

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 3680**

**STATE OF NEW JERSEY**  
**215th LEGISLATURE**

ADOPTED APRIL 25, 2013

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**Assemblymen Giblin, C.J.Brown and Gusciora**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

Substitute as adopted by the Assembly Budget Committee.

(Sponsorship Updated As Of: 4/30/2013)

1 AN ACT concerning incentives for certain economic development  
2 projects, amending and supplementing various parts of the  
3 statutory law.

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

7  
8 1. (New section) This act shall be known and may be cited as  
9 the “New Jersey Economic Opportunity Act of 2013.”

10  
11 2. Section 3 of P.L.1996, c.25 (C.34:1B-114) is amended to  
12 read as follows:

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

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

44 (2) A business shall apply for a grant of tax credits under the  
45 Business Retention and Relocation Assistance Grant Program prior

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

Matter underlined thus is new matter.

1 to the effective date of the “New Jersey Economic Opportunity Act  
2 of 2013,” P.L. , c. (C. ) (pending before the Legislature as  
3 this bill), and shall submit its documentation for approval of a grant  
4 of tax credits no later than July 1, 2013.

5 (3) If a business has submitted an application under P.L.1996,  
6 c.25 (C.34:1B-112 et seq.) and that application has not been  
7 approved for any reason, the lack of approval shall not serve to  
8 prejudice in any way the consideration of a new application as may  
9 be submitted by a business for the provision of incentives offered  
10 pursuant to the “New Jersey Economic Opportunity Act of 2013,”  
11 P.L. , c. (C. ) (pending before the Legislature as this bill).  
12 (cf: P.L.2010, c.123, s.2)

13  
14 3. Section 4 of P.L.1996, c.26 (C.34:1B-127) is amended to  
15 read as follows:

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

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

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

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

27 c. A project which consists solely of point-of-final-purchase  
28 retail facilities shall not be eligible for a grant under **[this act]**  
29 P.L.1996, c.26 (C.34:1B-124 et seq.). If a project consists of both  
30 point-of-final-purchase retail facilities and non-retail facilities, only  
31 the portion of the project consisting of non-retail facilities shall be  
32 eligible for a grant, and only the withholdings from new employees  
33 which are employed in the portion of the project which represents  
34 non-retail facilities shall be used to determine the amount of the  
35 grant. If a warehouse facility is part of a point-of-final-purchase  
36 retail facility and supplies only that facility, the warehouse facility  
37 shall not be eligible for a grant. For the purposes of **[this act]**  
38 P.L.1996, c.26 (C.34:1B-124 et seq.), catalog distribution centers  
39 shall not be considered point-of-final-purchase retail facilities.

40 d. (1) If an application under P.L.1996, c.26 (C.34:1B-124 et  
41 seq.) has been received by the authority prior to the effective date of  
42 the “New Jersey Economic Opportunity Act of 2013,” P.L. ,  
43 c. (C. ) (pending before the Legislature as this bill), and, to  
44 the extent that there remains sufficient appropriations for grant  
45 issuance, then the authority is authorized to consider the application  
46 and to make a grant to an eligible applicant, provided that the  
47 authority shall take final action on that grant no later than 90  
48 calendar days after the effective date of the “New Jersey Economic

1 Opportunity Act of 2013,” P.L. , c. (C. ) (pending before the  
2 Legislature as this bill).

3 (2) A business shall apply for a grant under the Business  
4 Employment Incentive Program prior to the effective date of the  
5 “New Jersey Economic Opportunity Act of 2013,”  
6 P.L. , c. (C. ) (pending before the Legislature as this bill), and  
7 shall submit its documentation for approval of a grant no later than  
8 July 1, 2013.

9 (3) If a business has submitted an application under P.L.1996,  
10 c.26 (C.34:1B-124 et seq.) and that application has not been  
11 approved for any reason, the lack of approval shall not serve to  
12 prejudice in any way the consideration of a new application as may  
13 be submitted by a business for the provision of incentives offered  
14 pursuant to the “New Jersey Economic Opportunity Act of 2013.”  
15 P.L. , c. (C. ) (pending before the Legislature as this bill).  
16 (cf: P.L.2003, c.166, s.2)

17  
18 4. Section 3 of P.L.2007, c.346 (C.34:1B-209) is amended to  
19 read as follows:

20 3. a. (1) A business, upon application to and approval from the  
21 authority, shall be allowed a credit of 100 percent of its capital  
22 investment, made after the effective date of P.L.2007, c.346  
23 (C.34:1B-207 et seq.) but prior to its submission of documentation  
24 pursuant to subsection c. of this section, in a qualified business  
25 facility within an eligible municipality, pursuant to the restrictions  
26 and requirements of this section. To be eligible for any tax credits  
27 authorized under this section, a business shall demonstrate to the  
28 authority, at the time of application, that the State's financial  
29 support of the proposed capital investment in a qualified business  
30 facility will yield a net positive benefit to both the State and the  
31 eligible municipality. The value of all credits approved by the  
32 authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) shall  
33 not exceed \$1,750,000,000, except as may be increased by the  
34 authority as set forth in paragraph (5) of subsection a. of P.L.2009,  
35 c.90 (C.34:1B-209.3).

36 (2) A business, other than a tenant eligible pursuant to paragraph  
37 (3) of this subsection, shall make or acquire capital investments  
38 totaling not less than \$50,000,000 in a qualified business facility, at  
39 which the business shall employ not fewer than 250 full-time  
40 employees to be eligible for a credit under this section. A business  
41 that acquires a qualified business facility shall also be deemed to  
42 have acquired the capital investment made or acquired by the seller.

43 (3) A business that is a tenant in a qualified business facility, the  
44 owner of which has made or acquired capital investments in the  
45 facility totaling not less than \$50,000,000, shall occupy a leased  
46 area of the qualified business facility that represents at least  
47 \$17,500,000 of the capital investment in the facility at which the  
48 tenant business and up to two other tenants in the qualified business

1 facility shall employ not fewer than 250 full-time employees in the  
2 aggregate to be eligible for a credit under this section. The amount  
3 of capital investment in a facility that a leased area represents shall  
4 be equal to that percentage of the owner's total capital investment in  
5 the facility that the percentage of net leasable area leased by the  
6 tenant is of the total net leasable area of the qualified business  
7 facility. Capital investments made by a tenant shall be deemed to  
8 be included in the calculation of the capital investment made or  
9 acquired by the owner, but only to the extent necessary to meet the  
10 owner's minimum capital investment of \$50,000,000. Capital  
11 investments made by a tenant and not allocated to meet the owner's  
12 minimum capital investment threshold of \$50,000,000 shall be  
13 added to the amount of capital investment represented by the  
14 tenant's leased area in the qualified business facility.

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

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

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

36 (7) A business shall be allowed a tax credit of 100 percent of its  
37 capital investment, made after the effective date of P.L.2011, c.89  
38 but prior to its submission of documentation pursuant to subsection  
39 c. of this section, in a qualified business facility that is part of a  
40 mixed use project, provided that (a) the qualified business facility  
41 represents at least \$17,500,000 of the total capital investment in the  
42 mixed use project, (b) the business employs not fewer than 250 full-  
43 time employees in the qualified business facility, and (c) the total  
44 capital investment in the mixed use project of which the qualified  
45 business facility is a part is not less than \$50,000,000. The  
46 allowance of credits under this paragraph shall be subject to the  
47 restrictions and requirements, to the extent that those are not  
48 inconsistent with the provisions of this paragraph, set forth in

1 paragraphs (1) through (6) of this subsection, including but not  
2 limited to the requirement that the business shall demonstrate to the  
3 authority, at the time of application, that the State's financial  
4 support of the proposed capital investment in a qualified business  
5 facility will yield a net positive benefit to both the State and the  
6 eligible municipality.

