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SYNOPSIS
“The New Jersey Economic Opportunity Act of 2013”, provides financial incentives for expansion or conversion of certain redevelopment projects.

CURRENT VERSION OF TEXT
As amended by the General Assembly on April 29, 2013.
AN ACT concerning incentives for certain economic development projects, amending and supplementing various parts of the statutory law.

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

1. (New section) This act shall be known and may be cited as the “New Jersey Economic Opportunity Act of 2013.”

2. Section 3 of P.L.1996, c.25 (C.34:1B-114) is amended to read as follows:

3. a. The Business Retention and Relocation Assistance Grant Program is hereby established as a program under the jurisdiction of the New Jersey Economic Development Authority and shall be administered by the authority. The purpose of the program is to encourage economic development and job creation and to preserve jobs that currently exist in New Jersey but which are in danger of being relocated to premises outside of the State. To implement that purpose, and to the extent that funding for the program is available, the program may provide grants of tax credits. To be eligible for any grant of tax credits pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.), a business shall demonstrate to the authority, at the time of application, that the grant of tax credits and resultant retention of full-time jobs and any capital investment will yield a net positive benefit to the State. The net benefit resulting from the retention of full-time jobs and any capital investment by a business that has had grant pre-application meetings with the authority and has executed contracts relating to the new business location during the period commencing May 1, 2010 until the enactment of P.L.2010, c.123, shall be calculated from the date of the initial grant pre-application meeting.

b. (1) If an application under P.L.1996, c.25 (C.34:1B-112 et seq.) has been received by the authority prior to the effective date of the “New Jersey Economic Opportunity Act of 2013,” P.L. ___, c. ___ (C. ___) (pending before the Legislature as this bill), then, to the extent that there remains sufficient financial authorization for the grant of tax credits, the authority is authorized to consider the application and to make a grant of tax credits to an eligible applicant, provided that the authority shall take final action on that grant of tax credits no later than 90 calendar days after the effective date of the “New Jersey Economic Opportunity Act of 2013,” P.L. ___, c. ___ (C. ___) (pending before the Legislature as this bill).

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:
3Assembly floor amendments adopted April 29, 2013.
(2) A business shall apply for a grant of tax credits under the Business Retention and Relocation Assistance Grant Program prior to the effective date of the “New Jersey Economic Opportunity Act of 2013,” P.L. 2013 (pending before the Legislature as this bill), and shall submit its documentation for approval of a grant of tax credits no later than July 1, 2013.

(3) If a business has submitted an application under P.L.1996, c.25 (C.34:1B-112 et seq.) and that application has not been approved for any reason, the lack of approval shall not serve to prejudice in any way the consideration of a new application as may be submitted by a business for the provision of incentives offered pursuant to the “New Jersey Economic Opportunity Act of 2013,” P.L. 2013 (pending before the Legislature as this bill).

(cf: P.L.2010, c.123, s.2)

3. Section 4 of P.L.1996, c.26 (C.34:1B-127) is amended to read as follows:

4. a. A business may apply to the authority for a grant for any project which:

   (1) Will create at least 25 eligible positions in the base years; or

   (2) Will create at least 10 eligible positions in the base years if the business is an advanced computing company, an advanced materials company, a biotechnology company, an electronic device technology company, an environmental technology company, or a medical device technology company.

   b. In the case of a business which is a landlord, the business may apply to the authority for a grant for any project in which at least 25 eligible positions are created in the base years.

   c. A project which consists solely of point-of-final-purchase retail facilities shall not be eligible for a grant under this act. If a project consists of both point-of-final-purchase retail facilities and non-retail facilities, only the portion of the project consisting of non-retail facilities shall be eligible for a grant, and only the withholdings from new employees which are employed in the portion of the project which represents non-retail facilities shall be used to determine the amount of the grant. If a warehouse facility is part of a point-of-final-purchase retail facility and supplies only that facility, the warehouse facility shall not be eligible for a grant. For the purposes of this act, catalog distribution centers shall not be considered point-of-final-purchase retail facilities.

   d. (1) If an application under P.L.1996, c.26 (C.34:1B-124 et seq.) has been received by the authority prior to the effective date of the “New Jersey Economic Opportunity Act of 2013,” P.L. 2013 (pending before the Legislature as this bill), and, to the extent that there remains sufficient appropriations for grant issuance, then the authority is authorized to consider the application and to make a grant to an eligible applicant, provided that the
authority shall take final action on that grant no later than 90
calendar days after the effective date of the “New Jersey Economic
Opportunity Act of 2013,” P.L. , c. (C. ) (pending before the
Legislature as this bill).
(2) A business shall apply for a grant under the Business
Employment Incentive Program prior to the effective date of the
“New Jersey Economic Opportunity Act of 2013,”
P.L. , c. (C. ) (pending before the Legislature as this bill), and
shall submit its documentation for approval of a grant no later than
July 1, 2013.
(3) If a business has submitted an application under P.L.1996,
c.26 (C.34:1B-124 et seq.) and that application has not been
approved for any reason, the lack of approval shall not serve to
prejudice in any way the consideration of a new application as may
be submitted by a business for the provision of incentives offered
pursuant to the “New Jersey Economic Opportunity Act of 2013,”
P.L. , c. (C. ) (pending before the Legislature as this bill).
(cf: P.L.2003, c.166, s.2)
4. Section 3 of P.L.2007, c.346 (C.34:1B-209) is amended to
read as follows:
3. a. (1) A business, upon application to and approval from the
authority, shall be allowed a credit of 100 percent of its capital
investment, made after the effective date of P.L.2007, c.346
(C.34:1B-207 et seq.) but prior to its submission of documentation
pursuant to subsection c. of this section, in a qualified business
facility within an eligible municipality, pursuant to the restrictions
and requirements of this section. To be eligible for any tax credits
authorized under this section, a business shall demonstrate to the
authority, at the time of application, that the State's financial
support of the proposed capital investment in a qualified business
facility will yield a net positive benefit to both the State and the
eligible municipality. The value of all credits approved by the
authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) shall
not exceed $1,750,000,000, except as may be increased by the
authority as set forth in paragraph (5) of subsection a. of P.L.2009,
c.90 (C.34:1B-209.3).
(2) A business, other than a tenant eligible pursuant to paragraph
(3) of this subsection, shall make or acquire capital investments
totaling not less than $50,000,000 in a qualified business facility, at
which the business shall employ not fewer than 250 full-time
employees to be eligible for a credit under this section. A business
that acquires a qualified business facility shall also be deemed to
have acquired the capital investment made or acquired by the seller.
(3) A business that is a tenant in a qualified business facility, the
owner of which has made or acquired capital investments in the
facility totaling not less than $50,000,000, shall occupy a leased
area of the qualified business facility that represents at least
$17,500,000 of the capital investment in the facility at which the
tenant business and up to two other tenants in the qualified business
facility shall employ not fewer than 250 full-time employees in the
aggregate to be eligible for a credit under this section. The amount
of capital investment in a facility that a leased area represents shall
be equal to that percentage of the owner's total capital investment in
the facility that the percentage of net leasable area leased by the
tenant is of the total net leasable area of the qualified business
facility. Capital investments made by a tenant shall be deemed to
be included in the calculation of the capital investment made or
acquired by the owner, but only to the extent necessary to meet the
owner's minimum capital investment of $50,000,000. Capital
investments made by a tenant and not allocated to meet the owner's
minimum capital investment threshold of $50,000,000 shall be
added to the amount of capital investment represented by the
tenant's leased area in the qualified business facility.

(4) A business shall not be allowed tax credits under this section
if the business participates in a business employment incentive
grant relating to the same capital and employees that qualify the
business for this credit, or if the business receives assistance
pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.). A business that is
allowed a tax credit under this section shall not be eligible for
incentives authorized pursuant to P.L.2002, c.43 (C.52:27BBB-1 et
al.). A business shall not qualify for a tax credit under this section,
based upon capital investment and employment of full-time
employees, if that capital investment or employment was the basis
for which a grant was provided to the business pursuant to the
"InvestNJ Business Grant Program Act," P.L.2008, c.112 (C.34:1B-
237 et seq.).

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

(6) The capital investment of the owner of a qualified business
facility is that percentage of the capital investment made or
acquired by the owner of the building that the percentage of net
leasable area of the qualified business facility not leased to tenants
is of the total net leasable area of the qualified business facility.

(7) A business shall be allowed a tax credit of 100 percent of its
capital investment, made after the effective date of P.L.2011, c.89
but prior to its submission of documentation pursuant to subsection
c. of this section, in a qualified business facility that is part of a
mixed use project, provided that (a) the qualified business facility
represents at least $17,500,000 of the total capital investment in the
mixed use project, (b) the business employs not fewer than 250 full-
time employees in the qualified business facility, and (c) the total
capital investment in the mixed use project of which the qualified
business facility is a part is not less than $50,000,000. The
allowance of credits under this paragraph shall be subject to the
restrictions and requirements, to the extent that those are not inconsistent with the provisions of this paragraph, set forth in paragraphs (1) through (6) of this subsection, including but not limited to the requirement that the business shall demonstrate to the authority, at the time of application, that the State's financial support of the proposed capital investment in a qualified business facility will yield a net positive benefit to both the State and the eligible municipality.

