competitive incentives for companies ready to invest in New Jersey's AI sector and commit to the state's long-term growth.

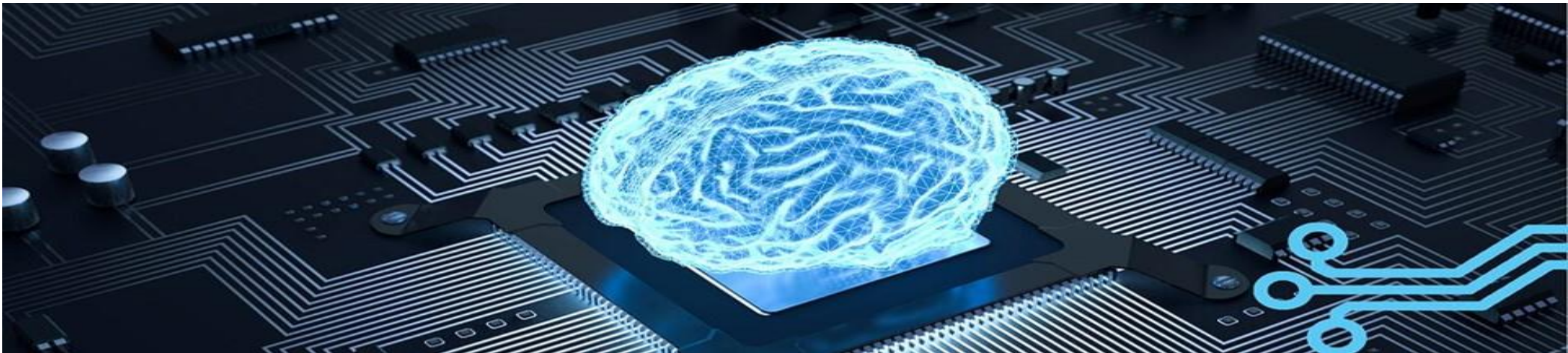


# Introduction

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**The Next NJ Program-AI** offers substantial tax credits to businesses that support the AI industry and are looking to start or grow their operations in New Jersey. The Next NJ Program awards tax credits to eligible businesses investing in large-scale AI data centers and AI-related development projects, including visual perception, speech recognition, decision-making, translation between languages, and generative AI.

The Next NJ Program-AI incentivizes collaboration and fosters a dynamic environment where established businesses and innovative startups can work together to achieve shared goals. The program is to include related company jobs, the applicant/awardee will need to secure the job reporting data for NJEDA validation.





# Key Features

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 The program legislation (S3432) was signed by Governor Phil Murphy on **July 25, 2024** as P.L. 2024, c.49 and codified at N.J.S.A. 34:1B-394 through -402

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 **Tax credits** are transferable under this program

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 Provides tax credits to incentivize AI **Datacenters and /or companies involved in AI activities** in New Jersey

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 Program **accepts applications through March 1, 2029 on a rolling basis subject to available tax credits**

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 Encourages **long-term investment into the State and welcome investment in New Jersey's AI technology sector**

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 Bolsters **smart growth investments focused on the cultivation of an AI ecosystem** by helping to bring the industry to the Garden State

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# Benefits



**Long-Term Commitment:** Awarded tax credits will be issued over a five-year period, providing ongoing benefits for both businesses and the state.



Awardees must create and maintain jobs in New Jersey for 10 years. The credits are transferable and include a 10-year carryforward option.



**Collaboration:** This initiative aims to support New Jersey research universities and technology start-ups to foster growth and promote the New Jersey AI ecosystem

# Eligibility

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- ▶ **Minimum Job Creation:** 100 full-time employees
  - ▶ Each employee must be paid at least 120% of the county median salary
  - ▶ Each employee must be assigned to the qualified business facility and in the state at least 80% of their work time.
- ▶ **Minimum Capital Investment:** \$100 million at qualified business facility.
- ▶ **Collaboration:** the business will enter a collaborative relationship, evidenced by the provision of price concessions, artificial intelligence support services, or other measures determined appropriate by the Authority, with a New Jersey-based public or private research university or technology startup company, or both.