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

40 b. (1) If applications under this section have been received by  
41 the authority prior to the effective date of the "New Jersey  
42 Economic Opportunity Act of 2013," P.L. , c. (C. ) (pending  
43 before the Legislature as this bill), then, to the extent that there  
44 remains sufficient financial authorization for the award of a tax  
45 credit, the authority is authorized to consider those applications and  
46 to make awards of tax credits to eligible applicants, provided that  
47 the authority shall take final action on those applications prior to the  
48 90th day after the date of enactment of the "New Jersey Economic

1 Opportunity Act of 2013,” P.L. , c. (C. ) (pending before the  
2 Legislature as this bill).

3 (2) A business shall apply for the credit under this section prior  
4 to **July 1, 2014** the effective date of the “New Jersey Economic  
5 Opportunity Act of 2013,” P.L. , c. (C. ) (pending before the  
6 Legislature as this bill), and shall submit its documentation for  
7 approval of its credit amount no later than **July 28, 2017** April 26,  
8 2017.

9 (3) If a business has submitted an application under this section  
10 and that application has not been approved for any reason, the lack  
11 of approval shall not serve to prejudice in any way the  
12 consideration of a new application as may be submitted for the  
13 qualified business facility for the provision of incentives offered  
14 pursuant to the “New Jersey Economic Opportunity Act of 2013,”  
15 P.L. , c. (C. ) (pending before the Legislature as this bill).

16 (4) Tax credits awarded pursuant to P.L.2007, c.346 (C.34:1B-  
17 207 et seq.) for applications submitted to and approved by the  
18 authority prior to the effective date of the “New Jersey Economic  
19 Opportunity Act of 2013,” P.L. , c. (C. ) (pending before the  
20 Legislature as this bill), shall be administered by the authority in the  
21 manner established prior to that date.

22 c. (1) The amount of credit allowed shall, except as otherwise  
23 provided, be equal to the capital investment made by the business,  
24 or the capital investment represented by the business' leased area, or  
25 area owned by the business as a condominium, and shall be taken  
26 over a 10-year period, at the rate of one-tenth of the total amount of  
27 the business' credit for each tax accounting or privilege period of  
28 the business, beginning with the tax period in which the business is  
29 first certified by the authority as having met the investment capital  
30 and employment qualifications, subject to any reduction or  
31 disqualification as provided by subsection d. of this section as  
32 determined by annual review by the authority. In conducting its  
33 annual review, the authority may require a business to submit any  
34 information determined by the authority to be necessary and  
35 relevant to its review.

36 The credit amount for any tax period ending after July 28, 2017  
37 during which the documentation of a business' credit amount  
38 remains uncertified shall be forfeited, although credit amounts for  
39 the remainder of the years of the 10-year credit period shall remain  
40 available to it.

41 The credit amount that may be taken for a tax period of the  
42 business that exceeds the final liabilities of the business for the tax  
43 period may be carried forward for use by the business in the next 20  
44 successive tax periods, and shall expire thereafter, provided that the  
45 value of all credits approved by the authority against tax liabilities  
46 pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) in any fiscal year  
47 shall not exceed **July 28, 2017** \$250,000,000.

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

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

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

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

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



1    which tax period and each subsequent tax period the full amount of  
2    the credit shall be allowed.

3       (3) If, in any tax period, (a) the number of full-time employees  
4    employed by the business at the qualified business facility located  
5    in an urban transit hub within an eligible municipality drops below  
6    250, or (b) the number of full-time employees, who are not the  
7    subject of intra-State job transfers, pursuant to paragraph (8) of  
8    subsection a. of this section, employed by the business at any other  
9    business facility in the State, whether or not located in an urban  
10   transit hub within an eligible municipality, drops by more than 20  
11   percent from the number of full-time employees in its workforce in  
12   the last tax accounting or privilege period prior to the credit amount  
13   approval under this section, then the business shall forfeit its credit  
14   amount for that tax period and each subsequent tax period, until the  
15   first tax period for which documentation demonstrating the  
16   restoration of the number of full-time employees employed by the  
17   business at the qualified business facility to 250 or an increase  
18   above the 20 percent reduction has been reviewed and approved by  
19   the authority, for which tax period and each subsequent tax period  
20   the full amount of the credit shall be allowed.

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

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

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

48       (2) Through regulation, the Economic Development Authority

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

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

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

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

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

37  
38 6. Section 35 of P.L.2009, c.90 (C.34:1B-209.3) is amended to  
39 read as follows:

40 35. a. (1) A developer, upon application to and approval from  
41 the authority, shall be allowed a credit of up to 35 percent of its  
42 capital investment, made after the effective date of P.L.2009, c.90  
43 (C.52:27D-489a et al.) but prior to its submission of documentation  
44 pursuant to subsection c. of this section, in a qualified residential  
45 project, pursuant to the restrictions and requirements of this section.  
46 To be eligible for any tax credits authorized under this section, a  
47 developer shall demonstrate to the authority, through a project pro  
48 forma analysis at the time of application, that the qualified

1 residential project is likely to be realized with the provision of tax  
2 credits at the level requested but is not likely to be accomplished by  
3 private enterprise without the tax credits. The value of all credits  
4 approved by the authority pursuant to [P.L.2009, c.90 (C.52:27D-  
5 489a et al.)] this section for qualified residential projects may be up  
6 to \$150,000,000, except as may be increased by the authority as set  
7 forth below and as set forth in paragraph (5) of this subsection;  
8 provided, however, that the combined value of all credits approved  
9 by the authority pursuant to [both] section 3 of P.L.2007, c.346  
10 (C.34:1B-207 [et seq.]) and [P.L.2009, c.90 (C.52:27D-489a et  
11 al.)] this section shall not exceed \$1,750,000,000, except as may be  
12 increased by the authority as set forth in paragraph (5) of this  
13 subsection. The authority shall monitor application and allocation  
14 activity under P.L.2007, c.346 (C.34:1B-207 et seq.), and if  
15 sufficient credits are available after taking into account allocation  
16 under P.L.2007, c.346 (C.34:1B-207 et seq.) to those qualified  
17 business facilities for which applications have been filed or for  
18 which applications are reasonably anticipated, and if the executive  
19 director judges certain qualified residential projects to be  
20 meritorious, the aforementioned \$150,000,000 cap may, in the  
21 discretion of the executive director, from time to time, be exceeded  
22 for allocation to qualified residential projects in such amounts as  
23 the executive director deems reasonable, justified, and appropriate.  
24 In allocating all credits to qualified residential projects under this  
25 section, the executive director shall take into account, together with  
26 other factors deemed relevant by the executive director: input from  
27 the municipality in which the project is to be located, whether the  
28 project contributes to the recovery of areas affected by Hurricane  
29 Sandy, whether the project furthers specific State or municipal  
30 planning and development objectives, or both, and whether the  
31 project furthers a public purpose, such as catalyzing urban  
32 development or maximizing the value of vacant, dilapidated,  
33 outmoded, government-owned, or underutilized property, or both.

34 (2) A developer shall make or acquire capital investments  
35 totaling not less than \$50,000,000 in a qualified residential project  
36 to be eligible for a credit under this section. A developer that  
37 acquires a qualified residential project shall also be deemed to have  
38 acquired the capital investment made or acquired by the seller.