(8) In determining whether a proposed capital investment will yield a net positive benefit, the authority shall not consider the transfer of an existing job from one location in the State to another location in the State as the creation of a new job, unless (a) the business proposes to transfer existing jobs to a municipality in the State as part of a consolidation of business operations from two or more other locations that are not in the same municipality whether in-State or out-of-State, or (b) the business's chief executive officer, or equivalent officer, submits a certification to the authority indicating that the existing jobs are at risk of leaving the State and that the business's chief executive officer, or equivalent officer, has reviewed the information submitted to the authority and that the representations contained therein are accurate, and the business intends to employ not fewer than 500 full-time employees in the qualified business facility. In the event that this certification by the business's chief executive officer, or equivalent officer, is found to be willfully false, the authority may revoke any award of tax credits in their entirety, which revocation shall be in addition to any other criminal or civil penalties that the business and the officer may be subject to. When considering an application involving intra-State job transfers, the authority shall require the company to submit the following information as part of its application: a full economic analysis of all locations under consideration by the company; all lease agreements, ownership documents, or substantially similar documentation for the business's current in-State locations; and all lease agreements, ownership documents, or substantially similar documentation for the potential out-of-State location alternatives, to the extent they exist. Based on this information, and any other information deemed relevant by the authority, the authority shall independently verify and confirm, by way of making a factual finding by separate vote of the authority's board, the business's assertion that the jobs are actually at risk of leaving the State, before a business may be awarded any tax credits under this section.

b. (1) If applications under this section have been received by the authority prior to the effective date of the “New Jersey Economic Opportunity Act of 2013,” P.L. , c. (pending before the Legislature as this bill), then, to the extent that there remains sufficient financial authorization for the award of a tax credit, the authority is authorized to consider those applications and to make awards of tax credits to eligible applicants, provided that
the authority shall take final action on those applications prior to the
90th day after the date of enactment of the “New Jersey Economic
Opportunity Act of 2013,” P.L. , c. (C. ) (pending before the
Legislature as this bill).
(2) A business shall apply for the credit under this section prior
to [July 1, 2014] the effective date of the “New Jersey Economic
Opportunity Act of 2013,” P.L. , c. (C. ) (pending before the
Legislature as this bill), and shall submit its documentation for
approval of its credit amount no later than [July 28, 2017] April 26,
2017.
(3) If a business has submitted an application under this section
and that application has not been approved for any reason, the lack
of approval shall not serve to prejudice in any way the
consideration of a new application as may be submitted for the
qualified business facility for the provision of incentives offered
pursuant to the “New Jersey Economic Opportunity Act of 2013,”
P.L. , c. (C. ) (pending before the Legislature as this bill).
(4) Tax credits awarded pursuant to P.L.2007, c.346 (C.34:1B-
207 et seq.) for applications submitted to and approved by the
authority prior to the effective date of the “New Jersey Economic
Opportunity Act of 2013.” P.L. , c. (C. ) (pending before the
Legislature as this bill), shall be administered by the authority in the
manner established prior to that date.
c. (1) The amount of credit allowed shall, except as otherwise
provided, be equal to the capital investment made by the business,
or the capital investment represented by the business' leased area, or
area owned by the business as a condominium, and shall be taken
over a 10-year period, at the rate of one-tenth of the total amount of
the business' credit for each tax accounting or privilege period of
the business, beginning with the tax period in which the business is
first certified by the authority as having met the investment capital
and employment qualifications, subject to any reduction or
disqualification as provided by subsection d. of this section as
determined by annual review by the authority. In conducting its
annual review, the authority may require a business to submit any
information determined by the authority to be necessary and
relevant to its review.

The credit amount for any tax period ending after July 28, 2017
during which the documentation of a business’ credit amount
remains uncertified shall be forfeited, although credit amounts for
the remainder of the years of the 10-year credit period shall remain
available to it.
The credit amount that may be taken for a tax period of the
business that exceeds the final liabilities of the business for the tax
period may be carried forward for use by the business in the next 20
successive tax periods, and shall expire thereafter, provided that the
value of all credits approved by the authority against tax liabilities
pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) in any fiscal year shall not exceed $150,000,000.  

The amount of credit allowed for a tax period to a business that is a tenant in a qualified business facility shall not exceed the business' total lease payments for occupancy of the qualified business facility for the tax period.  

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

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

d. (1) If, in any tax period, fewer than 200 full-time employees of the business at the qualified business facility are employed in new full-time positions, the amount of the credit otherwise determined pursuant to final calculation of the award of tax credits pursuant to subsection c. of this section shall be reduced by 20 percent for that tax period and each subsequent tax period until the first period for which documentation demonstrating the restoration of the 200 full-time employees employed in new full-time positions at the qualified business facility 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; provided, however, that for businesses applying before January 1, 2010, there shall be no reduction if a business relocates to an urban transit hub from another location or other locations in the same municipality. For the purposes of this paragraph, a "new full-time position" means a position created by the business at the qualified business facility that did not previously exist in this State.  

(2) If, in any tax period, the business reduces the total number of full-time employees in its Statewide workforce by more than 20 percent from the number of full-time employees in its Statewide workforce in the last tax accounting or privilege period prior to the credit amount approval under subsection a. of this section, then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the business'
Statewide workforce to the threshold levels required by this paragraph 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.

(3) If, in any tax period, (a) the number of full-time employees employed by the business at the qualified business facility located in an urban transit hub within an eligible municipality drops below 250, or (b) the number of full-time employees, who are not the subject of intra-State job transfers, pursuant to paragraph (8) of subsection a. of this section, employed by the business at any other business facility in the State, whether or not located in an urban transit hub within an eligible municipality, drops by more than 20 percent from the number of full-time employees in its workforce in the last tax accounting or privilege period prior to the credit amount approval under this section, then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the number of full-time employees employed by the business at the qualified business facility to 250 or an increase above the 20 percent reduction 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.

(4) (i) If the qualified business facility is sold in whole or in part during the 10-year eligibility period the new owner shall not acquire the capital investment of the seller and the seller shall forfeit all credits for the tax period in which the sale occurs and all subsequent tax periods, provided however that any credits of tenants shall remain unaffected.

(ii) If a tenant subleases its tenancy in whole or in part during the 10-year eligibility period the new tenant shall not acquire the credit of the sublessor, and the sublessor tenant shall forfeit all credits for the tax period of its sublease and all subsequent tax periods.

e. (1) The Executive Director of the New Jersey Economic Development Authority, in consultation with the Director of the Division of Taxation in the Department of the Treasury, shall adopt rules in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to implement this act, including but not limited to: examples of and the determination of capital investment; the enumeration of eligible municipalities; specific delineation of urban transit hubs; the determination of the limits, if any, on the expense or type of furnishings that may constitute capital improvements; the promulgation of procedures and forms necessary to apply for a credit, including the enumeration of the certification procedures and allocation of tax credits for different phases of a qualified business facility or mixed use project; and provisions for credit applicants to be charged an initial application fee, and ongoing service fees, to
cover the administrative costs related to the credit.

(2) Through regulation, the Economic Development Authority shall establish standards based on the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding the use of renewable energy, energy-efficient technology, and non-renewable resources in order to reduce environmental degradation and encourage long-term cost reduction.

(cf: P.L.2012, c.35, s.1)

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

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

(cf: P.L.2009, c.90, s.33)

6. Section 35 of P.L.2009, c.90 (C.34:1B-209.3) is amended to read as follows:

35. a. (1) A developer, upon application to and approval from the authority, shall be allowed a credit of up to 35 percent of its capital investment, made after the effective date of P.L.2009, c.90 (C.52:27D-489a et al.) but prior to its submission of documentation pursuant to subsection c. of this section, in a qualified residential project, pursuant to the restrictions and requirements of this section. To be eligible for any tax credits authorized under this section, a
developer shall demonstrate to the authority, through a project pro-
forma analysis at the time of application, that the qualified
residential project is likely to be realized with the provision of tax
credits at the level requested but is not likely to be accomplished by
private enterprise without the tax credits. The value of all credits
approved by the authority pursuant to [P.L.2009, c.90 (C.52:27D-
489a et al.)] this section for qualified residential projects may be up
to $150,000,000, except as may be increased by the authority as set
forth below and as set forth in paragraph (5) of this subsection;
provided, however, that the combined value of all credits approved
by the authority pursuant to [both] section 3 of P.L.2007, c.346
(C.34:1B-207 et seq.) and [P.L.2009, c.90 (C.52:27D-489a et
al.)] this section shall not exceed $1,750,000,000, except as may be
increased by the authority as set forth in paragraph (5) of this
subsection. The authority shall monitor application and allocation
activity under P.L.2007, c.346 (C.34:1B-207 et seq.), and if
sufficient credits are available after taking into account allocation
under P.L.2007, c.346 (C.34:1B-207 et seq.) to those qualified
business facilities for which applications have been filed or for
which applications are reasonably anticipated, and if the executive
director judges certain qualified residential projects to be
meritorious, the aforementioned $150,000,000 cap may, in the
discretion of the executive director, from time to time, be exceeded
for allocation to qualified residential projects in such amounts as
the executive director deems reasonable, justified, and appropriate.
In allocating all credits to qualified residential projects under this
section, the executive director shall take into account, together with
other factors deemed relevant by the executive director: input from
the municipality in which the project is to be located, whether the
project contributes to the recovery of areas affected by Hurricane
Sandy, whether the project furthers specific State or municipal
planning and development objectives, or both, and whether the
project furthers a public purpose, such as catalyzing urban
development or maximizing the value of vacant, dilapidated,
outmoded, government-owned, or underutilized property, or both.
(2) A developer shall make or acquire capital investments
totaling not less than $50,000,000 in a qualified residential project
to be eligible for a credit under this section. A developer that
acquires a qualified residential project shall also be deemed to have
acquired the capital investment made or acquired by the seller.
(3) The capital investment requirement may be met by the
developer or by one or more of its affiliates.
(4) A developer of a mixed use project shall be allowed a credit
pursuant to subparagraph (a) or (b) of this paragraph, but not both.
(a) A developer shall be allowed a credit in accordance with this
section for a qualified residential project that includes a mixed use
project.
(b) A developer shall be allowed a credit of up to 35 percent of its capital investment, made after the effective date of P.L.2011, c.89 but prior to its submission of documentation pursuant to subsection c. of this section, in a qualified residential project that is part of a mixed use project, provided that: (a) the capital investment in the qualified residential project represents at least $17,500,000 of the total capital investment in the mixed use project; and (b) the total capital investment in the mixed use project of which the qualified residential project is a part is not less than $50,000,000. The allowance of credits under this paragraph shall be subject to the restrictions and requirements, to the extent that those are not inconsistent with the provisions of this paragraph, set forth in paragraphs (1) through (3) of this subsection, including but not limited to the requirement prescribed in paragraph (1) of this subsection that the developer shall demonstrate to the authority, through a project pro forma analysis at the time of application, that the qualified residential project is likely to be realized with the provision of tax credits at the level requested but is not likely to be accomplished by private enterprise without the tax credits.

As used in this subparagraph:

"Mixed use project" means a project comprising both a qualified residential project and a qualified business facility.

(5) The authority may approve and allocate credits for qualified residential projects in a value sufficient to meet the requirements of all applications that were received by the authority between October 24, 2012 and December 21, 2012, without regard to the terms of any competitive solicitation and without need for reapplication by any applicant. The authority shall take final action on those applications prior to the 90th day after the date of enactment of the "New Jersey Economic Opportunity Act of 2013," P.L. , c. (pending before the Legislature as this bill).

b. (1) A developer shall apply for the credit under this section on or prior to [July 1, 2014] December 21, 2012 but [and a] may thereafter supplement an application as may be requested by the authority. A developer shall submit its documentation for approval of its credit amount no later than [July 28, 2017] April 26, 2017.