# Eligibility (Cont.)

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- **Companies Must:** maintain a record of good standing with the New Jersey Department of Treasury, Department of Labor and Workforce Development, and Department of Environmental Protection.
- **Prevailing Wages:** construction contracts and building services contracts must adhere to New Jersey's prevailing wage and labor compliance requirements. Construction contracts must comply with the state's affirmative action requirements.
- **Minimum Environmental and Sustainability Standards:** means standards established by the Authority in accordance with the green building manual prepared by the Commissioner of the Department of Community Affairs.

# Eligibility (Cont.)

- ▶ **AI Activities:** The applicant business or division of the business must have more than 50% of employees involved in AI related activities or more than 50% of revenue from AI related activities; or both.

**AI-related activities include, but are not limited to:** Developing new AI algorithms and techniques, such as machine learning, natural language processing, and computer vision; creating AI-powered software and hardware products for various applications; medical AI modelling or programming; development of AI chatbots for customer service; AI development for vehicles, and collecting, storing, and managing the vast amount of data needed to train and use AI models.

# Collaborative Relationship

## Requirements:

A **Collaborative Relationship** involves a partnership between an eligible business and one or more New Jersey-based entities, such as public or private research universities or technology startups. This partnership must span the commitment period and may be renewed annually.

Key requirements include:

- **Evidence of Collaboration:** The relationship must be demonstrated through activities such as price concessions, AI support services, or other AI-related initiatives, as determined appropriate by the Authority's Board.
- **Minimum Contribution:** The net value of the collaboration must equal at least **10%** of the award.

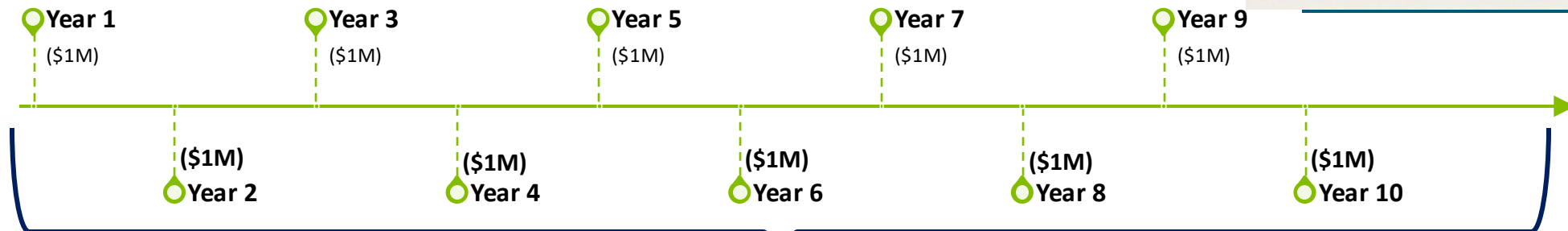
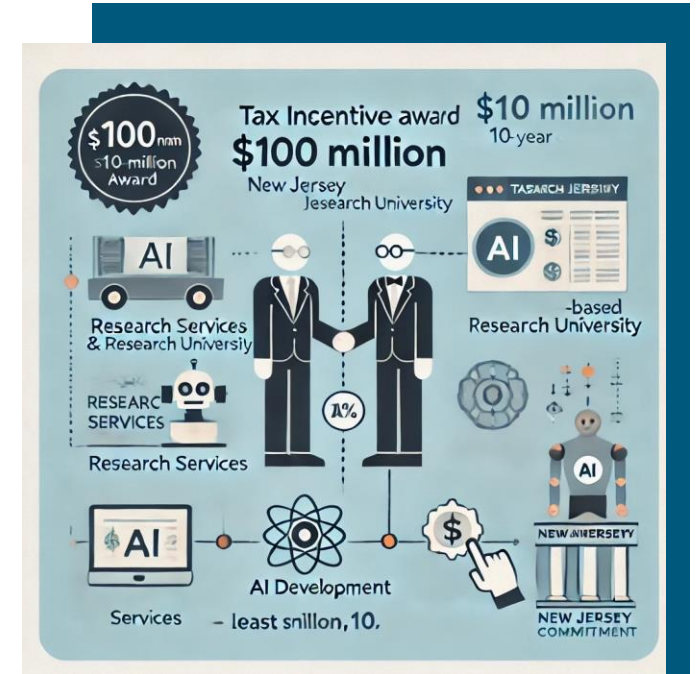
This requirement is designed to foster synergy, driving greater outcomes through combined efforts and strengthening New Jersey's AI ecosystem.