39 (3) The capital investment requirement may be met by the  
40 developer or by one or more of its affiliates.

41 (4) A developer of a mixed use project shall be allowed a credit  
42 pursuant to subparagraph (a) or (b) of this paragraph, but not both.

43 (a) A developer shall be allowed a credit in accordance with this  
44 section for a qualified residential project that includes a mixed use  
45 project.

46 (b) A developer shall be allowed a credit of up to 35 percent of  
47 its capital investment, made after the effective date of P.L.2011,

1 c.89 but prior to its submission of documentation pursuant to  
2 subsection c. of this section, in a qualified residential project that is  
3 part of a mixed use project, provided that: (a) the capital  
4 investment in the qualified residential project represents at least  
5 \$17,500,000 of the total capital investment in the mixed use project;  
6 and (b) the total capital investment in the mixed use project of  
7 which the qualified residential project is a part is not less than  
8 \$50,000,000. The allowance of credits under this paragraph shall  
9 be subject to the restrictions and requirements, to the extent that  
10 those are not inconsistent with the provisions of this paragraph, set  
11 forth in paragraphs (1) through (3) of this subsection, including but  
12 not limited to the requirement prescribed in paragraph (1) of this  
13 subsection that the developer shall demonstrate to the authority,  
14 through a project pro forma analysis at the time of application, that  
15 the qualified residential project is likely to be realized with the  
16 provision of tax credits at the level requested but is not likely to be  
17 accomplished by private enterprise without the tax credits.

18 As used in this subparagraph:

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

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

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

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

42 c. The credit shall be administered in accordance with the  
43 provisions of subsections c. and e. of section 3 of P.L.2007, c.346  
44 (C.34:1B-209), as amended by section 32 of P.L.2009, c.90, and  
45 section 33 of P.L.2009, c.90 (C.34:1B-209.1), except that (1) all  
46 references therein to "business" and "qualified business facility"  
47 shall be deemed to refer respectively to "developer" and "qualified  
48 residential project," as such terms are defined in section 34 of

1 P.L.2009, c.90 (C.34:1B-209.2) and (2) all references therein to  
2 credits claimed by tenants and to reductions or disqualifications in  
3 credits as determined by annual review of the authority shall be  
4 disregarded. Provided however, for purposes of a "mixed use  
5 project" as that term is used and defined pursuant to subparagraph  
6 (b) of paragraph (4) of subsection a. of this section, "qualified  
7 business facility" means that term as defined pursuant to section 2  
8 of P.L.2007, c.346 (C.34:1B-208).  
9 (cf: P.L.2012, c.35, s.2)

10  
11 7. Section 2 of P.L.2011, c.149 (C.34:1B-243) is amended to  
12 read as follows:

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

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

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

32 "Aviation district" means the area within a 1-mile radius of the  
33 outermost boundary of the "Atlantic City International Airport,"  
34 established pursuant to section 24 of P.L.1991, c.252 (C.27:25A-  
35 24).

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

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

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

44 a partnership,

45 an S corporation, **[or]**

46 a limited liability **[corporation]** company, or

47 a non-profit corporation.

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

4 "Capital investment" in a qualified business facility means  
5 expenses by a business or any affiliate of the business incurred after  
6 application ], but before the end of the tenth year after, the effective  
7 date of P.L.2011, c.149 (C.34:1B-242 et al.)] for either:

8 a. site preparation and construction, repair, renovation,  
9 improvement, equipping, or furnishing on real property or of a  
10 building, structure, facility, or improvement to real property; [and]  
11 or

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

18 c. both.

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

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

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

45 "Disaster recovery project" means a project located on property  
46 that has been wholly or substantially damaged or destroyed as a  
47 result of a federally-declared disaster, and which is located within  
48 the qualified incentive area and has been determined by the

1 authority to be in an area appropriate for development and in need  
2 of economic development incentive assistance.

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

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

20 "Eligible position" or "full-time job" means a full-time  
21 【employee】 position 【retained or created by】 in a business in this  
22 State 【for which a business provides employee health benefits  
23 under a group health plan as defined under section 14 of P.L.1997,  
24 c.146 (C.17B:27-54), a health benefits plan as defined under section  
25 1 of P.L.1992, c.162 (C.17B:27A-17), or a policy or contract of  
26 health insurance covering more than one person issued pursuant to  
27 Article 2 of chapter 27 of Title 17B of the New Jersey Statutes】  
28 which the business has filled with a full-time employee.

29 "Full-time employee" means a person:

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

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

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

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

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

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

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

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

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

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

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

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

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

36 "Mega project" means:

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

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

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

45 b. a qualified business facility located in an aviation district  
46 housing a business in the aviation industry, either:



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

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

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

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

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

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

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

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

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

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

46    c. are the proposed site of a disaster recovery project, a  
47    qualified incubator facility, a tourism destination project, or transit  
48    oriented development; or

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

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

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

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

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

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

27 "Qualified incentive area" means:

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

30 (a) Planning Area 1 (Metropolitan),

31 (b) Planning Area 2 (Suburban), [or any urban, regional, or  
32 town]

33 (c) Planning Area 3 (Fringe Planning Area).

34 (d) a designated center under the State Development and  
35 Redevelopment Plan [; an area zoned for development pursuant to],  
36 or

37 (e) a designated growth center in an endorsed plan until June 30,  
38 2013, or until the State Planning Commission revises and readopts  
39 New Jersey’s State Strategic Plan and adopts regulations to revise  
40 this definition as it pertains to Statewide planning areas, whichever  
41 is later;

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

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

6     (4) located within a [pinelands] regional growth area, [a  
7     pinelands] town management area, [a pinelands village,] or a  
8     military and federal installation area [established pursuant to]  
9     designated in the [pinelands] comprehensive management plan  
10    prepared and adopted by the Pinelands Commission pursuant to the  
11    "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.);  
12    [an area designated for development, redevelopment, or economic  
13    growth within the Highlands Region; federally owned] or

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

22    b. an area designated in the 2008 Highlands Regional Master  
23    Plan, adopted pursuant to the "Highlands Water Protection and  
24    Planning Act," P.L.2004, c.120 (C.13:20-1 et al.), unless located  
25    within:

26    (1) (a) the Existing Community Zone, or

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

30    (2) (a) the Protection Zone,

31    (b) the Conservation Zone, or

32    (c) an Environmentally Constrained Sub-Zone.

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

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

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

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

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

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

15    "Tourism destination project" means a qualified business facility  
16    that will be among the most visited privately owned or operated  
17    tourism or recreation sites in the State as determined at the  
18    discretion of the authority.

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

24    "Urban transit hub" means an urban transit hub, as defined in  
25    section 10 of P.L.2007, c.346 (C.34:1B-208), that is located within  
26    an eligible municipality, as defined in section 10 of P.L.2007, c.346  
27    (C.34:1B-208) and also located within a qualified incentive area.  
28    (cf: P.L.2011, c.149, s.2)  
29

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

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

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

46    (1) the business, expressly including its landlord or seller, will  
47    make, acquire, or lease a capital investment [of at least

1   \$20,000,000] equal to, or greater than, the applicable amount set  
2   forth in subsection b. of this section at a qualified business facility  
3   at which it will:

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

7       (b) create [at least 100] new full-time jobs [in an industry  
8       identified by the authority as desirable for the State to maintain or  
9       attract; (2)] in an amount equal to or greater than the applicable  
10      number set forth in subsection c. of this section; or

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

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

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

26      (4) except as provided in subsection [d.] f. of this section, [(3)]  
27      the award of tax credits will be a material factor in the business's  
28      decision to create or retain the minimum number of new or retained  
29      full-time jobs for eligibility under the program.

