Sponsored by:
Assemblyman  LOUIS D. GREENWALD
District 6 (Burlington and Camden)
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District 35 (Bergen and Passaic)

Co-Sponsored by:
Senator Lesniak

SYNOPSIS

CURRENT VERSION OF TEXT
As amended by the Senate on June 26, 2014.

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

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

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

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

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

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:
1Assembly ACE committee amendments adopted June 5, 2014.
2Assembly AAP committee amendments adopted June 23, 2014.
3Assembly floor amendments adopted June 23, 2014.
4Senate floor amendments adopted June 26, 2014.
2. As used in P.L.2011, c.149 (C.34:1B-242 et seq.):

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

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


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

a corporation that is subject to the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5);
a corporation that is subject to the tax imposed pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15) or N.J.S.17B:23-5;a partnership;an S corporation;a limited liability company; oran non-profit corporation.

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

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

[A business shall include any owner of a partnership or an S corporation that is a business.]
"Capital investment" in a qualified business facility means expenses by a business or any affiliate of the business incurred after application for:

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

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

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

d. any of the foregoing.

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

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

"Commitment period" means the period of time that is 1.5 times the eligibility period.
"Deep poverty pocket" means a population census tract having a poverty level of 20 percent or more, and which is located within the qualified incentive area and has been determined by the authority to be an area appropriate for development and in need of economic development incentive assistance.

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

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

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

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

"Full-time employee" means a person:

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

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

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

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

the requirement that employee health benefits are to be provided shall be deemed to be satisfied if such benefits are provided in accordance with industry practice by a third party obligated to provide such benefits pursuant to a collective bargaining agreement; full-time employment shall include, but not be limited to, employees that have been hired by way of a labor union hiring hall or its equivalent;

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

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

"Full-time employee" shall not include any person who works as an independent contractor or on a consulting basis for the business.
"Garden State Growth Zone" or "growth zone" means the four New Jersey cities with the lowest median family income based on the 2009 American Community Survey from the US Census, (Table 708. Household, Family, and Per Capita Income and Individuals, and Families Below Poverty Level by City: 2009).

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

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

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

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

"Mega project" means:

a. a qualified business facility located in a port district housing a business in the logistics, manufacturing, energy, defense, or maritime industries, either:
   (1) having a capital investment in excess of $20,000,000, and at which more than 250 full-time employees of such business are created or retained, or
   (2) at which more than 1,000 full-time employees of such business are created or retained;

b. a qualified business facility located in an aviation district housing a business in the aviation industry, in a Garden State Growth Zone, or in a priority area housing the United States headquarters and related facilities of an automobile manufacturer, either:
   (1) having a capital investment in excess of $20,000,000, and at which more than 250 full-time employees of such business are created or retained, or
   (2) at which more than 1,000 full-time employees of such business are created or retained; ¹[or²]

c. a qualified business facility located in an urban transit hub housing a business of any kind, having a capital investment in excess of $50,000,000, and at which more than 250 full-time employees of a business are created or retained³[or⁴]

d. ³[a qualified business facility housing the corporate headquarters of a business of any kind having a capital investment]
in excess of $50,000,000, and at which more than 250 full-time
employees of [such] the business are created; or

e. [1] a project located in an area designated in need of
redevelopment [2], pursuant to P.L.1992, c.79 (C.40A:12A-1 et al.)[3]
prior to the enactment of P.L. [4] (C.____) (pending before the
Legislature as this bill) within Atlantic, Burlington, Camden, Cape
May, Cumberland, Gloucester, Ocean, or Salem counties having a
capital investment in excess of $20,000,000, and at which more
than 150 full-time employees of [such] a business are created or
retained[1].

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

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

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

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

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

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

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

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

b. a 15-mile radius of the outermost boundary of each marine
terminal facility established, acquired, constructed, rehabilitated, or
improved by the South Jersey Port District established pursuant to

"Priority area" means the portions of the qualified incentive area that are not located within a distressed municipality and which:
1. are designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), a designated center under the State Development and Redevelopment Plan, or a designated growth center in an endorsed plan until June 30, 2013, or until the State Planning Commission revises and readopts New Jersey's State Strategic Plan and adopts regulations to revise this definition;
2. intersect with portions of: a deep poverty pocket, a port district, or federally-owned land approved for closure under a federal [Commission on Base Realignment and Closure] action;
3. are the proposed site of a disaster recovery project, a qualified incubator facility, a highlands development credit receiving area or redevelopment area, a tourism destination project, or transit oriented development; or
4. contain: a vacant commercial building having over 400,000 square feet of office, laboratory, or industrial space available for occupancy for a period of over one year; or a site that has been negatively impacted by the approval of a "qualified business facility," as defined pursuant to section 2 of P.L.2007, c.346 (C.34:1B-208).