# Collaborative Relationship

## EXAMPLE:

- ▶ **10-Year AI Collaboration:** The business partners with a New Jersey-based research University for a 10-Year AI collaboration.
- ▶ **Support Services:** The partnership includes benefits such as price discounts on research services, AI development assistance, and access to specialized AI resources.
- ▶ **Minimum Value Requirement:** The total value of the collaboration must equal at least 10% of the business's tax incentive award.
- ▶ **Example Commitment:** A \$100 million tax incentive, the university collaboration must provide at least \$10 million in value over the 10 years.



**Total \$10 million collaboration**



# Program Timeline

## 10-year Commitment to New Jersey

Awarded tax credits are issued during the first 5 years of a 10-year commitment to the state.



**Total 10-year commitment to NJ**



# Tax Credit Award (Cont.)

## AWARDS CALCULATION

Tax credit award per business is based on the lesser of:

- (1) 0.1% of the eligible business's total capital investment multiplied by the number of new full-time jobs;
- (2) 25% (Max Percentage) of the eligible business's total capital investment; or
- (3) \$250 million (Max Award)

## EXAMPLE OF AWARD

*All company proposing to create and maintain 165 jobs with a capital investment of \$500 million.*

NEW JOBS	165
CAPITAL INVESTMENT	\$500,000,000

Method 1 Calculation:  $(0.1\% \times \$500 \text{ million} = \$500,000) \times 165 \text{ new jobs} = \$82,500,000$

# 2 Max Percentage:  $25\% \times \$500 \text{ million} = \$125,000,000$

#3 Max Award: Fixed cap = \$250 million

**ESTIMATED AWARD AMOUNT** **\$82,500,000**

		Capital Investment				
		\$ 100,000,000	\$ 150,000,000	\$ 250,000,000	\$ 500,000,000	\$ 1,000,000,000
Number of New Jobs	Max Award %	<i>POTENTIAL AWARD</i>				
100	10%	\$ 10,000,000	\$ 15,000,000	\$ 25,000,000	\$ 50,000,000	\$ 100,000,000
250	25%	\$ 25,000,000	\$ 37,500,000	\$ 62,500,000	\$ 125,000,000	\$ 250,000,000
500	25%	\$ 25,000,000	\$ 37,500,000	\$ 62,500,000	\$ 125,000,000	\$ 250,000,000

*\*Highlighted are based on program maximum (see program caps)*

*Awarded tax credits are disbursed over five years. The example of 500 New Jobs is illustrative, based on the maximum cap of \$250,000,000.*

# Additional Program Details (Cont.)

## FOREFEITURE, REDUCTION, AND/OR RECAPTURE OF THE TAX CREDIT



# Additional Program Details (Cont.)

## FORFEITURE, REDUCTION, AND/OR RECAPTURE (yrs 1-5) OF TAX CREDIT

**Statutory Requirement: 80% OF JOB COUNT AND INCENTED SALARY** (a) If, in any tax period, an eligible business reduces the total number of full-time employees in its Statewide workforce by more than 20% from the number of full-time employees in its Statewide workforce in the last tax period prior to the tax credit approval under the program, then the eligible business shall forfeit its credit for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the eligible business's Statewide workforce to the threshold levels required has been reviewed and approved by the Authority, for which tax period and each subsequent tax period the full amount of the credit shall be allowed.

**Statutory Requirement:** The credit shall be forfeited in the case of material misrepresentation.

### Proposed Rules:

- ▶ Failure to timely submit the annual report or progress report, absent extenuating circumstances and the written approval of the Authority, may result in forfeiture of some or all of the tax credit award.
- ▶ New jobs will be considered as backfilling open positions when establishing the statewide jobs baseline. Only after this baseline is established can they be counted as new full-time positions.
- ▶ In any year in which the applicant is not in substantial good standing with the Department of Labor and Workforce Development, the Department of Environmental Protection, or the Department of the Treasury, the applicant may forfeit all tax credits awarded in that year subject to the determination, in the sole discretion of the Authority, to extend, in individual cases, the deadline for any annual reporting requirement.