(2) If a developer has submitted an application under this section and the application has not been approved for any reason, the lack of approval shall not serve to prejudice in any way the consideration of a new application as may be submitted for the project for the provision of incentives offered pursuant to the "New Jersey Economic Opportunity Act of 2013," P.L. , c. (pending before the Legislature as this bill).

c. The credit shall be administered in accordance with the provisions of subsections c. and e. of section 3 of P.L.2007, c.346 (C.34:1B-209), as amended by section 32 of P.L.2009, c.90, and section 33 of P.L.2009, c.90 (C.34:1B-209.1), except that (1) all references therein to "business" and "qualified business facility"
shall be deemed to refer respectively to "developer" and "qualified residential project," as such terms are defined in section 34 of P.L.2009, c.90 (C.34:1B-209.2) and (2) all references therein to credits claimed by tenants and to reductions or disqualifications in credits as determined by annual review of the authority shall be disregarded. Provided however, for purposes of a "mixed use project" as that term is used and defined pursuant to subparagraph (b) of paragraph (4) of subsection a. of this section, "qualified business facility" means that term as defined pursuant to section 2 of P.L.2007, c.346 (C.34:1B-208).

(cf: P.L.2012, c.35, s.2)

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

2. As used in [this act] P.L.2011, c.149 (C.34:1B-242 et seq.):
"Affiliate" means an entity that directly or indirectly controls, is under common control with, or is controlled by the business. Control exists in all cases in which the entity is a member of a controlled group of corporations as defined pursuant to section 1563 of the Internal Revenue Code of 1986 (26 U.S.C.s.1563) or the entity is an organization in a group of organizations under common control as defined pursuant to subsection (b) or (c) of section 414 of the Internal Revenue Code of 1986 (26 U.S.C.s.414). A taxpayer may establish by clear and convincing evidence, as determined by the Director of the Division of Taxation in the Department of the Treasury, that control exists in situations involving lesser percentages of ownership than required by those statutes. An affiliate of a business may contribute to meeting either the qualified investment or full-time employee requirements of a business that applies for a credit under section 3 of P.L.2007, c.346 (C.34:1B-209).

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


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

a corporation that is subject to the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
a corporation that is subject to the tax imposed pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15) or N.J.S.17B:23-5, [or is]
a partnership,
an S corporation, [or]
A business shall include an affiliate of the business if that business applies for a credit based upon any capital investment made by or full-time employees of an affiliate. “Capital investment” in a qualified business facility means expenses by a business or any affiliate of the business incurred after application, but before the end of the tenth year after, the effective date of P.L. 2011, c.149 (C.34: 1B-242 et al.) for either:

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

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

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

“Deep poverty pocket” means a population census tract having a poverty level of 20 percent or more, and which is located within the qualified incentive area and has been determined by the authority to be an area appropriate for development and in need of economic development incentive assistance.
“Disaster recovery project” means a project located on property
that has been wholly or substantially damaged or destroyed as a
result of a federally-declared disaster, and which is located within
the qualified incentive area and has been determined by the
authority to be in an area appropriate for development and in need
of economic development incentive assistance.

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

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

"Eligible position" or “full-time job” means a full-time
[employee] position [retained or created by] in a business in this
State [for which a business provides employee health benefits
under a group health plan as defined under section 14 of P.L.1997,
c.146 (C.17B:27-54), a health benefits plan as defined under section
1 of P.L.1992, c.162 (C.17B:27A-17), or a policy or contract of
health insurance covering more than one person issued pursuant to
Article 2 of chapter 27 of Title 17B of the New Jersey Statutes]
which the business has filled with a full-time employee.

"Full-time employee” means a person:
a. who is employed by [the] a business for consideration for at
least 35 hours a week, or who renders any other standard of service
generally accepted by custom or practice as full-time employment,
or [a person]
b. who is employed by a professional employer organization
pursuant to an employee leasing agreement between the business
and the professional employer organization, in accordance with
P.L.2001, c.260 (C.34:8-67 et seq.) for at least 35 hours a week, or
who renders any other standard of service generally accepted by
custom or practice as full-time employment, and whose wages are
subject to withholding as provided in the "New Jersey Gross
Income Tax Act," N.J.S.54A:1-1 et seq. or [an employee]
c. who is a resident of another State but whose income is not
et seq. or who is a partner of a business who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and

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

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

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

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

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

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

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

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

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

“Mega project” means:

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

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

(2) at which more than 1,000 full-time employees of such business are created or retained;
b. a qualified business facility located in an aviation district housing a business in the aviation industry, either:

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

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

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

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

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

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

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

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

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

b. intersect with portions of: a deep poverty pocket, a port district, or federally owned land approved for closure under a federal Base Realignment Closing Commission action;
c. are the proposed site of a disaster recovery project, a qualified incubator facility, a tourism destination project, or transit oriented development; or
d. contain: a vacant commercial building having over 400,000 square feet of office, laboratory, or industrial space available for occupancy for a period of over one year; or a site that has been negatively impacted by the approval of a “qualified business facility,” as defined pursuant to section 2 of P.L.2007, c.346 (C.34:1B-208).

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

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

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

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

"Qualified business facility" means any building, complex of buildings or structural components of buildings, and all machinery and equipment located within a qualified incentive area, used in connection with the operation of a business.

"Qualified incentive area" means:

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

   (a) Planning Area 1 (Metropolitan),
   (b) Planning Area 2 (Suburban), [or any urban, regional, or town]
   (c) Planning Area 3 (Fringe Planning Area),
   (d) a designated center under the State Development and Redevelopment Plan [an area zoned for development pursuant to],

   or

   (e) a designated growth center in an endorsed plan until June 30, 2013, or until the State Planning Commission revises and readopts New Jersey’s State Strategic Plan and adopts regulations to revise this definition as it pertains to Statewide planning areas, whichever is later:

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

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

(4) located within a [pinelands] regional growth area, [a pinelands] town management area, [a pinelands village] or a military and federal installation area [established pursuant to]
designated in the [pinelands] comprehensive management plan
prepared and adopted by the Pinelands Commission pursuant to the
[an area designated for development, redevelopment, or economic
growth within the Highlands Region; federally owned] or

(5) located within land approved for closure under any federal
Base Closure and Realignment Commission action [or any property
consisting of a vacant commercial building having over 400,000
square feet of office, laboratory, or industrial space available for
occupancy for a period of over one year or is negatively impacted
by the approval of a "qualified business facility," as defined
pursuant to section 2 of P.L.2007, c.346 (C.34:1B-208); but
excluding

b. an area designated in the 2008 Highlands Regional Master
Plan, adopted pursuant to the "Highlands Water Protection and
within:

(1) (a) the Existing Community Zone, or
(b) a Highlands center, designated by the Highlands Water
Protection and Planning Council, established pursuant to section 4
of P.L.2004, c.120 (C.13:20-4); which area is not located within;

(2) (a) the Protection Zone,
(b) the Conservation Zone, or
(c) an Environmentally Constrained Sub-Zone.

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

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

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

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

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

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

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

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

"Urban transit hub" means an urban transit hub, as defined in section 10 of P.L.2007, c.346 (C.34:1B-208), that is located within an eligible municipality, as defined in section 10 of P.L.2007, c.346 (C.34:1B-208) and also located within a qualified incentive area.

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

3. a. The Grow New Jersey Assistance Program is hereby established as a program under the jurisdiction of the New Jersey Economic Development Authority and shall be administered by the authority. The purpose of the program is to encourage economic development and job creation and to preserve jobs that currently exist in New Jersey but which are in danger of being relocated outside of the State. To implement this purpose, the program may provide tax credits to eligible businesses for an eligibility period not to exceed 10 years.
To be eligible for any tax credits pursuant to P.L.2011, c.149 (C.34:1B-242 et al.), business's chief executive officer or equivalent officer shall demonstrate to the authority, at the time of application, that:

(1) the business, expressly including its landlord or seller, will make, acquire, or lease a capital investment of at least $20,000,000 equal to, or greater than, the applicable amount set forth in subsection b. of this section at a qualified business facility at which it will:

(a) employ at least 100 full-time employees in retained full-time jobs in an amount equal to or greater than the applicable number set forth in subsection c. of this section; or

(b) create at least 100 new full-time jobs in an industry identified by the authority as desirable for the State to maintain or attract;

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

(3) the capital investment resultant from the award of tax credits and the resultant retention and creation of full-time jobs will yield a net positive benefit to the State, equaling at least 110 percent of the requested tax credit allocation amount, which determination shall be based on the benefits generated during the first 20 years following the completion of the project, except that for a mega project, the determination shall be based on the benefits generated during a period of up to 30 years following the completion of the project, as determined by the authority; and,

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

With respect to the provisions of paragraph (3) of this subsection, in the case of a logistics, manufacturing, energy, defense, aviation, or maritime business, excluding a primarily warehouse or distribution business, the authority, in its discretion, may award bonus points in its net positive benefit calculation.

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

(1) for the rehabilitation of an existing industrial premises for continued industrial use by the business, a minimum investment of $20 per square foot of gross leasable area;
(2) for the new construction of an industrial premises for industrial use by the business, a minimum investment of $60 per square foot of gross leasable area;

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

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

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

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

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

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

d. To assist the authority in determining whether a proposed capital investment will yield a net positive benefit, the business's chief executive officer, or equivalent officer, shall submit a certification to the authority indicating that any existing retained full-time jobs are at risk of leaving the State and the date or dates at which it is expected that those full-time jobs would leave the State, that any projected creation of new full-time jobs would not occur but for the provision of tax credits under the program, and that the business's chief executive officer, or equivalent officer, has reviewed the information submitted to the authority and that the representations contained therein are accurate. In the event that this certification by the business's chief executive officer, or equivalent officer, is found to be willfully false, the authority may revoke any award of tax credits in their entirety, which revocation shall be in addition to any other criminal or civil penalties that the business and the officer may be subject to. When considering an application involving intra-State job transfers, the authority shall require the business to submit the following information as part of its application: a full economic analysis of all locations under consideration by the business; all lease agreements, ownership documents, or substantially similar documentation for the business's current in-State locations; and all lease agreements, ownership documents, or substantially similar documentation for the potential out-of-State location alternatives, to the extent they exist. Based on this information, and any other information deemed relevant by the authority, the authority shall independently verify and confirm, by way of making a factual finding by separate vote of the authority's board, the business's assertion that the jobs are actually at risk of leaving the State and as to the date or dates at which the authority...
expects that those jobs would actually leave the State, before a
business may be awarded any tax credits under this section.

c. A project that consists solely of point-of-final-purchase
retail facilities shall not be eligible for a grant of tax credits. If a
project consists of both point-of-final-purchase retail facilities and
non-retail facilities, only the portion of the project consisting of
non-retail facilities shall be eligible for a grant of tax credits. If a
warehouse facility is part of a point-of-final-purchase retail facility
and supplies only that facility, the warehouse facility shall not be
eligible for a grant of tax credits. For the purposes of this section,
catalog distribution centers shall not be considered point-of-final-
purchase retail facilities.

d. The authority may determine as eligible for tax credits
under the program any business that is required to respond to a
request for proposals and to fulfill a contract with the federal
government although the business's chief executive officer or
equivalent officer has not demonstrated to the authority that the
award of tax credits will be a material factor in the business's
decision to retain [at least 100] the minimum number of retained
full-time jobs, as otherwise required by [paragraph (3) of
subsection a. of] this section. The authority may, in its discretion,
consider the economic benefit of the retained jobs servicing the
contract in conducting a net benefit analysis required by paragraph
[(2)] of subsection a. of this section. For the purposes of this
subsection, "retained full-time jobs" includes jobs that are at risk of
being eliminated. Applications to the authority for eligibility under
the program pursuant to the criteria set forth in this subsection shall
proposal to the federal government prior to authority approval shall
not disqualify a business from the program.