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

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

"Qualified business facility" means any building, complex of buildings or structural components of buildings, and all machinery and equipment located within a qualified incentive area, used in connection with the operation of a business that is not engaged in final point of sale retail business at that location unless the building, complex of buildings or structural components of buildings, and all machinery and equipment located within a qualified incentive area, are used in connection with the operation of:
1. a final point of sale retail business located in a Garden State Growth Zone that will include a retail facility of at least 150,000 square feet, of which at least 50 percent is occupied by either a full-service supermarket or grocery store; or
2. a tourism destination project located in the Atlantic City Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219).

"Qualified incentive area" means:
1. an aviation district;
b. a port district;
c. a distressed municipality or urban transit hub municipality;
d. an area (1) designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as:
   (a) Planning Area 1 (Metropolitan);
   (b) Planning Area 2 (Suburban); or
   (c) Planning Area 3 (Fringe Planning Area);
(2) located within a smart growth area and planning area designated in a master plan adopted by the New Jersey Meadowlands Commission pursuant to subsection (i) of section 6 of P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan adopted by the New Jersey Meadowlands Commission pursuant to section 20 of P.L.1968, c.404 (C.13:17-21);
(3) located within any land owned by the New Jersey Sports and Exposition Authority, established pursuant to P.L.1971, c.137 (C.5:10-1 et seq.), within the boundaries of the Hackensack Meadowlands District as delineated in section 4 of P.L.1968, c.404 (C.13:17-4);
(4) located within a regional growth area, town, village, or a military and federal installation area designated in the comprehensive management plan prepared and adopted by the Pinelands Commission pursuant to the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.);
(5) located within the planning area of the Highlands Region as defined in section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands development credit receiving area or redevelopment area;
(6) located within a Garden State Growth Zone;
(7) located within land approved for closure under any federal action; or
(8) located only within the following portions of the areas designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et al.), as Planning Area 4A (Rural Planning Area), Planning Area 4B (Rural/Environmentally Sensitive) or Planning Area 5 (Environmentally Sensitive) if Planning Area 4A (Rural Planning Area), Planning Area 4B (Rural/Environmentally Sensitive) or Planning Area 5 (Environmentally Sensitive) is located within:
   (a) a designated center under the State Development and Redevelopment Plan;
   (b) a designated growth center in an endorsed plan until the State Planning Commission revises and readopts New Jersey's State Strategic Plan and adopts regulations to revise this definition as it pertains to Statewide planning areas;
   (c) any area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-6) or in need of rehabilitation pursuant to section 14 of P.L.1992, c.79 (C.40A:12A-14);
(d) any area on which a structure exists or previously existed including any desired expansion of the footprint of the existing or previously existing structure provided such expansion otherwise complies with all applicable federal, State, county, and local permits and approvals;

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

(f) any area on which an existing tourism destination project is located.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) the capital investment resultant from the award of tax credits and the resultant retention and creation of full-time jobs will yield a net positive benefit to the State \[\] and to the municipality\[\]

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

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

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

b. ²[The] For all projects approved after the effective date of P.L.2013, c.161, the² minimum capital investment required to be eligible under this program shall be as follows:

(1) for the rehabilitation, improvement, fit-out, or retrofit of an existing industrial¹, warehousing, logistics, research¹, or¹ development¹ premises for continued¹ [industrial] similar¹ use by the business² in at least ⁴[51%] 51 percent⁴ of the gross leasable area of the premises², a minimum investment of $20 per square foot of gross leasable area;

(2) for the new construction of an industrial¹, warehousing, logistics, research¹, and¹ development¹ premises for continued¹ [industrial] similar¹ use by the business² in at least ⁴[51%] 51 percent⁴ of the gross leasable area of the premises², a minimum investment of $60 per square foot of gross leasable area;

(3) for the rehabilitation, improvement, fit-out, or retrofit of an existing ¹[non-industrial]¹ premises ²[not used for industrial, warehousing, logistics, or research and development purposes¹ for continued²¹[non-industrial]¹¹[similar² use by the business]¹ that does not qualify pursuant to paragraphs (1) or (2) of this subsection², a minimum investment of $40 per square foot of gross leasable area; and

(4) for the new construction of a ¹[non-industrial]¹ premises ²[not used for industrial, warehousing, logistics, or research and development purposes¹ for²¹[non-industrial]¹¹[similar² use by the business]¹ that does not qualify pursuant to paragraphs (1) or (2) of this subsection², a minimum investment of $120 per square foot of gross leasable area.