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

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

37          (1) for the rehabilitation of an existing industrial premises for  
38          continued industrial use by the business, a minimum investment of  
39          \$20 per square foot of gross leasable area;

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

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

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

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

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

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

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

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

45       [c.] e. A project that consists solely of point-of-final-purchase  
46 retail facilities shall not be eligible for a grant of tax credits. If a  
47 project consists of both point-of-final-purchase retail facilities and  
48 non-retail facilities, only the portion of the project consisting of

1 non-retail facilities shall be eligible for a grant of tax credits. If a  
2 warehouse facility is part of a point-of-final-purchase retail facility  
3 and supplies only that facility, the warehouse facility shall not be  
4 eligible for a grant of tax credits. For the purposes of this section,  
5 catalog distribution centers shall not be considered point-of-final-  
6 purchase retail facilities.

7 **[d.] f.** The authority may determine as eligible for tax credits  
8 under the program any business that is required to respond to a  
9 request for proposals and to fulfill a contract with the federal  
10 government although the business's chief executive officer or  
11 equivalent officer has not demonstrated to the authority that the  
12 award of tax credits will be a material factor in the business's  
13 decision to retain **[at least 100]** the minimum number of retained  
14 full-time jobs, as otherwise required by **[paragraph (3) of**  
15 **subsection a. of]** this section. The authority may, in its discretion,  
16 consider the economic benefit of the retained jobs servicing the  
17 contract in conducting a net benefit analysis required by paragraph  
18 **[(2)] 4** of subsection a. of this section. For the purposes of this  
19 subsection, "retained full-time jobs" includes jobs that are at risk of  
20 being eliminated. Applications to the authority for eligibility under  
21 the program pursuant to the criteria set forth in this subsection shall  
22 be completed by **[March]** July 31, **[2012]** 2013. Submission of a  
23 proposal to the federal government prior to authority approval shall  
24 not disqualify a business from the program.

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

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

29

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

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

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

40 b. The **[term]** eligibility period of the tax credits, **[and]**  
41 including the first year for which the tax credits may be claimed.

42 c. Personnel information that will enable the authority to  
43 administer the program.

44 d. A requirement that the applicant maintain the project at a  
45 location in New Jersey **[at least 1.5 times the number of years of**  
46 **the term of the tax credits]** for the commitment period, with at least  
47 the minimum number of full-time employees as required by

1    **【section 6 of P.L.2011, c.149 (C.34:1B-247)】** this program, and a  
2    provision to permit the authority to recapture all or part of any tax  
3    **【credit】** credits awarded, at its discretion, if the business does not  
4    remain **【at the site】** in compliance with this provision for the  
5    required term, with such permitted recapture not to exceed the  
6    portion of the tax credits as were awarded for periods when the  
7    business was not in compliance with this provision.

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

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

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

18      h. A provision establishing the conditions under which the  
19      agreement may be terminated **【and awarded tax credits are**  
20      **recaptured, in whole or in part, by the authority at its discretion】** .

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

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

33      (cf: P.L.2011, c.149, s.4)

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

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

46      b. **【In addition to any grant of tax credits determined pursuant**  
47      to subsection a. of this section, a bonus award of up to an additional



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

18 (1) for a qualified business facility located within an urban  
19 transit hub or is a mega project, \$5,000 per year;

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

23 (3) for a project in a priority area, \$2,500 per year; and

24 (4) for a project in other eligible areas, \$1,500 per year.

25 c. [Notwithstanding the provisions of subsections a. and b. of  
26 this section, (1) the amount of tax credits available to be applied by  
27 the business annually shall not exceed the lesser of one tenth of the  
28 capital investment certified by the authority pursuant to section 6 of  
29 P.L.2011, c.149 (C.34:1B-247) or \$4,000,000, and (2) the number  
30 of new full-time jobs for which a business receives a tax credit shall  
31 not exceed the number of retained full-time jobs for which a  
32 business receives a tax credit, unless the business qualifies by  
33 creating at least 100 new full-time jobs in an industry identified by  
34 the authority as desirable for the State to maintain or attract.] In  
35 addition to the base amount of the tax credit, the amount of the tax  
36 credit to be awarded for each new or retained full-time job shall be  
37 increased if the qualified business facility meets any of the  
38 following priority criteria or other additional or replacement criteria  
39 determined by the authority from time to time in response to  
40 evolving economic or market conditions:

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

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

47 (3) for a qualified business facility located in a mixed-use  
48 development that incorporates sufficient moderate income housing

1 on site to accommodate a minimum of 20 percent of the full-time  
2 employees of the business, an increase of \$500 per year;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19    (14) for a qualified business facility exceeding the Leadership in  
20    Energy and Environmental Design's "Silver" rating standards, an  
21    additional increase of \$250 per year; and

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

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

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

36    (2) for a qualified business facility located within an urban  
37    transit hub, the gross amount for each new or retained full-time job  
38    shall not exceed \$10,000 per year;

39    (3) for a qualified business facility in a distressed municipality  
40    the gross amount for each new or retained full-time job shall not  
41    exceed \$8,000 per year;

42    (4) for a qualified business facility in other priority areas, the  
43    gross amount for each new or retained full-time job shall not exceed  
44    \$6,000 per year; and

45    (5) for a qualified business facility in other eligible areas, the  
46    gross amount for each new or retained full-time job shall not exceed  
47    \$4,000 per year.

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

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

19         (1) \$30,000,000 with respect to a mega project;

20         (2) \$10,000,000 with respect to a qualified business facility in an  
21 urban transit hub;

22         (3) \$8,000,000 with respect to a qualified business facility in a  
23 distressed municipality;

24         (4) \$4,000,000 with respect to a qualified business facility in  
25 other priority areas; and

26         (5) \$2,500,000 with respect to a qualified business facility in  
27 other eligible areas.

28 (cf: P.L.2011, c.149, s.5)

29  
30     11. Section 6 of P.L.2011, c.149 (C.34:1B-247) is amended to  
31 read as follows:

32     6. a. (1) The [value of all credits approved by the authority  
33 pursuant to P.L.2011, c.149 (C.34:1B-242 et al.) shall not exceed  
34 \$200,000,000, except that the value of all credits approved by the  
35 authority pursuant to this section may exceed \$200,000,000 if the  
36 board of the authority determines the credits to be reasonable,  
37 justifiable, and appropriate; provided, however, the] combined  
38 value of all credits approved by the authority pursuant to P.L.2007,  
39 c.346 (C.34:1B-207 et seq.) and P.L.2011, c.149 (C.34:1B-242 et  
40 al.) prior to the 90th day after the date of enactment of the “New  
41 Jersey Economic Opportunity Act of 2013,” P.L. , c. (C. )  
42 (pending before the Legislature as this bill) shall not exceed  
43 \$1,750,000,000, except as may be increased by the authority as set  
44 forth in paragraph (5) of subsection a. of P.L.2009, c.90 (C.34:1B-  
45 209.3).

46     (2) [A business, including any affiliate of the business or any  
47 business that is a tenant within any qualified business facility, shall  
48 make or acquire capital investments totaling not less than

1 \$20,000,000 in a qualified business facility, at which the business  
2 shall employ not fewer than 100 full-time employees to be eligible  
3 for a credit pursuant to P.L.2011, c.149. A business that acquires or  
4 leases a qualified business facility shall also be deemed to have  
5 acquired the capital investment made or acquired by the seller or  
6 landlord, as the case may be.】 (Deleted by amendment,  
7 P.L. , c. ) (pending before the Legislature as this bill).