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

(cf: PL.2011, c.149, s.3)

9. Section 4 of P.L.2011, c.149 (C.34:1B-245) is amended to
read as follows:

4. The authority shall require an eligible business to enter into an incentive agreement prior to the issuance of tax credits. The incentive agreement shall include, but shall not be limited to, the following:

a. A detailed description of the proposed project which will result in job creation or retention, and the number of new or retained full-time employees jobs that are approved for tax credits.

b. The term eligibility period of the tax credits, [and]

including the first year for which the tax credits may be claimed.
c. Personnel information that will enable the authority to administer the program.

d. A requirement that the applicant maintain the project at a location in New Jersey [at least 1.5 times the number of years of the term of the tax credits] for the commitment period, with at least the minimum number of full-time employees as required by section 6 of P.L.2011, c.149 (C.34:1B-247) this program, and a provision to permit the authority to recapture all or part of any tax credits awarded, at its discretion, if the business does not remain [at the site] in compliance with this provision for the required term, with such permitted recapture not to exceed the portion of the tax credits as were awarded for periods when the business was not in compliance with this provision.

e. A method for the business to certify that it has met the capital investment and employment requirements of the program pursuant to paragraph (1) of subsection a. of section 3 of P.L.2011, c.149 (C.34:1B-244) and to report annually to the authority the number of full-time employees for which the tax credits are to be made.

f. A provision permitting an audit of the payroll records of the business from time to time, as the authority deems necessary.

g. A provision which permits the authority to amend the agreement.

h. A provision establishing the conditions under which the agreement may be terminated [and awarded tax credits are recaptured, in whole or in part, by the authority at its discretion].

i. (1) A requirement that each worker employed to perform construction work at the qualified business facility shall be paid not less than the prevailing wage rate, consistent with the requirements of section 1 of P.L.1979, c.303 (C.34:1B-5.1);

(2) A requirement that each worker employed to perform building maintenance services at a qualified business facility by a business or a tenant or subcontractor of a business shall be paid not less than the prevailing wage rate for the worker’s craft or trade as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.). This requirement shall survive the termination of the incentive agreement.

(cf: P.L.2011, c.149, s.4)

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

5. a. The [value] total amount of [each] tax credit for an eligible business [shall be equal to $5,000 per year for a period of ten years] for each new or retained full-time job [determined by the authority pursuant to section 3 of P.L.2011, c.149 (C.34:1B-244) to be located at the qualified business facility, subject to the provisions
of this section] shall be as set forth in subsections b. through e. of this section. The total tax credit amount shall be calculated and credited to the business annually for each year of the eligibility period.

b. [In addition to any grant of tax credits determined pursuant to subsection a. of this section, a bonus award of up to an additional $3,000 per job of the amount of the original tax credits may be made to any eligible business as determined by the authority. In making a bonus award to an eligible business, the authority shall consider the following factors, such that whether the business: (1) is an industry identified by the authority as desirable for the State to maintain or attract; (2) locates or relocates to a location within a qualified incentive area adjacent to, or within walking distance or short-distance-shuttle service of, a public transit facility, as determined by the authority, by regulation; (3) creates jobs using full-time employees in eligible positions whose annual salaries, according to the Department of Labor and Workforce Development, are greater than the average full-time salary in this State; or (4) is locating to a project site that is or has been negatively impacted by the approval of a "qualified business facility," as defined pursuant to section 2 of P.L.2007, c.346 (C.34:1B-208).] The base amount of the tax credit for each new or retained full-time job shall be as follows:

(1) for a qualified business facility located within an urban transit hub or is a mega project, $5,000 per year;
(2) for a qualified business facility located within a distressed municipality but not qualifying under paragraph (1) of this subsection, $4,000 per year;
(3) for a project in a priority area, $2,500 per year; and
(4) for a project in other eligible areas, $1,500 per year.

c. [Notwithstanding the provisions of subsections a. and b. of this section, (1) the amount of tax credits available to be applied by the business annually shall not exceed the lesser of one tenth of the capital investment certified by the authority pursuant to section 6 of P.L.2011, c.149 (C.34:1B-247) or $4,000,000, and (2) the number of new full-time jobs for which a business receives a tax credit shall not exceed the number of retained full-time jobs for which a business receives a tax credit, unless the business qualifies by creating at least 100 new full-time jobs in an industry identified by the authority as desirable for the State to maintain or attract.] In addition to the base amount of the tax credit, the amount of the tax credit to be awarded for each new or retained full-time job shall be increased if the qualified business facility meets any of the following priority criteria or other additional or replacement criteria determined by the authority from time to time in response to evolving economic or market conditions:
(1) for a qualified business facility located in a deep poverty pocket or in an area that is the subject of a Choice Neighborhoods Transformation Plan funded by the federal Department of Housing and Urban Development, an increase of $1,500 per year;

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

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

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

(5) for a qualified business facility not eligible for the increase set forth in paragraph (4) of this subsection and at which a shuttle service is available to a commuter rail, bus, or ferry station during rush hour periods on all business days during the commitment period, an increase of $1,000 per year;

(6) for a qualified business facility whose location includes or is directly connected by rail spur to a freight rail line if the applicant utilizes that freight line as a regular part of the operation of its business during the commitment period, an increase of $2,000 per year;

(7) for a qualified business facility not eligible for the increase set forth in paragraph (6) of this subsection and whose location is within one mile of a freight rail line spur if the applicant utilizes that freight line as a regular part of the operation of its business during the commitment period, an increase of $1,000 per year;

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

(9) for a business with new full-time jobs and retained full-time jobs at the project with an average salary in excess of the existing average salary for the county in which the project is located, an increase of $250 per year during the commitment period for each 35 percent by which the project’s average salary levels exceeds the county average salary, with a maximum increase of $1,500 per year;

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

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

(b) if the number of new full-time jobs and retained full-time jobs is between 401 and 600, $750 per year;
c) if the number of new full-time jobs and retained full-time
jobs is between 601 and 800, $1,000 per year;

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

e) if the number of new full-time jobs and retained full-time
jobs is between 1,001 and 1,200, $1,500 per year;

f) if the number of new full-time jobs and retained full-time
jobs is between 1,201 and 1,400, $1,750 per year;

g) if the number of new full-time jobs and retained full-time
jobs is between 1,401 and 1,600, $2,000 per year;

h) if the number of new full-time jobs and retained full-time
jobs is between 1,601 and 1,800, $2,250 per year;

(i) if the number of new full-time jobs and retained full-time
jobs is in excess of 1,800, $2,500 per year;

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

(12) for a business that employs a significant number of
chronically unemployed or military veterans during the commitment
period, an increase of $200 per year for each 10 percent of the new
full-time jobs that are filled by full-time employees that are either
chronically unemployed or military veterans, with a maximum
increase of $1,000 per year;

(13) for a qualified business facility materially exceeding the
minimum environmental and sustainability standards by way of
energy efficiency or renewable energy features, measures, or
upgrades, an increase of $250 per year;

(14) for a qualified business facility exceeding the Leadership in
Energy and Environmental Design’s “Silver” rating standards, an
additional increase of $250 per year; and

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

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

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

(2) for a qualified business facility located within an urban
transit hub, the gross amount for each new or retained full-time job
shall not exceed $10,000 per year;
(3) for a qualified business facility in a distressed municipality
the gross amount for each new or retained full-time job shall not exceed $8,000 per year;

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

(5) for a qualified business facility in other eligible areas, the gross amount for each new or retained full-time job shall not exceed $4,000 per year.

e. After the determination by the authority of the gross amount of tax credits for which a business is eligible pursuant to subsection d. of this section, the final total tax credit amount shall be calculated as follows: (1) for each new full-time job, the business shall be allowed tax credits equaling 100 percent of the gross amount of tax credits for each new full-time job; and (2) for each retained full-time employee job, the business shall be allowed tax credits equaling 75 percent of the gross amount of tax credits for each retained full-time job, unless the new qualified business facility would replace a facility that has been wholly or substantially damaged as a result of a federally-declared disaster, in which case the business shall be entitled to tax credits equaling 100 percent of the gross amount of tax credits for each retained full-time job.

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

(1) $30,000,000 with respect to a mega project;

(2) $10,000,000 with respect to a qualified business facility in an urban transit hub;

(3) $8,000,000 with respect to a qualified business facility in a distressed municipality;

(4) $4,000,000 with respect to a qualified business facility in other priority areas; and

(5) $2,500,000 with respect to a qualified business facility in other eligible areas.

(cf: P.L.2011, c.149, s.5)
al.) prior to the 90th day after the date of enactment of the “New Jersey Economic Opportunity Act of 2013,” P.L. __, c. __ (pending before the Legislature as this bill) shall not exceed $1,750,000,000, except as may be increased by the authority as set forth in paragraph (5) of subsection a. of P.L.2009, c.90 (C.34:1B-209.3).