# Additional Program Details (cont.)

## FORFEITURE, REDUCTION, AND/OR RECAPTURE OF THE TAX CREDIT (yrs 6-10)

**Statutory Requirement:** Failure of the eligible business to meet any program criteria shall constitute a default and shall result in the recapture of all or part of the tax credit awarded.

### Proposed Rules:

- ▶ If all or part of a tax credit sold or assigned is subject to recapture, the Authority shall pursue recapture from the eligible business and not from the purchaser or assignee of the tax credit transfer certificate.
- ▶ The Authority may recapture all or part of a tax credit awarded if an eligible business does not remain in compliance with any other requirements of the program and/or the project agreement for the duration of the commitment period. Failure of the eligible business to meet any program criteria shall constitute a default and shall result in the recapture of all or part of the tax credit awarded

# Additional Program Details (cont.)

## Affiliates

**Statutory Requirement:** An affiliate of an eligible business may contribute towards the capital investment and eligible position requirements and may satisfy the requirement for site control during construction and the eligibility period, but in no event shall the tax credit certificate be issued to an affiliate.

**Affiliates** means an entity that directly or indirectly controls, is under common control with, or is controlled by an eligible business. Control exists in all cases in which the entity is a member of a controlled group of corporations as defined pursuant to section 1563 of the federal Internal Revenue Code (26 U.S.C. s.1563) or the entity is an organization in a group of organizations under common control that is subject to the regulations applicable to organizations pursuant to subsection (b) or (c) of section 414 of the federal Internal Revenue Code (26 U.S.C. s.414).

### Proposed Rules:

- Evidence of affiliation requires an opinion of counsel or a CPA letter.

# Capital Investment

## Included in Eligible Capital Investment

### Statutory Requirement:

**Capital investment** means expenses that a business or an affiliate of the business incurs, or is incurred on behalf of the business or affiliate by its landlord, following its submission of an application to the authority pursuant to N.J.S.A. 34:1B-398, but prior to the project completion date, as shall be defined in the project agreement, for: site preparation and construction, repair, renovation, improvement, equipping, or furnishing on real property or of a building, structure, facility, or improvement to real property; obtaining and installing furnishings and machinery, apparatus, or equipment, including, but not limited to, computer systems, hardware, software, and equipment and material goods subject to bonus depreciation under sections 168 and 179 of the federal Internal Revenue Code (26 U.S.C. ss.168 and 179), for the operation of a business on real property or in a building, structure, facility, or improvement to real property; or any combination of the foregoing.

# Capital Investment cont.

## Included in Eligible Capital Investment

### Proposed Rules:

Site preparation and construction, repair, renovation, improvement, equipping, or furnishing on real property or of a building, structure, facility, or improvement to real property, including security systems such as surveillance camera, access control systems, and secure entry points to protect the physical infrastructure, site-related utility, including, but not limited to, water, electric, sewer, and stormwater; and transportation infrastructure improvements, plantings, solar panels and components, energy storage components, installation costs of solar energy systems, or other environmental components required to attain the minimum environmental and sustainability standards established by the Authority in accordance with the green building manual prepared by the Commissioner of Community Affairs.

Site-related connectivity and telecommunications installation costs, including, but not limited to, fiber optic cables; energy power generation, including energy storage components, distributed storage systems, redundant power supplies, backup generators and uninterruptible power supplies (UPS); and advanced cooling technologies, such as liquid cooling or HVAC systems, to manage the heat generated by high-performance computing equipment;

Obtaining and installing computer systems, hardware, and equipment, and for the initial, but not ongoing, operation of a business on real property or in a building, structure, facility, or improvement to real property. Capital investment shall include the value of a capital lease, as defined by generally accepted accounting practices (GAAP), of furnishings and machinery, apparatus, or equipment, based on the shorter of the useful life of the leased property or the commitment period;

# Capital Investment

## Soft Costs (including software)

### Statutory Requirement:

**Capital investment** means expenses that a business or an affiliate of the business incurs, or is incurred on behalf of the business or affiliate by its landlord, following its submission of an application to the authority pursuant to N.J.S.A. 34:1B-398, but prior to the project completion date, as shall be defined in the project agreement, for: site preparation and construction, repair, renovation, improvement, equipping, or furnishing on real property or of a building, structure, facility, or improvement to real property; obtaining and installing furnishings and machinery, apparatus, or equipment, including, but not limited to, computer systems, hardware, software, and equipment and material goods subject to bonus depreciation under sections 168 and 179 of the federal Internal Revenue Code (26 U.S.C. ss.168 and 179), for the operation of a business on real property or in a building, structure, facility, or improvement to real property; or any combination of the foregoing.