8 (3) 【A business shall not be allowed tax credits pursuant to  
9 P.L.1996, c.25 (C.34:1B-112 et seq.) or P.L.1996, c.26 (C.34:1B-  
10 124 et seq.) relating to the same capital and employees that qualify  
11 the business for tax credits pursuant to P.L.2011, c.149. A business  
12 that is allowed a tax credit under this section shall not be eligible  
13 for incentives authorized pursuant to P.L.2002, c.43 (C.52:27BBB-1  
14 et al.). A business shall not qualify for a tax credit under this  
15 section, based upon capital investment and employment of full-time  
16 employees, if that capital investment or employment was the basis  
17 for which a grant was provided to the business pursuant to the  
18 "Urban Transit Hub Tax Credit Act," P.L.2007, c.346 (C.34:1B-207  
19 et seq.).】 (Deleted by amendment, P.L. , c. ) (pending before  
20 the Legislature as this bill).

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

25 (5) 【The capital investment of the owner of a qualified business  
26 facility is that percentage of the capital investment made or  
27 acquired by the owner of the building that the percentage of net  
28 leasable area of the qualified business facility not leased to tenants  
29 is of the total net leasable area of the qualified business facility. For  
30 a business that is a tenant, the amount of capital investment in a  
31 facility that a leased area represents shall be equal to that  
32 percentage of the owner's total capital investment in the facility that  
33 the percentage of net leasable area leased by the tenant is of the  
34 total net leasable area of the qualified business facility. Capital  
35 investments made by a tenant shall be deemed to be included in the  
36 calculation of the capital investment made or acquired by the  
37 owner, but only to the extent necessary to meet the owner's  
38 minimum capital investment of \$20,000,000. Capital investments  
39 made by a tenant and not allocated to meet the owner's minimum  
40 capital investment threshold of \$20,000,000 shall be added to the  
41 amount of capital investment represented by the tenant's leased area  
42 in the qualified business facility.】 (Deleted by amendment, P.L. ,  
43 c. ) (pending before the Legislature as this bill).

44 b. (1) A business shall 【apply】 submit an application for 【the】  
45 tax 【credit】 credits prior to July 1, 【2014, and】 2018. The  
46 authority shall not approve an application for tax credits unless the  
47 application was submitted prior to July 1, 2018.

1     (2) A business shall submit its documentation indicating that it  
2     has met the capital investment and employment requirements  
3     specified in the [project] incentive agreement for certification of its  
4     tax credit amount [no later than July 28, 2017.] within three years  
5     following the date of approval of its application by the authority.  
6     The authority shall have the discretion to grant two six-month  
7     extensions of this deadline. In no event shall the incentive effective  
8     date occur later than four years following the date of approval of an  
9     application by the authority.

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

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

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

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

33    The credit amount that may be taken for a tax period of the  
34    business that exceeds the final liabilities of the business for the tax  
35    period may be carried forward for use by the business in the next 20  
36    successive tax periods, and shall expire thereafter [, provided that  
37    the value of all credits approved by the authority against tax  
38    liabilities pursuant to P.L.2011, c.149, in any fiscal year shall not  
39    exceed \$150,000,000 and the combined value of all credits  
40    approved by the authority pursuant to P.L.2007, c.346 (C.34:1B-  
41    207 et seq.) and P.L.2011, c.149 (C.34:1B-242 et al.) shall not  
42    exceed \$1,750,000,000].

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

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

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

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

30 (2) If, in any tax period, the number of full-time employees  
31 employed by the business at the qualified business facility located  
32 within a qualified incentive area drops below 100 or 80 percent of  
33 the number of new and retained full-time jobs specified in the  
34 **[project]** incentive agreement, then the business shall forfeit its  
35 credit amount for that tax period and each subsequent tax period,  
36 until the first tax period for which documentation demonstrating the  
37 restoration of the number of full-time employees employed by the  
38 business at the qualified business facility to 100.

39 (3) (a) If the qualified business facility is sold by the owner in  
40 whole or in part during the **[10-year]** eligibility period, the new  
41 owner shall not acquire the capital investment of the seller and the  
42 seller shall forfeit all credits for the tax period in which the sale  
43 occurs and all subsequent tax periods, provided however that any  
44 credits of **[tenants]** the business shall remain unaffected.

45 (b) If a **[tenant]** business leases or subleases its **[tenancy]**  
46 premises in the qualified business facility in whole or in part during  
47 the **[10-year]** eligibility period, the new tenant or subtenant shall

1 not acquire the **[credit]** tax credits of the **[sublessor]** business, and  
2 the **[sublessor tenant]** business shall forfeit all credits for the tax  
3 period of its lease or sublease and all subsequent tax periods.  
4 Notwithstanding such forfeiture, a business that leases or subleases  
5 less than all of its premises and does not thereby reduce its new or  
6 retained full-time job count below the minimum number required  
7 under section 3 of P.L.2011, c.149 (C.34:1B-244) shall not be  
8 affected by this paragraph.

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

15 (1) the business has satisfied all of its obligations underlying the  
16 previous award of incentives; or

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

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

22  
23 12. Section 8 of P.L.2011, c.149 (C.34:1B-249) is amended to  
24 read as follows:

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

42 b. Through regulation, the authority shall establish standards  
43 by which qualified business facilities shall be constructed or  
44 renovated **[based on the green building manual prepared by the**  
45 **Commissioner of Community Affairs pursuant to section 1 of**  
46 **P.L.2007, c.132 (C.52:27D-130.6), regarding the use of renewable**  
47 **energy, energy-efficient technology, and non-renewable resources**



1 in order to reduce environmental degradation and encourage long-  
2 term cost reduction】 in compliance with the minimum  
3 environmental and sustainability standards.

4 (cf: P.L.2011, c.149, s.8)

5  
6 13. Section 1 of P.L.2009, c.136 (C.52:18-42) is amended to  
7 read as follows:

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

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

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

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

37 "Lead public agency" means the public entity designated by the  
38 State Treasurer pursuant to section 4 of 【this act】 P.L.2009, c.136  
39 (C.52:18-45) to serve as the point of contact between a business and  
40 every State governmental entity having oversight of, or involvement  
41 in, a project for which the entity or entities are providing or will  
42 provide the business with financial assistance.

43 "Public entity" means the State, other than the Judicial branch of  
44 State government, any county, municipality, district, or other  
45 political subdivision thereof, and any agency, authority, or  
46 instrumentality of the foregoing, including, but not limited to, any  
47 county improvement authority and any economic development  
48 agency, authority, or other entity.