(2) A business, including any affiliate of the business or any business that is a tenant within any qualified business facility, shall make or acquire capital investments totaling not less than $20,000,000 in a qualified business facility, at which the business shall employ not fewer than 100 full-time employees to be eligible for a credit pursuant to P.L.2011, c.149. A business that acquires or leases a qualified business facility shall also be deemed to have acquired the capital investment made or acquired by the seller or landlord, as the case may be.] (Deleted by amendment, P.L. __, c. __) (pending before the Legislature as this bill).

(3) A business shall not be allowed tax credits pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.) or P.L.1996, c.26 (C.34:1B-124 et seq.) relating to the same capital and employees that qualify the business for tax credits pursuant to P.L.2011, c.149. A business that is allowed a tax credit under this section shall not be eligible for incentives authorized pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.). A business shall not qualify for a tax credit under this section, based upon capital investment and employment of full-time employees, if that capital investment or employment was the basis for which a grant was provided to the business pursuant to the "Urban Transit Hub Tax Credit Act," P.L.2007, c.346 (C.34:1B-207 et seq.).] (Deleted by amendment, P.L. __, c. __) (pending before the Legislature as this bill).

(4) Full-time employment for an accounting or privilege period shall be determined as the average of the monthly full-time employment for the period.] (Deleted by amendment, P.L. __, c. __) (pending before the Legislature as this bill).

(5) The capital investment of the owner of a qualified business facility is that percentage of the capital investment made or acquired by the owner of the building that the percentage of net leasable area of the qualified business facility not leased to tenants is of the total net leasable area of the qualified business facility. For a business that is a tenant, the amount of capital investment in a facility that a leased area represents shall be equal to that percentage of the owner's total capital investment in the facility that the percentage of net leasable area leased by the tenant is of the total net leasable area of the qualified business facility. Capital investments made by a tenant shall be deemed to be included in the calculation of the capital investment made or acquired by the owner, but only to the extent necessary to meet the owner's minimum capital investment of $20,000,000. Capital investments
made by a tenant and not allocated to meet the owner’s minimum capital investment threshold of $20,000,000 shall be added to the amount of capital investment represented by the tenant’s leased area in the qualified business facility.] (Deleted by amendment, P.L. _, c._) (pending before the Legislature as this bill).

b. (1) A business shall [apply] submit an application for [the] tax [credit] credits prior to July 1, 2014, and] 2018. The authority shall not approve an application for tax credits unless the application was submitted prior to July 1, 2018.

   (2) A business shall submit its documentation indicating that it has met the capital investment and employment requirements specified in the [project] incentive agreement for certification of its tax credit amount [no later than July 28, 2017.] within three years following the date of approval of its application by the authority.

   The authority shall have the discretion to grant two six-month extensions of this deadline. In no event shall the incentive effective date occur later than four years following the date of approval of an application by the authority.

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

   (4) A business seeking a credit for a mega project shall apply for the credit within four years after the effective date of the “New Jersey Economic Opportunity Act of 2013,” P.L. _, c. (C.) (pending before the Legislature as this bill).

c. (1) [The amount of credit allowed shall not exceed the capital investment made by the business or the capital investment represented by the business’ leased area, as certified by the authority pursuant to subsection b. of this section, as having met the investment capital and employment qualifications, subject to any reduction or disqualification as provided by subsection d. of this section as determined by annual review by the authority.] In conducting its annual review, the authority may require a business to submit any information determined by the authority to be necessary and relevant to its review.

   The credit amount for any tax period [ending after July 28, 2017, during] for which the documentation of a business’ credit amount remains uncertified as of a date three years after the closing date of that period shall be forfeited, although credit amounts for the remainder of the years of the [10-year credit] eligibility period shall remain available to it.

   The credit amount that may be taken for a tax period of the business that exceeds the final liabilities of the business for the tax period may be carried forward for use by the business in the next 20 successive tax periods, and shall expire thereafter [, provided that the value of all credits approved by the authority against tax liabilities pursuant to P.L.2011, c.149, in any fiscal year shall not
(1) If, in any tax period, the business reduces the total number of full-time employees in its Statewide workforce by more than 20 percent from the number of full-time employees in its Statewide workforce in the last tax period prior to the credit amount approval under section 3 of P.L.2011, c.149 (C.34:1B-244), then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the business' Statewide workforce to the threshold levels required by this paragraph has been reviewed and approved by the authority, for which tax period and each subsequent tax period the full amount of the credit shall be allowed.

(2) If, in any tax period, the number of full-time employees employed by the business at the qualified business facility located within a qualified incentive area drops below 100 or 80 percent of the number of new and retained full-time jobs specified in the incentive agreement, then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the number of full-time employees employed by the business at the qualified business facility to 100.
(3) (a) If the qualified business facility is sold by the owner in whole or in part during the [10-year] eligibility period, the new owner shall not acquire the capital investment of the seller and the seller shall forfeit all credits for the tax period in which the sale occurs and all subsequent tax periods, provided however that any credits of [tenants] the business shall remain unaffected.

(b) If a [tenant] business leases or subleases its [tenancy] premises in the qualified business facility in whole or in part during the [10-year] eligibility period, the new tenant or subtenant shall not acquire the [credit] tax credits of the [sublessor] business, and the [sublessor tenant] business shall forfeit all credits for the tax period of its lease or sublease and all subsequent tax periods.

\[\text{Notwithstanding such forfeiture, a business that leases or subleases less than all of its premises and does not thereby reduce its new or retained full-time job count below the minimum number required under section 3 of P.L.2011, c.149 (C.34:1B-244) shall not be affected by this paragraph.}\]

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

1. the business has satisfied all of its obligations underlying the previous award of incentives; or
2. the capital investment incurred and new or retained full-time jobs pledged by the business in the new incentive agreement are separate and apart from any capital investment or jobs underlying the previous award of incentives.

(cf: P.L.2012, c.35, s.4)

12. Section 8 of P.L.2011, c.149 (C.34:1B-249) is amended to read as follows:

8. a. The chief executive officer of the authority, in consultation with the Director of the Division of Taxation in the Department of the Treasury, shall adopt rules in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-I et seq.) as are necessary to implement P.L.2011, c.149 (C.34:1B-242 et al.), including but not limited to: examples of and the determination of capital investment; the enumeration of qualified incentive areas; the enumeration of specific targeted industries; specific delineation of [these] the incentive areas; the determination of the limits, if any, on the expense or type of furnishings that may constitute capital improvements; the promulgation of procedures and forms necessary to apply for a tax credit, including the enumeration of the certification procedures and allocation of tax credits for different phases of a qualified business.
facility; and provisions for tax credit applicants to be charged an initial application fee, and ongoing service fees, to cover the administrative costs related to the tax credit.

b. Through regulation, the authority shall establish standards by which qualified business facilities shall be constructed or renovated based on the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding the use of renewable energy, energy-efficient technology, and non-renewable resources in order to reduce environmental degradation and encourage long-term cost reduction in compliance with the minimum environmental and sustainability standards.

(c.f. P.L.2011, c.149, s.8)

13. Section 1 of P.L.2009, c.136 (C.52:18-42) is amended to read as follows:

1. As used in this act P.L.2009, c.136 (C.52:18-42 et seq.):

"Business" means a corporation; sole proprietorship; partnership; corporation that has made an election under Subchapter S of Chapter One of Subtitle A of the Internal Revenue Code of 1986, or any other business entity through which income flows as a distributive share to its owners; limited liability company; nonprofit corporation; or any other form of business organization located either within or outside this State, but excluding any public or private institution of higher education.

"Environmental infrastructure project" means the acquisition, construction, improvement, repair or reconstruction of all or part of any structure, facility or equipment, or real or personal property necessary for or ancillary to any (1) wastewater treatment system project, including any stormwater management or combined sewer overflow abatement projects; or (2) water supply project, as authorized pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.), including any water resources project, as authorized pursuant to P.L.2003, c.162, but excluding the acquisition, construction, repair, or reconstruction of any building or other improvements to real property, or the acquisition or installation of any equipment or other personal property, that, upon completion, shall constitute a qualified employment incentive facility.

"Financial assistance" means funds made available as a grant or loan, including funds derived as proceeds from the issuance of tax-exempt bonds by the entity providing such assistance, but excluding proceeds from the issuance of any bonds which are issued on a conduit basis or which are not supported by a full faith and credit pledge of a public entity.

"Lead public agency" means the public entity designated by the State Treasurer pursuant to section 4 of this act P.L.2009, c.136
(C.52:18-45) to serve as the point of contact between a business and
every State governmental entity having oversight of, or involvement
in, a project for which the entity or entities are providing or will
provide the business with financial assistance.
"Public entity" means the State, other than the Judicial branch of
State government, any county, municipality, district, or other
political subdivision thereof, and any agency, authority, or
instrumentality of the foregoing, including, but not limited to, any
county improvement authority and any economic development
agency, authority, or other entity.
"Qualified employment incentive facility" means any building or
other structure or portion of a building or other structure that,
following the date on which occupation of the building or structure
shall have commenced, shall be used exclusively as the premises of
a project, related to the creation, relocation, or retention of jobs,
that qualifies for incentives under the Business Retention and
Relocation Assistance Grant Program established by section 3 of
P.L.1996, c.25 (C.34:1B-114), the Business Employment Incentive
Program established by section 3 of P.L.1996, c.26 (C.34:1B-126),
the Grow New Jersey Assistance Program established by P.L.2011,
c.149 (C.34:1B-242 et seq.), the Economic Redevelopment and
Growth Grant program established by sections 3 though 18 of
P.L.2009, c.90 (C.52:27D-489c et al.), the corporation business tax
credit and insurance premium tax credit certificate transfer program
established pursuant to section 17 of P.L.2004, c.65 (C.34:1B-
120.2), the sales and use tax exemption certificate program
established pursuant to section 20 of P.L.2004, c.65 (C.34:1B-186),
the exemption of retail sales of energy and utility service to
qualified businesses within an urban enterprise zone from the sales
and use tax pursuant to section 23 of P.L.2004, c.65 (C.52:27H-
87.1), the urban transit hub tax credit program established pursuant
to [section 3 of] P.L.2007, c.346 [(C.34:1B-209)] (C.34:1B-207 et
seq.) or any other program as the State Treasurer shall deem to be
of similar kind and purpose; provided, however, that such exclusive
use shall continue for the minimum period of time prescribed by the
applicable law or any regulation adopted pursuant thereto, or under
any project agreement or other contract executed pursuant to such
law or regulation, or if no such minimum period shall be so
prescribed, for a period of four years.
"Redevelopment project" means a specific work or improvement,
including lands, buildings, structures, improvements, real and
personal property or any interest therein, including lands under
water, riparian rights, space rights and air rights, acquired, owned,
cleared, graded, developed or redeveloped, constructed,
reconstructed, rehabilitated or improved, undertaken by a
developer, but excluding the acquisition, construction, repair, or
reconstruction of any building or other improvements to real
property, or the acquisition or installation of any equipment or other
personal property, that, upon completion, shall constitute a qualified employment incentive facility.