### Proposed Rules:

Associated soft costs and software, which combined shall not exceed 20 percent of capital investment.



# New Jersey Qualified Business Facility

## Qualified Business Facility (QBF)

**Statutory Requirement:** The business entity must maintain the project in New Jersey for duration of 10-year commitment.

### **Proposed Rules:**

- ▶ Projects will be allowed to lease up to 5% of the qualified business facility.
- ▶ Sale of the qualified business facility is not allowed.

### **Maintenance of the project in New Jersey:**

Notwithstanding the foregoing, a business may lease or sublease a portion of its qualified business facility to a new tenant that is a quality childcare facility and up to 5% for any other new tenant without forfeiting any of the business's credits, provided that the new tenant's full-time employees and capital investment shall not be included in the business's eligible full-time employees or capital investment.

# Green Building Standards

## Minimum Environmental and Sustainability Standards

The proposed appendix to the NJEDA Green Building Manual would outline **acceptable green construction standards** widely recognized in the industry. To comply with minimum environmental and sustainability standards, a qualified business would, within **two years** of service, be required to certify compliance under one or more of the following green building standards:

- ▶ **BREEAM for New Construction or In-Use**
- ▶ **ENERGY STAR**
- ▶ **Envision**
- ▶ **ISO 50001 – Energy Management**
- ▶ **LEED for Building Design and Construction or Operations and Maintenance**
- ▶ **Green Globes for New Construction or Existing Buildings**
- ▶ **ASHRAE Energy Standards for Data Centers**

"Minimum environmental and sustainability standards" means standards established by the Authority in accordance with the green building manual prepared by the Commissioner of the Department of Community Affairs, regarding the use of renewable energy, energy-efficient technology, and non-renewable resources to reduce environmental degradation and encourage long-term cost reduction. The Authority shall publish these standards on its website. The highlighted programs are the ones currently featured in the Green Building manual. Based on research gathered, I believe we should continue to focus on these programs while excluding others. However, we may give consideration to the inclusion of Envision for campus-type projects that involve infrastructure and multiple buildings.

# Next NJ Program-AI Fees

## Fee Chart

NEXT NJ - AI FEES			
Project Fee Inputs	Small projects	Medium projects	Large projects
	(100-149 Jobs)	(150-199 Jobs)	(200+ Jobs)
Application Fee	\$10,000	\$25,000	\$50,000
Approval Fee	\$75,000	\$150,000	\$330,000
Tax Credit Certificate Issuance Fee	\$10,000	\$100,000	\$200,000
Annual Servicing Fee	\$20,000	\$40,000	\$120,000
Tax Credit Transfer Fee (each request)	\$10,000	\$20,000	\$30,000
First Six-month Extension Fee	\$10,000	\$20,000	\$30,000
Subsequent Extension Fee	\$15,000	\$30,000	\$50,000
Minor Modification Fee (administrative change, additions, or modification to the tax credit)	\$5,000	\$7,500	\$10,000
Major Modification Fee (board approval)	\$15,000	\$25,000	\$35,000
Existing Incentive Agreement Termination Fee: minor	\$5,000	\$7,500	\$10,000
Existing Incentive Agreement Termination Fee: major (board approval)	\$15,000	\$25,000	\$35,000
Assignment Fee	\$37,500	\$75,000	\$165,000



# Conclusion

The Next NJ Program-AI presents an exciting opportunity for businesses looking to grow or establish themselves in a state dedicated to innovation and economic expansion.

The Next NJ Program-AI will reinforce New Jersey's status as a frontrunner in the innovation economy.

It's a mutually beneficial arrangement, drawing substantial investments to New Jersey and promoting sustained job growth.



Visit the [www.njeda.gov/nextnjai](http://www.njeda.gov/nextnjai)



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