1 "Qualified employment incentive facility" means any building or  
2 other structure or portion of a building or other structure that,  
3 following the date on which occupation of the building or structure  
4 shall have commenced, shall be used exclusively as the premises of  
5 a project, related to the creation, relocation, or retention of jobs,  
6 that qualifies for incentives under the Business Retention and  
7 Relocation Assistance Grant Program established by section 3 of  
8 P.L.1996, c.25 (C.34:1B-114), the Business Employment Incentive  
9 Program established by section 3 of P.L.1996, c.26 (C.34:1B-126),  
10 the Grow New Jersey Assistance Program established by P.L.2011,  
11 c.149 (C.34:1B-242 et seq.), the Economic Redevelopment and  
12 Growth Grant program established by sections 3 through 18 of  
13 P.L.2009, c.90 (C.52:27D-489c et al.), the corporation business tax  
14 credit and insurance premium tax credit certificate transfer program  
15 established pursuant to section 17 of P.L.2004, c.65 (C.34:1B-  
16 120.2), the sales and use tax exemption certificate program  
17 established pursuant to section 20 of P.L.2004, c.65 (C.34:1B-186),  
18 the exemption of retail sales of energy and utility service to  
19 qualified businesses within an urban enterprise zone from the sales  
20 and use tax pursuant to section 23 of P.L.2004, c.65 (C.52:27H-  
21 87.1), the urban transit hub tax credit program established pursuant  
22 to [section 3 of] P.L.2007, c.346 [(C.34:1B-209)] (C.34:1B-207 et  
23 seq.), or any other program as the State Treasurer shall deem to be  
24 of similar kind and purpose; provided, however, that such exclusive  
25 use shall continue for the minimum period of time prescribed by the  
26 applicable law or any regulation adopted pursuant thereto, or under  
27 any project agreement or other contract executed pursuant to such  
28 law or regulation, or if no such minimum period shall be so  
29 prescribed, for a period of four years.

30 "Redevelopment project" means a specific work or improvement,  
31 including lands, buildings, structures, improvements, real and  
32 personal property or any interest therein, including lands under  
33 water, riparian rights, space rights and air rights, acquired, owned,  
34 cleared, graded, developed or redeveloped, constructed,  
35 reconstructed, rehabilitated or improved, undertaken by a  
36 developer, but excluding the acquisition, construction, repair, or  
37 reconstruction of any building or other improvements to real  
38 property, or the acquisition or installation of any equipment or other  
39 personal property, that, upon completion, shall constitute a qualified  
40 employment incentive facility.

41 "Remediation" or "remediate" means all necessary actions to  
42 investigate and clean up or respond to any known, suspected, or  
43 threatened discharge of contaminants, including, as necessary, the  
44 preliminary assessment, site investigation, remedial investigation,  
45 and remedial action, provided, however, that "remediation" or  
46 "remediate" shall not include the payment of compensation for  
47 damage to, or loss of, natural resources, and shall not include the  
48 investigation or clean up of real property that shall be used to

1 construct a qualified employment incentive facility, or the  
2 acquisition, construction, repair, or reconstruction of any building  
3 or other improvements to real property, or the acquisition or  
4 installation of any equipment or other personal property, that, upon  
5 completion, shall constitute a qualified employment incentive  
6 facility.

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

15 (cf: P.L.2009, c.136, s.1)

16  
17 14. Section 3 of P.L.2009, c.90 (C.52:27D-489c) is amended to  
18 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

46 "Low-income housing" means housing affordable according to  
47 federal Department of Housing and Urban Development or other  
48 recognized standards for home ownership and rental costs and

1 occupied or reserved for occupancy by households with a gross  
2 household income equal to 50 percent or less of the median gross  
3 household income for households of the same size within the  
4 housing region in which the housing is located.

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

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

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

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

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

44 “Project financing gap” means: a. the part of the total  
45 【redevelopment】 project cost, including return on investment, that  
46 remains to be financed after all other sources of capital have been  
47 accounted for, including, but not limited to, developer-contributed  
48 capital, which may include the value of any existing land and

1 improvements in the project area owned or controlled by the  
2 developer, and which shall not be less than 20 percent of the total  
3 project cost, excluding the cost of infrastructure improvements in  
4 the public right of way and investor or financial entity capital or  
5 loans for which the developer, after making all good faith efforts to  
6 raise additional capital, certifies that additional capital cannot be  
7 raised from other sources on a non-recourse basis; b. the cost of  
8 infrastructure improvements including any ancillary infrastructure  
9 project; and c. the amount by which total project cost exceeds the  
10 cost of an alternative location for the redevelopment project.

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

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

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

17 (2) multiplying that product by a fraction having a numerator  
18 equal to the taxable value of all the property assessed within the  
19 project area, minus the property tax increment base, and having a  
20 denominator equal to the taxable value of all property assessed  
21 within the project area.

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

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

35 "Qualified residential project" means a redevelopment project  
36 that is predominantly residential and includes multi-family  
37 residential units, hotel units, or dormitory units for purchase or  
38 lease, that represents at least \$17,500,000 of the total project cost, if  
39 the project is located in any municipality with a population greater  
40 than 200,000 according to the latest federal decennial census, or  
41 \$10,000,000 of the total project cost, if the project is located in any  
42 municipality with a population less than 200,000 according to the  
43 latest federal decennial census, or is a disaster recovery project.

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

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

48 (a) Planning Area 1 (Metropolitan),

1 (b) Planning Area 2 (Suburban), [or a center as designated by the  
2 State Planning Commission; an area zoned for development  
3 pursuant to]

4 (c) Planning Area 3 (Fringe Planning Area).

5 (d) a designated center under the State Development and  
6 Redevelopment Plan, or

7 (e) a designated growth center in an endorsed plan until June 30,  
8 2013, or until the State Planning Commission revises and readopts  
9 New Jersey's State Strategic Plan and adopts regulations to revise  
10 this definition as it pertains to Statewide planning areas, whichever  
11 is later;

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

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

23 (4) located within a [pinelands] regional growth area, a  
24 [pinelands] town management area, [a pinelands village,] or a  
25 military and federal installation area [established pursuant to]  
26 designated in the [pinelands] comprehensive management plan  
27 prepared and adopted by the Pinelands Commission pursuant to the  
28 "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.);  
29 [a transit village, as determined by the Commissioner of  
30 Transportation; and federally owned] or

31 (5) located within land approved for closure under any federal  
32 Base Closure and Realignment Commission action; but excluding

33 b. an area designated in the 2008 Highlands Regional Master  
34 Plan, adopted pursuant to the "Highlands Water Protection and  
35 Planning Act," P.L.2004, c.120 (C.13:20-1 et al.), unless located  
36 within:

37 (1) (a) the Existing Community Zone, or

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

41 (2) (a) the Protection Zone,

42 (b) the Conservation Zone, or

43 (c) an Environmentally Constrained Sub-Zone.

44 "Redevelopment incentive grant agreement" means an agreement  
45 between, (1) the State and the New Jersey Economic Development  
46 Authority and a developer, or (2) a municipality and a developer, or  
47 a municipal ordinance authorizing a project to be undertaken by a

1 municipal redeveloper, under which, in exchange for the proceeds  
2 of an incentive grant, the developer agrees to perform any work or  
3 undertaking necessary for a redevelopment project, including the  
4 clearance, development or redevelopment, construction, or  
5 rehabilitation of any structure or improvement of commercial,  
6 industrial, residential, or public structures or improvements within a  
7 qualifying economic redevelopment and growth grant incentive area  
8 or a transit village.

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

38 "Redevelopment utility" means a self-liquidating fund created by  
39 a municipality pursuant to section 12 of P.L.2009, c.90 (C.52:27D-  
40 489l) to account for revenues collected and incentive grants paid  
41 pursuant to section 11 of P.L.2009, c.90 (C.52:27D-489k), or other  
42 revenues dedicated to a redevelopment project.

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



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

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

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

10    "Tourism destination project" means a redevelopment project  
11    that will be among the most visited privately owned or operated  
12    tourism or recreation sites in the State as determined at the  
13    discretion of the authority.

14    "Transit project" means a redevelopment project located within a  
15    1/2-mile radius surrounding the mid-point of a New Jersey Transit  
16    Corporation, Port Authority Transit Corporation, or Port Authority  
17    Trans-Hudson Corporation rail, bus, or ferry station platform area,  
18    including all light rail stations.