"Remediation" or "remediate" means all necessary actions to investigate and clean up or respond to any known, suspected, or threatened discharge of contaminants, including, as necessary, the preliminary assessment, site investigation, remedial investigation, and remedial action, provided, however, that "remediation" or "remediate" shall not include the payment of compensation for damage to, or loss of, natural resources, and shall not include the investigation or clean up of real property that shall be used to construct a qualified employment incentive facility, or the acquisition, construction, repair, or reconstruction of any building or other improvements to real property, or the acquisition or installation of any equipment or other personal property, that, upon completion, shall constitute a qualified employment incentive facility.

"State governmental entity" means the Executive and Legislative branches of the State government, any agency or instrumentality of the State, including any board, bureau, commission, corporation, department, or division, any independent State authority, including, but not limited to, any economic development authority or agency, and any State institution of higher education. A county, municipality, or school district, or any agency or instrumentality thereof, shall not be deemed a State governmental entity.

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

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

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

"Ancillary infrastructure project" means [public] structures or improvements that are located [in the public right-of-way] that are located within the incentive area but outside the project area of a redevelopment project, including, but not limited to, docks, bulkheads, parking garages, freight rail spurs, roadway overpasses, and train station platforms, provided a developer or municipal redeveloper has demonstrated that the redevelopment project would not be economically viable or promote the use of public transportation without such improvements.

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

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

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

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

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

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

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

"Eligible revenue" means the property tax increment and any
other incremental revenues set forth in section 11 of P.L.2009, c.90
(C.52:27D-489k).

"Exempt business" means a business unrelated to the developer
that operates a premises at the site of the redevelopment project but
whose incurred costs to construct its respective premises are
excluded from the project cost. An exempt business shall not be
subject to the requirements of the Economic Redevelopment and
Growth Grant program.

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

"Infrastructure improvements in the public right-of-way" mean
public structures or improvements located in the public right of way
that are located within a project area or that constitute an ancillary infrastructure project, or any required payment in lieu of such structures, improvements or projects or any costs of remediation associated with such structures, improvements or projects, and that are determined by the authority, in consultation with applicable State agencies, to be consistent with and in furtherance of State public infrastructure objectives and initiatives.

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

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

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

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

"Project area" means land or lands located within the incentive area under common ownership or control including through one or more property owners associations, a joint venture between one or more property owners, a redevelopment agreement with a municipality, or as otherwise established by a municipality or a redevelopment agreement executed by a State entity to implement a redevelopment project.

“Project cost” means the costs incurred in connection with the redevelopment project by the developer and such landlords, tenants, or other business occupants as may be part of the project until the issuance of a permanent certificate of occupancy, or until such other time specified by the authority, for a specific investment or improvement, including the costs relating to lands, buildings, improvements, real or personal property, or any interest therein, including leases discounted to present value, including lands under water, riparian rights, space rights and air rights acquired, owned, developed or redeveloped, constructed, reconstructed, rehabilitated or improved, any environmental remediation costs, plus costs not
directly related to construction, of an amount not to exceed 20 percent of the total costs, capitalized interest paid to third parties, and the cost of infrastructure improvements, including ancillary infrastructure projects, but excluding any particular costs for which the project has received federal, State, or local funding.

"Project financing gap" means: a. the part of the total [redevelopment] project cost, including return on investment, that remains to be financed after all other sources of capital have been accounted for, including, but not limited to, developer-contributed capital, which may include the value of any existing land and improvements in the project area owned or controlled by the developer, and which shall not be less than 20 percent of the total project cost, excluding the cost of infrastructure improvements in the public right of way and investor or financial entity capital or loans for which the developer, after making all good faith efforts to raise additional capital, certifies that additional capital cannot be raised from other sources on a non-recourse basis; b. the cost of infrastructure improvements including any ancillary infrastructure project; and c. the amount by which total project cost exceeds the cost of an alternative location for the redevelopment project.

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

"Property tax increment" means the amount obtained by:

1. multiplying the general tax rate levied each year by the taxable value of all the property assessed within a project area in the same year, excluding any special assessments; and
2. multiplying that product by a fraction having a numerator equal to the taxable value of all the property assessed within the project area, minus the property tax increment base, and having a denominator equal to the taxable value of all property assessed within the project area.

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

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

“Qualified residential project” means a redevelopment project that is predominantly residential and includes multi-family residential units, "for purchase or lease and may also include" hotel units, or dormitory units for purchase or lease, "[that represents]"
having a total project cost of at least $17,500,000, if the project is located in any municipality with a population greater than 200,000 according to the latest federal decennial census, or having a total project cost of at least $10,000,000 if the project is located in any municipality with a population less than 200,000 according to the latest federal decennial census, or is a disaster recovery project.

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

a. an area (1) designated pursuant to the "State Planning Act,"
P.L.1985, c.398 (C.52:18A-196 et seq.), as:
   (a) Planning Area 1 (Metropolitan),
   (b) Planning Area 2 (Suburban), [or a center as designated by the State Planning Commission; an area zoned for development pursuant to]
   (c) Planning Area 3 (Fringe Planning Area),
   (d) a designated center under the State Development and Redevelopment Plan, or
   (e) a designated growth center in an endorsed plan until June 30, 2013, or until the State Planning Commission revises and readopts New Jersey’s State Strategic Plan and adopts regulations to revise this definition as it pertains to Statewide planning areas, whichever is later;
   (2) located within a smart growth area and planning area designated in a master plan adopted by the New Jersey Meadowlands Commission pursuant to subsection (i) of section 6 of P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan adopted by the New Jersey Meadowlands Commission pursuant to section 20 of P.L.1968, c.404 (C.13:17-21);
   (3) located within any land owned by the New Jersey Sports and Exposition Authority, established pursuant to P.L.1971, c.137 (C.5:10-1 et seq.), within the boundaries of the Hackensack Meadowlands District as delineated in section 4 of P.L.1968, c.404 (C.13:17-4);
   (4) located within a [pinelands] regional growth area, a [pinelands] town management area, [a pinelands village,] or a military and federal installation area [established pursuant to] designated in the [pinelands] comprehensive management plan prepared and adopted by the Pinelands Commission pursuant to the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.);
   (a transit village, as determined by the Commissioner of Transportation; and federally owned] or
   (5) located within land approved for closure under any federal Base Closure and Realignment Commission action; but excluding
   b. an area designated in the 2008 Highlands Regional Master Plan, adopted pursuant to the "Highlands Water Protection and
Planning Act,” P.L.2004, c.120 (C.13:20-1 et al.), unless located within:

1. (a) the Existing Community Zone, or
2. (b) a Highlands center, designated by the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4); which area is not located within:

3. (2) (a) the Protection Zone,
4. (b) the Conservation Zone, or
5. (c) an Environmentally Constrained Sub-Zone.

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

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

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

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

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

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

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

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

"Transit project" means a redevelopment project located within a 1/2-mile radius surrounding the mid-point of a New Jersey Transit Corporation, Port Authority Transit Corporation, or Port Authority Trans-Hudson Corporation rail, bus, or ferry station platform area, including all light rail stations.

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

“Urban transit hub” means an urban transit hub, as defined in section 10 of P.L.2007, c.346 (C.34:1B-208), that is located within an eligible municipality, as defined in section 10 of P.L.2007, c.346 (C.34:1B-208).

“Vacant commercial building” means any commercial building or complex of commercial buildings having over 400,000 square feet of office, laboratory, or industrial space that is more than 70 percent unoccupied at the time of application to the authority or is negatively impacted by the approval of a “qualified business
facility,” as defined pursuant to section 2 of P.L.2007, c.346 (C.34:1B-208).

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

(cf: P.L.2011, c.89, s.6)

15. Section 4 of P.L.2009, c.90 (C.52:27D-489d) is amended to read as follows:

4. a. The governing body of a municipality wherein is located a qualifying economic redevelopment and growth grant incentive area may adopt an ordinance to establish a local Economic Redevelopment and Growth Grant program for the purpose of encouraging redevelopment projects in that area through the provision of incentive grants to reimburse developers for all or a portion of the project financing gap for such projects. No local Economic Redevelopment and Growth Grant program shall take effect until the Local Finance Board approves the ordinance.

b. A developer shall submit an application for a local incentive grant prior to July 1, 2018. A developer that submits an application for a local incentive grant shall indicate on the application whether it is also applying for a State incentive grant. An application by a developer applying for a local incentive grant only shall not require approval by the authority. A municipal redeveloper may only apply for local incentive grants for the construction of: (1) infrastructure improvements in the public right-of-way, or (2) publicly owned facilities.

c. No local incentive grant shall be finally approved by a municipality until approved by the Local Finance Board. The Local Finance Board shall not approve a local incentive grant unless the application was submitted prior to July 1, 2018.

d. In deciding whether or not to approve a local incentive grant agreement the Local Finance Board shall consider the following factors:

(1) the economic feasibility of the redevelopment project;

(2) the extent of economic and related social distress in the municipality and the area to be affected by the redevelopment project;

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

(4) the likelihood that the redevelopment project shall, upon completion, be capable of generating new tax revenue in an amount in excess of the amount necessary to reimburse the developer for project costs incurred as provided in the redevelopment incentive grant agreement;
(5) the relationship of the redevelopment project to a comprehensive local development strategy, including other major projects undertaken within the municipality;

(6) the need for the redevelopment incentive grant agreement to the viability of the redevelopment project;

(7) compliance with the provisions of P.L.2009, c.90 (C.52:27D-489a et al.); and

(8) the degree to which the redevelopment project enhances and promotes job creation and economic development.\(^1\)

(cf: P.L.2010, c.10, s.3)

15. Section 5 of P.L.2009, c.90 (C.52:27D-489e) is amended to read as follows:

5. a. The New Jersey Economic Development Authority, in consultation with the State Treasurer, shall establish an Economic Redevelopment and Growth Grant program for the purpose of encouraging redevelopment projects in qualifying economic redevelopment and growth grant incentive areas that do not qualify as such areas solely by virtue of being a transit village, through the provision of incentive grants to reimburse developers for certain project financing gap costs.

b. (1) A developer shall submit an application for a State incentive grant prior to July 1, 2018. A developer that submits an application for a State incentive grant shall indicate on the application whether it is also applying for a local incentive grant.