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

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

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

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

40    (cf: P.L.2011, c.89, s.6)

41  
42    15. Section 5 of P.L.2009, c.90 (C.52:27D-489e) is amended to  
43    read as follows:

44    5. a. The New Jersey Economic Development Authority, in  
45    consultation with the State Treasurer, shall establish an Economic  
46    Redevelopment and Growth Grant program for the purpose of  
47    encouraging redevelopment projects in qualifying economic  
48    redevelopment and growth grant incentive areas that do not qualify

1 as such areas solely by virtue of being a transit village, through the  
2 provision of incentive grants to reimburse developers for certain  
3 project financing gap costs.

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

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

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

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

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

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

1 project that is required to collect the tax pursuant to the "Sales and  
2 Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), the tax imposed  
3 pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.) from the purchase  
4 of furniture, fixtures and equipment, or materials [used] for the  
5 remediation, the construction of new structures [, or the  
6 construction of new residences] or residences, or the renovation of  
7 same, at the site of a redevelopment project, the tax imposed  
8 pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.) from purchases of  
9 goods and services used in the ongoing operation of a business at  
10 the site of the redevelopment project, the hotel and motel occupancy  
11 fee imposed pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1),  
12 or the portion of the fee imposed pursuant to section 3 of P.L.1968,  
13 c.49 (C.46:15-7) derived from the sale of real property at the site of  
14 the redevelopment project and paid to the State Treasurer for use by  
15 the State, that is not credited to the "Shore Protection Fund" or the  
16 "Neighborhood Preservation Nonlapsing Revolving Fund" ("New  
17 Jersey Affordable Housing Trust Fund") pursuant to section 4 of  
18 P.L.1968, c.49 (C.46:15-8).

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

23 (2) In the case of a qualified residential project, if the authority  
24 determines that the estimated amount of incremental revenues  
25 pledged towards the State portion of an incentive grant is  
26 inadequate to fully fund the amount of the State portion of the  
27 incentive grant, then in lieu of an incentive grant based on such  
28 incremental revenue, the developer shall be awarded tax credits  
29 equal to the full amount of the incentive grant. The value of all  
30 credits approved by the authority pursuant to this paragraph shall  
31 not exceed \$600,000,000, of which \$250,000,000 shall be restricted  
32 to qualified residential projects located in urban transit hubs that are  
33 commuter rail in nature; \$200,000,000 shall be restricted to  
34 qualified residential projects in distressed municipalities or deep  
35 poverty pockets; \$100,000,000 shall be restricted to qualified  
36 residential projects that are disaster recovery projects; and the  
37 remaining \$50,000,000 shall be used for qualified residential  
38 projects in any municipality falling within a qualifying economic  
39 redevelopment and growth grant incentive area. Not more than  
40 \$40,000,000 of credits shall be awarded to any qualified residential  
41 project in a deep poverty pocket or distressed municipality and not  
42 more than \$20,000,000 of credits shall be awarded to any other  
43 qualified residential project. The developer of a qualified  
44 residential project seeking an award of credits towards the funding  
45 of its incentive grant shall submit an incentive grant application  
46 prior to July 1, 2015 and if approved shall submit a temporary  
47 certificate of occupancy for such project no later than July 28, 2018.  
48 Credits awarded to a developer pursuant to this subsection shall be

1 subject to the same financial and related analysis by the authority  
2 and shall be utilized or transferred by the developer as if such  
3 credits had been awarded to the developer pursuant to section 35 of  
4 P.L.2009, c.90 (C.34:1B-209.3) for qualified residential projects  
5 thereunder. No portion of the revenues pledged pursuant to the  
6 “New Jersey Economic Opportunity Act of 2013,” P.L. , c. (C. )  
7 (pending before the Legislature as this bill) shall be subject to  
8 withholding or retainage for adjustment, in the event the developer  
9 or taxpayer waives its rights to claim a refund thereof.

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

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

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

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

24  
25 17. Section 8 of P.L.2009, c.90 (C.52:27D-489h) is amended to  
26 read as follows:

27 8. a. (1) The **【New Jersey Economic Development Authority】**  
28 authority, in consultation with the State Treasurer, shall promulgate  
29 an incentive grant application form and procedure for the Economic  
30 Redevelopment and Growth Grant program.

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

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

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

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

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

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

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

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

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

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

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

46     (3) The authority, State Treasurer, and Local Finance Board may  
47     act cooperatively to administer and review applications, and shall

1 consult with the Office of State Planning on matters concerning  
2 State, regional, and local development and planning strategies.

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

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

15 (cf: P.L.2010, c.10, s.8)

16  
17 18. Section 9 of P.L.2009, c.90 (C.52:27D-489i) is amended to  
18 read as follows:

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

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

28 c. The Chief Executive Officer of the **【New Jersey Economic**  
29 **Development Authority】** authority, in consultation with the State  
30 Treasurer shall negotiate the terms and conditions of any  
31 redevelopment incentive grant agreement on behalf of the State.

32 d. (1) The redevelopment incentive grant agreement shall  
33 specify the maximum amount of project costs, the amount of the  
34 incentive grant to be awarded the developer, the frequency of  
35 payments, and the 【length of time, which shall not exceed 20 years,  
36 during which that reimbursement shall be granted】 eligibility  
37 period. Except for redevelopment incentive grant agreements with  
38 a municipal redeveloper or with the developer of a redevelopment  
39 project solely with respect to the cost of infrastructure  
40 improvements in the public right-of-way including any ancillary  
41 infrastructure project in the public right-of-way, in no event shall  
42 the base amount of the combined 【amount of the】 reimbursements  
43 under redevelopment incentive grant agreements with the State or  
44 municipality exceed 20 percent of the total project cost 【of the  
45 project】. 【For the purposes of calculating the total cost of all  
46 projects, the cost of infrastructure improvements in the public right-  
47 of-way and publicly owned facilities shall not be included. The

1 amount of the redevelopment incentive grant for a municipal  
2 redeveloper may include the total cost of such infrastructure  
3 improvements and publicly owned facilities.】

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

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

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

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

24 (d) a transit project; or

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

28 (3) If there remains a project financing gap after the maximum  
29 combined amounts provided in paragraph (2) of this subsection are  
30 considered, then the authority shall be permitted to make a bonus  
31 award increasing the amount of the reimbursement under the  
32 redevelopment incentive grant agreement with the State by up to 10  
33 percent of the total project cost. In making a bonus award to a  
34 developer, the authority shall consider any factors that are found to  
35 contribute to the remaining project financing gap, such as whether  
36 the project:

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

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

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

46 (d) would include energy efficiency or renewable energy  
47 features, measures or upgrades in excess of the green building  
48 requirements of the Economic Redevelopment and Growth Grant

1 program which requirements shall be as set forth in the New Jersey  
2 Green Building Manual prepared by the Department of Community  
3 Affairs;

4 (e) is a qualified incubator facility; or

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

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

18 e. **【The】** Except in the case of a qualified residential project,  
19 the authority and the State Treasurer may enter into a  
20 redemption incentive grant agreement only if they make a  
21 finding that the State revenues to be realized from the  
22 redemption project will be in excess of the amount necessary to  
23 reimburse the developer for its project financing gap. This finding  
24 may be made by an estimation based upon the professional  
25 judgment of the Chief Executive Officer of the 【New Jersey  
26 Economic Development Authority】 authority and the State  
27 Treasurer.

28 f. In deciding whether or not to recommend entering into a  
29 redevelopment incentive grant agreement and in negotiating a  
30 redevelopment agreement with a developer, the Chief Executive  
31 Officer of the **【New Jersey Economic Development Authority】**  
32 authority shall consider the following factors:

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

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

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

43 (4) the likelihood that the redevelopment project shall, upon  
44 completion, be capable of generating new tax revenue in an amount  
45 in excess of the amount necessary to reimburse the developer for  
46 project costs incurred as provided in the redevelopment incentive  
47 grant agreement, provided, however, that any tax revenue generated



1 by a redevelopment project that is a disaster recovery project shall  
2 be considered new tax revenue even if the same or more tax revenue  
3 was generated at or on the site prior to the disaster;

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

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

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

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

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

35 (cf: P.L.2010, c.10, s.9)

36  
37 19. Section 11 of P.L.2009, c.90 (C.52:27D-489k) is amended to  
38 read as follows:

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

44 b. The redevelopment incentive grant agreement shall specify  
45 the maximum amount of project costs, the amount of the incentive  
46 grant to be awarded the developer, the frequency of payments, and  
47 the [length of time, which shall not exceed 20 years, during which

1 that reimbursement shall be granted] eligibility period. The  
2 maximum amount of any municipal redevelopment incentive grant  
3 shall be equal to:

4 (1) 100 percent of the project costs in the case of a municipal  
5 redeveloper, or

6 (2) for all other developers, the sum of 75 percent of the costs of  
7 environmental remediation, 100 percent of the costs of  
8 infrastructure improvements in the public right-of-way, including  
9 any ancillary infrastructure project in the public right-of-way, and  
10 20 percent of the amount determined by subtracting the costs of  
11 infrastructure improvements in the public right-of-way including  
12 any ancillary infrastructure project in the public right-of-way from  
13 the total project costs. Except for redevelopment incentive grants  
14 with a municipal redeveloper or with the developer of a  
15 redevelopment project solely with respect to the cost of  
16 infrastructure improvements in the public right-of-way including  
17 any ancillary infrastructure project in the public right-of-way, in no  
18 event shall the combined amount of the reimbursements under  
19 redevelopment incentive grant agreements with the State or  
20 municipality exceed 20 percent of the total project cost [of the  
21 project] plus any increase or bonus award of the State portion of  
22 such combined amount as set forth in subsection d. of section 9 of  
23 P.L.2009, c.90 (C.52:27D-489i). [For the purposes of calculating  
24 the total cost of all projects, the cost of publicly owned facilities  
25 shall not be included. The amount of the redevelopment incentive  
26 grant for a municipal redeveloper may include the total cost of such  
27 infrastructure improvements and publicly owned facilities.]

28 c. [The] Except in the case of a qualified residential project,  
29 the municipality may enter into a redevelopment incentive grant  
30 agreement only if the chief financial officer of the municipality  
31 makes a finding that the incremental revenues to be realized from  
32 the redevelopment project will be in excess of the amount necessary  
33 to reimburse the developer for its project financing gap. Such  
34 finding shall be based upon appropriate documentation and  
35 calculations supporting the decision.

36 d. Within a qualifying economic redevelopment and growth  
37 grant incentive area a municipality that has entered into a local  
38 redevelopment incentive grant agreement may pledge eligible  
39 revenues it is authorized to collect as follows:

40 (1) incremental payments in lieu of taxes, with respect to  
41 property located in the district, made pursuant to the "Five-Year  
42 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et  
43 seq.), or the "Long Term Tax Exemption Law," P.L.1991, c.431  
44 (C.40A:20-1 et al.);

45 (2) incremental revenues collected from payroll taxes, with  
46 respect to business activities carried on within the area, pursuant to  
47 section 15 of P.L.1970, c.326 (C.40:48C-15);

1 (3) incremental revenue from lease payments made to the  
2 municipality, the developer, or the developer's successors with  
3 respect to property located in the area;

4 (4) incremental revenue collected from parking taxes derived  
5 from parking facilities located within the area pursuant to section 7  
6 of P.L.1970, c.326 (C.40:48C-7);

7 (5) incremental admissions and sales taxes derived from the  
8 operation of a public facility within the area pursuant to section 1 of  
9 P.L.2007, c.302 (C.40:48G-1);

10 (6) (a) incremental sales and excise taxes which are derived from  
11 activities within the area and which are rebated to or retained by the  
12 municipality pursuant to the "New Jersey Urban Enterprise Zones  
13 Act," P.L.1983, c.303 (C.52:27H-60 et seq.) or any other law  
14 providing for such rebate or retention;

15 (b) within Planning Area 1 (Metropolitan) under the State  
16 Development and Redevelopment Plan adopted pursuant to the  
17 "State Planning Act," sections 1 through 12 of P.L.1985, c.398  
18 (C.52:18A-196 et seq.), a municipality may impose the entire State  
19 sales tax on business activities within a redevelopment project  
20 located in an urban enterprise zone that would ordinarily be entitled  
21 to collect reduced rate revenues under section 21 of P.L.1983, c.303  
22 (C.52:27H-80), and pledge the excess revenues to a local  
23 redevelopment incentive grant agreement;

24 (7) incremental parking revenue collected, pursuant to section 7  
25 of P.L.1970, c.326 (C.40:48C-7), from public parking facilities built  
26 as part of a redevelopment project, except for public parking  
27 facilities owned by parking authorities pursuant to the "Parking  
28 Authority Law," P.L.1948, c.198 (C.40:11A-1 et seq.);

29 (8) incremental revenues collected, pursuant to section 3 of  
30 P.L.2003, c.114 (C.40:48F-1), P.L.1981, c.77 (C.40:48E-1 et seq.),  
31 or P.L.1947, c.71 (C.40:48-8.15 et seq.), from hotel and motel  
32 taxes;

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

35 (10) the property tax increment.

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

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

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

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

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

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

29 (2) Any pledge of incentive grants made by the developer shall  
30 be valid and binding from the time when the pledge is made and  
31 filed in the office of the municipal clerk. The incentive grants so  
32 pledged and thereafter received by the developer shall immediately  
33 be subject to the lien of the pledge without any physical delivery  
34 thereof or further act, and the lien of any pledge shall be valid and  
35 binding as against all parties having claims of any kind in tort,  
36 contract, or otherwise against the developer irrespective of whether  
37 the parties have notice thereof. Neither the redevelopment  
38 incentive grant agreement nor any other instrument by which a  
39 pledge under this section is created need be filed or recorded except  
40 with the municipality.

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

42

43 20. (New section) On or before January 1, 2018, the authority  
44 shall submit a written report to the Governor and the Legislature  
45 providing a comprehensive review and analysis of the Grow New  
46 Jersey Assistance Program, established pursuant to P.L.2011, c.149  
47 (C.34:1B-242 et seq.), the State Economic Redevelopment and  
48 Growth Grant program, established pursuant to section 5 of

1 P.L.2009, c.90 (C.52:27D-489e), and other economic incentive laws  
2 under the authority's jurisdiction. In order to ensure the  
3 independence and objectivity of the report, the authority shall retain  
4 a premier, not-for-profit, non-partisan entity to undertake the review  
5 and analysis of the State economic incentive laws, which shall  
6 include a cost-benefit analysis of each incentive program, an  
7 assessment of the success of each program in meeting the goals of  
8 the program, and any recommendations for improving the operation  
9 and effectiveness of each program, including recommendations for  
10 legislation.

11

12 21. This act shall take effect immediately.