(2) When an applicant indicates it is also applying for a local incentive grant, the authority shall forward a copy of the application to the municipality wherein the redevelopment project is to be located for approval by municipal ordinance.

c. An application for a State incentive grant shall be reviewed and approved by the authority. The authority shall not approve an application for a State incentive grant unless the application was submitted prior to July 1, 2018.

(cf: P.L.2010, c.10, s.5)

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

6. a. Up to the limits established in subsection b. of this section and in accordance with a redevelopment incentive grant agreement, beginning upon the receipt of occupancy permits for any portion of the redevelopment project, or upon such other event evidencing project completion as set forth in the incentive grant agreement, the State Treasurer shall pay to the developer incremental State revenues directly realized from businesses operating on or at the site of the redevelopment project [premises], including exempt businesses, from the following taxes: the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), the tax imposed
on marine insurance companies pursuant to R.S.54:16-1 et seq., the
tax imposed on insurers generally, pursuant to P.L.1945, c.132
(C.54:18A-1 et seq.), the public utility franchise tax, public utilities
gross receipts tax and public utility excise tax imposed on sewerage
and water corporations pursuant to P.L.1940, c.5 (C.54:30A-49 et
seq.), those tariffs and charges imposed by electric, natural gas,
telecommunications, water and sewage utilities, and cable television
companies under the jurisdiction of the New Jersey Board of
Utilities, or comparable entity, related to societal benefits charges
assessed pursuant to section 12 of P.L.1999, c.23 (C.48:3-60), any
charges paid for compliance with the "Global Warming Response
Act," P.L.2007, c.112 (C.26:2C-37 et seq.), transitional energy
facility assessment unit taxes paid pursuant to section 67 of
P.L.1997, c.162 (C.48:2-21.34), and the sales and use taxes on
public utility and cable television services and commodities, the tax
derived from net profits from business, a distributive share of
partnership income, or a pro rata share of S corporation income
seq., the tax derived from a business at the site of a redevelopment
project that is required to collect the tax pursuant to the "Sales and
Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), the tax imposed
pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.) from the purchase
of furniture, fixtures and equipment, or materials [used] for the
remediation, the construction of new structures [, or the
construction of new residences] or residences, or the renovation of
same, at the site of a redevelopment project, the tax imposed
pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.) from purchases of
goods and services used in the ongoing operation of a business at
the site of the redevelopment project, the hotel and motel occupancy
fee imposed pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1),
or the portion of the fee imposed pursuant to section 3 of P.L.1968,
c.49 (C.46:15-7) derived from the sale of real property at the site of
the redevelopment project and paid to the State Treasurer for use by
the State, that is not credited to the "Shore Protection Fund" or the
"Neighborhood Preservation Nonlapsing Revolving Fund" ("New
Jersey Affordable Housing Trust Fund") pursuant to section 4 of

b. (1) Up to an average of 75 percent of the projected annual
incremental revenues, averaged over the length of time during
which the reimbursement shall be granted, may be pledged towards
the State portion of an incentive grant.

(2) In the case of a qualified residential project, if the authority
determines that the estimated amount of incremental revenues
pledged towards the State portion of an incentive grant is
inadequate to fully fund the amount of the State portion of the
incentive grant, then in lieu of an incentive grant based on such
incremental revenue, the developer shall be awarded tax credits
equal to the full amount of the incentive grant. The value of all
credits approved by the authority pursuant to this paragraph shall not exceed $600,000,000, of which $250,000,000 shall be restricted to qualified residential projects located in urban transit hubs that are commuter rail in nature; $200,000,000 shall be restricted to qualified residential projects in distressed municipalities or deep poverty pockets; $100,000,000 shall be restricted to qualified residential projects that are disaster recovery projects; and the remaining $50,000,000 shall be used for qualified residential projects in any municipality falling within a qualifying economic redevelopment and growth grant incentive area. Not more than $40,000,000 of credits shall be awarded to any qualified residential project in a deep poverty pocket or distressed municipality and not more than $20,000,000 of credits shall be awarded to any other qualified residential project. The developer of a qualified residential project seeking an award of credits towards the funding of its incentive grant shall submit an incentive grant application prior to July 1, 2015 and if approved shall submit a temporary certificate of occupancy for such project no later than July 28, 2018. Credits awarded to a developer pursuant to this subsection shall be subject to the same financial and related analysis by the authority and shall be utilized or transferred by the developer as if such credits had been awarded to the developer pursuant to section 35 of P.L.2009, c.90 (C.34:1B-209.3) for qualified residential projects thereunder. No portion of the revenues pledged pursuant to the “New Jersey Economic Opportunity Act of 2013,” P.L., c. (C. ) (pending before the Legislature as this bill) shall be subject to withholding or retainage for adjustment, in the event the developer or taxpayer waives its rights to claim a refund thereof.

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

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

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

(cf: P.L.2010, c.10, s.6)

8. a. (1) The [New Jersey Economic Development Authority] authority, in consultation with the State Treasurer, shall promulgate section 8 of P.L.2009, c.90 (C.52:27D-489h) is amended to read as follows:
an incentive grant application form and procedure for the Economic
Redevelopment and Growth Grant program.

2. (a) The Local Finance Board, in consultation with the New
Jersey Economic Development Authority, shall develop
a minimum standard incentive grant application form for municipal
Economic Redevelopment and Growth Grant programs.

(b) Through regulation, the Economic Development Authority shall establish standards for redevelopment projects
seeking State or local incentive grants based on the green building
manual prepared by the Commissioner of Community Affairs
pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6),
regarding the use of renewable energy, energy-efficient technology,
and non-renewable resources in order to reduce environmental
degradation and encourage long-term cost reduction.

(c) Through regulation, the authority shall require that each
worker employed in the performance of any construction contract
for work at a redevelopment project shall be paid not less than the
prevailing wage rate, consistent with the requirements of section 1
of P.L.1979, c.303 (C.34:1B-5.1).

(d) Through regulation, the authority shall require that each
worker employed in building maintenance services of a
redevelopment project by a developer or a tenant or subcontractor
of a developer shall be paid not less than the prevailing wage rate
for the worker’s craft or trade as determined by the Commissioner
of Labor and Workforce Development pursuant to P.L.1963, c.150
(C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.).

b. Within each incentive grant application, a developer shall certify information concerning:

(1) the status of control of the entire redevelopment project site;

(2) all required State and federal government permits that have been issued for the redevelopment project, or will be issued pending resolution of financing issues;

(3) local planning and zoning board approvals, as required, for the redevelopment project;

(4) estimates of the revenue increment base, the eligible revenues for the project, and the assumptions upon which those estimates are made.

c. (1) With regard to State tax revenues proposed to be pledged for an incentive grant the authority and the State Treasurer shall review the redevelopment project costs and, except with respect to an application by a municipal redeveloper or with respect to a qualified residential project, evaluate and validate the project financing gap estimated by the developer, and conduct a State fiscal impact analysis to ensure that the overall public assistance provided to the project will result in net benefits to the State including, without limitation, both direct and indirect economic benefits and non-financial community revitalization objectives, including but not
limited to, the promotion of the use of public transportation in the case of the ancillary infrastructure project portion of any transit project.

(2) With regard to local incremental revenues proposed to be pledged for an incentive grant the authority and the Local Finance Board shall review the [redevelopment] project costs, and except with respect to an application by a municipal redeveloper or with respect to a qualified residential project, evaluate and validate the project financing gap projected by the developer, and conduct a local fiscal impact analysis to ensure that the overall public assistance provided to the project will result in net benefits to the municipality wherein the redevelopment project is located including, without limitation, both direct and indirect economic benefits and non-financial community revitalization objectives, including but not limited to, the promotion of the use of public transportation in the case of the ancillary infrastructure project portion of any transit project.

(3) The authority, State Treasurer, and Local Finance Board may act cooperatively to administer and review applications, and shall consult with the Office of State Planning on matters concerning State, regional, and local development and planning strategies.

(4) The costs of the aforementioned reviews shall be assessed to the applicant as an application fee.

(5) A developer who has already applied for an incentive grant award prior to the effective date of the “New Jersey Economic Opportunity Act of 2013,” P.L. , c. (C. ) (pending before the Legislature as this bill) may not seek to amend such application or reapply for an incentive grant award for the same project or any part thereof for the purpose of availing itself of any more favorable provisions of the Economic Redevelopment and Growth Grant program established pursuant to the “New Jersey Economic Opportunity Act of 2013,” P.L. , c. (C. ) (pending before the Legislature as this bill).

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

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

b. The decision whether or not to enter into a redevelopment incentive grant agreement is solely within the discretion of the authority and the State Treasurer, provided that they both agree to enter into an agreement.
c. The Chief Executive Officer of the [New Jersey Economic Development Authority] authority, in consultation with the State Treasurer shall negotiate the terms and conditions of any redevelopment incentive grant agreement on behalf of the State.

d. (1) The redevelopment incentive grant agreement shall specify the maximum amount of project costs, the amount of the incentive grant to be awarded the developer, the frequency of payments, and the [length of time, which shall not exceed 20 years, during which that reimbursement shall be granted] eligibility period. Except for redevelopment incentive grant agreements with a municipal redeveloper or with the developer of a redevelopment project solely with respect to the cost of infrastructure improvements in the public right-of-way including any ancillary infrastructure project in the public right-of-way, in no event shall the base amount of the combined [amount of the] reimbursements under redevelopment incentive grant agreements with the State or municipality exceed 20 percent of the total project cost of the project. [For the purposes of calculating the total cost of all projects, the cost of infrastructure improvements in the public right-of-way and publicly owned facilities shall not be included. The amount of the redevelopment incentive grant for a municipal redeveloper may include the total cost of such infrastructure improvements and publicly owned facilities.]

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

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

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

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

(d) a transit project; or

(e) a qualified residential project in which at least 10 percent of the residential units are constructed as and reserved for moderate income housing.
(3) If there remains a project financing gap after the maximum combined amounts provided in paragraph (2) of this subsection are considered, then the authority shall be permitted to make a bonus award increasing the amount of the reimbursement under the redevelopment incentive grant agreement with the State by up to 10 percent of the total project cost. In making a bonus award to a developer, the authority shall consider any factors that are found to contribute to the remaining project financing gap, such as whether the project:

(a) is located in a distressed municipality and there exists a financial gap between the fair market commercial rental rates in the relevant marketplace and the commercial rental rates that are necessary to make the redevelopment project economically feasible;

(b) is located on an environmentally contaminated site requiring remediation;

(c) is a qualified residential project in which at least ten percent of the residential units are constructed as and reserved for low income housing;

(d) would include energy efficiency or renewable energy features, measures or upgrades in excess of the green building requirements of the Economic Redevelopment and Growth Grant program which requirements shall be as set forth in the New Jersey Green Building Manual prepared by the Department of Community Affairs;

(e) is a qualified incubator facility; or

(f) is a disaster recovery project having unique added costs of construction associated therewith.

(4) The maximum amount of any redevelopment incentive grant shall be equal to the sum of 75 percent of the environmental remediation costs, 100 percent of the costs of infrastructure improvements in the public right-of-way including any ancillary infrastructure project in the public right-of-way, and 35 percent of the amount determined by subtracting the costs of infrastructure improvements in the public right-of-way, including any ancillary infrastructure project in the public right-of-way, from the total project costs. The maximum amount of eligible reimbursements, including any increase or bonus award, shall not exceed 35 percent of the total project cost.

Except in the case of a qualified residential project, the authority and the State Treasurer may enter into a redevelopment incentive grant agreement only if they make a finding that the State revenues to be realized from the redevelopment project will be in excess of the amount necessary to reimburse the developer for its project financing gap. This finding may be made by an estimation based upon the professional judgment of the Chief Executive Officer of the New Jersey...
f. In deciding whether or not to recommend entering into a redevelopment incentive grant agreement and in negotiating a redevelopment agreement with a developer, the Chief Executive Officer of the [New Jersey Economic Development Authority] authority shall consider the following factors:

1. the economic feasibility of the redevelopment project;
2. the extent of economic and related social distress in the municipality and the area to be affected by the redevelopment project or the level of site specific distress to include dilapidated conditions, brownfields designation, environmental contamination, pattern of vacancy, abandonment, or under utilization of the property, rate of foreclosures, or other site conditions as determined by the authority;
3. the degree to which the redevelopment project will advance State, regional, and local development and planning strategies;
4. the likelihood that the redevelopment project shall, upon completion, be capable of generating new tax revenue in an amount in excess of the amount necessary to reimburse the developer for project costs incurred as provided in the redevelopment incentive grant agreement, provided, however, that any tax revenue generated by a redevelopment project that is a disaster recovery project shall be considered new tax revenue even if the same or more tax revenue was generated at or on the site prior to the disaster;
5. the relationship of the redevelopment project to a comprehensive local development strategy, including other major projects undertaken within the municipality;
6. the need of the redevelopment incentive grant agreement to the viability of the redevelopment project or the promotion of the use of public transportation; and
7. the degree to which the redevelopment project enhances and promotes job creation and economic development or the promotion of the use of public transportation.

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

(2) Any pledge of incentive grants made by the developer shall be valid and binding from the time when the pledge is made and filed in the records of the authority. The incentive grants so
pledged and thereafter received by the developer shall immediately
be subject to the lien of the pledge without any physical delivery
thereof or further act, and the lien of any pledge shall be valid and
binding as against all parties having claims of any kind in tort,
contract, or otherwise against the developer irrespective of whether
the parties have notice thereof. Neither the redevelopment
incentive grant agreement nor any other instrument by which a
pledge under this section is created need be filed or recorded except
with the authority.
(cf: P.L.2010, c.10, s.9)

Section 11 of P.L.2009, c.90 (C.52:27D-489k) is
amended to read as follows:

11. a. The governing body of a municipality is authorized to
enter into a redevelopment incentive grant agreement with a
developer, which shall not be effective until adopted by ordinance,
for any redevelopment project located within a qualifying economic
redevelopment and growth grant incentive area.

b. The redevelopment incentive grant agreement shall specify
the maximum amount of project costs, the amount of the incentive
grant to be awarded the developer, the frequency of payments, and
the [length of time, which shall not exceed 20 years, during which
that reimbursement shall be granted] eligibility period. The
maximum amount of any municipal redevelopment incentive grant
shall be equal to:

(1) 100 percent of the project costs in the case of a municipal
redeveloper, or

(2) for all other developers, the sum of 75 percent of the costs of
environmental remediation, 100 percent of the costs of
infrastructure improvements in the public right-of-way, including
any ancillary infrastructure project in the public right-of-way, and
20 percent of the amount determined by subtracting the costs of
infrastructure improvements in the public right-of-way including
any ancillary infrastructure project in the public right-of-way from
the total project costs. Except for redevelopment incentive grants
with a municipal redeveloper or with the developer of a
redevelopment project solely with respect to the cost of
infrastructure improvements in the public right-of-way including
any ancillary infrastructure project in the public right-of-way, in no
event shall the combined amount of the reimbursements under
redevelopment incentive grant agreements with the State or
municipality exceed 20 percent of the total project cost [of the
project] plus any increase or bonus award of the State portion of
such combined amount as set forth in subsection d. of section 9 of
P.L.2009, c.90 (C.52:27D-489k). [For the purposes of calculating
the total cost of all projects, the cost of publicly owned facilities
shall not be included. The amount of the redevelopment incentive
grant for a municipal redeveloper may include the total cost of such
infrastructure improvements and publicly owned facilities.]}
c. **The**Except in the case of a qualified residential project,
the municipality may enter into a redevelopment incentive grant
agreement only if the chief financial officer of the municipality
makes a finding that the incremental revenues to be realized from
the redevelopment project will be in excess of the amount necessary
to reimburse the developer for its project financing gap. Such
finding shall be based upon appropriate documentation and
calculations supporting the decision.
d. Within a qualifying economic redevelopment and growth
grant incentive area a municipality that has entered into a local
redevelopment incentive grant agreement may pledge eligible
revenues it is authorized to collect as follows:
(1) incremental payments in lieu of taxes, with respect to
property located in the district, made pursuant to the "Five-Year
seq.), or the "Long Term Tax Exemption Law," P.L.1991, c.431
(C.40A:20-1 et al.);
(2) incremental revenues collected from payroll taxes, with
respect to business activities carried on within the area, pursuant to
section 15 of P.L.1970, c.326 (C.40:48C-15);
(3) incremental revenue from lease payments made to the
municipality, the developer, or the developer's successors with
respect to property located in the area;
(4) incremental revenue collected from parking taxes derived
from parking facilities located within the area pursuant to section 7
of P.L.1970, c.326 (C.40:48C-7);
(5) incremental admissions and sales taxes derived from the
operation of a public facility within the area pursuant to section 1 of
P.L.2007, c.302 (C.40:48G-1);
(6) (a) incremental sales and excise taxes which are derived from
activities within the area and which are rebated to or retained by the
municipality pursuant to the "New Jersey Urban Enterprise Zones
Act," P.L.1983, c.303 (C.52:27H-60 et seq.) or any other law
providing for such rebate or retention;
(b) within Planning Area 1 (Metropolitan) under the State
Development and Redevelopment Plan adopted pursuant to the
"State Planning Act," sections 1 through 12 of P.L.1985, c.398
(C.52:18A-196 et seq.), a municipality may impose the entire State
sales tax on business activities within a redevelopment project
located in an urban enterprise zone that would ordinarily be entitled
to collect reduced rate revenues under section 21 of P.L.1983, c.303
(C.52:27H-80), and pledge the excess revenues to a local
redevelopment incentive grant agreement;
(7) incremental parking revenue collected, pursuant to section 7
of P.L.1970, c.326 (C.40:48C-7), from public parking facilities built
as part of a redevelopment project, except for public parking
facilities owned by parking authorities pursuant to the "Parking Authority Law," P.L.1948, c.198 (C.40:11A-1 et seq.);


(9) upon approval by the Local Finance Board, other incremental municipal revenues that may become available;

(10) the property tax increment.

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

e. (1) In calculating the general tax rate of a municipality each year, the aggregate amount of the incremental ratable value over the property tax increment base in the redevelopment project area that is pledged as part of a redevelopment incentive grant agreement shall be excluded from the ratable base of a municipality.

(2) The amount of property tax increment not pledged toward a redevelopment incentive grant agreement shall be allocated pursuant to the normal tax rate distribution.

The full incremental value of a project area shall be included in the value used for county and regional school tax apportionment until such time that the Director of the Division of Taxation in the Department of the Treasury can certify that property tax management systems are capable of handling the technical and legal requirements of treating parcels in areas of redevelopment as exempt from county and regional school apportionment.

f. In addition to the incremental revenues that may be pledged in subsection d. of this section, any amount of tax proceeds collected from the tax on the rental of motor vehicles pursuant to section 20 of P.L.2009, c.90 (C.40:48H-2), may be included in a redevelopment incentive grant agreement with a developer, regardless of whether or not the redevelopment project area is within or outside of the designated industrial zone from which the tax on the rental of motor vehicles is collected.

g. (1) A developer that has entered into a redevelopment incentive grant agreement with a municipality pursuant to this section may, upon notice to and consent of the municipality, pledge and assign [as security or support for any loan or bond], transfer, or sell any or all of its right, title and interest in and to such agreements and in the incentive grants payable thereunder, and the right to receive same, along with the rights and remedies provided to the developer under such agreement. Any such assignment shall be an absolute assignment for all purposes, including the federal bankruptcy code.
(2) Any pledge of incentive grants made by the developer shall be valid and binding from the time when the pledge is made and filed in the office of the municipal clerk. The incentive grants so pledged and thereafter received by the developer shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of any pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the developer irrespective of whether the parties have notice thereof. Neither the redevelopment incentive grant agreement nor any other instrument by which a pledge under this section is created need be filed or recorded except with the municipality.

(cf: P.L.2010, c.10, s.10)

(20.) 21. (New section) On or before January 1, 2018, the authority shall submit a written report to the Governor and the Legislature providing a comprehensive review and analysis of the Grow New Jersey Assistance Program, established pursuant to P.L.2011, c.149 (C.34:1B-242 et seq.), the State Economic Redevelopment and Growth Grant program, established pursuant to section 5 of P.L.2009, c.90 (C.52:27D-489e), and other economic incentive laws under the authority’s jurisdiction. In order to ensure the independence and objectivity of the report, the authority shall retain a premier, not-for-profit, non-partisan entity to undertake the review and analysis of the State economic incentive laws, which shall include a cost-benefit analysis of each incentive program, an assessment of the success of each program in meeting the goals of the program, and any recommendations for improving the operation and effectiveness of each program, including recommendations for legislation.

21. This act shall take effect immediately.