The minimum capital investment required by this subsection shall be reduced by one-third for projects located in a Garden State Growth Zone or projects located within Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, or Salem counties.
c. The minimum number of new or retained full-time jobs required to be eligible under this program shall be as follows:

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

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

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

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

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

e. A project that consists solely of point-of-final-purchase retail facilities shall not be eligible for a grant of tax credits. If a project consists of both point-of-final-purchase retail facilities and non-retail facilities, only the portion of the project consisting of non-retail facilities shall be eligible for a grant of tax credits. ¹[In]

For a qualified business facility that is a mixed-use project that includes retail facilities and that is located in¹ a Garden State Growth Zone or the Atlantic City Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority, ¹[up to 7.5 percent of]¹ retail facilities ¹[included in a mixed use project shall be eligible in an amount up to 7.5 percent of the mixed-use project may be included in the mixed-use project application¹ for a grant of tax credits along with the non-retail facilities ¹, and ²[such] that² application may include in the aggregate the pro-rata number of full-time employees employed by any number of tenants or other occupants of the included retail facilities¹. If a warehouse facility is part of a point-of-final-purchase retail facility and supplies only that facility, the warehouse facility shall not be eligible for a grant of tax credits. For the purposes of this section, a retail facility of at least 150,000 square feet, of which at least 50 percent is occupied by a full-service supermarket or grocery store, located in a Garden State Growth Zone which qualified under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or a tourism destination project in the Atlantic City Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219), or catalog distribution centers shall not be considered point-of-final-purchase retail facilities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) for a business with new full-time jobs and retained full-time
jobs at the project with an average salary in excess of the existing
average salary for the county in which the project is located, or, in
the case of a project in a Garden State Growth Zone, a business that
employs full-time positions at the project with an average salary in
excess of the average salary for the Garden State Growth Zone, an
increase of $250 per year during the commitment period for each 35
percent by which the project's average salary levels exceeds the
county or Garden State Growth Zone average salary, with a maximum increase of $1,500 per year;
(7) for a business with large numbers of new full-time jobs and retained full-time jobs during the commitment period, the increases shall be in accordance with the following schedule:
(a) if the number of new full-time jobs and retained full-time jobs is between 251 and 400, $500 per year;
(b) if the number of new full-time jobs and retained full-time jobs is between 401 and 600, $750 per year;
(c) if the number of new full-time jobs and retained full-time jobs is between 601 and 800, $1,000 per year;
(d) if the number of new full-time jobs and retained full-time jobs is between 801 and 1,000, $1,250 per year;
(e) if the number of new full-time jobs and retained full-time jobs is in excess of 1,000, $1,500 per year;
(8) for a business in a targeted industry, an increase of $500 per year;
(9) for a qualified business facility exceeding the Leadership in Energy and Environmental Design's "Silver" rating standards or completes substantial environmental remediation, an additional increase of $250 per year;
(10) for a mega project or a project located within a Garden State Growth Zone at which the capital investment in industrial premises for industrial use by the business is in excess of the minimum capital investment required for eligibility pursuant to subsection b. of section 3 of P.L.2011, c.149 (C.34:1B-244), an increase of $1,000 per year for each additional amount of investment that exceeds the minimum amount by 20 percent, with a maximum increase of $5,000 per year;
(11) for a project in which a business retains at least 400 jobs and is located within the municipality in which it was located immediately prior to the filing of the application hereunder and is the United States headquarters of an automobile manufacturer, an increase of $1,500 per year;
(12) for a project located in a municipality in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, and Salem counties with a 2007 Municipality Revitalization Index greater than 465, an increase of $1,000 per year;
(13) for a project located within a half-mile of any light rail station constructed after the effective date of P.L.2013, c.161 (C.52:27D-489p et al.), an increase of $1,000 per year;
(14) for a marine terminal project in a municipality located outside the Garden State Growth Zone, but within the geographical boundaries of the South Jersey Port District, an increase of $1,500 per year;
(15) for a project located within an area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and C.40A:12A-6), and which is located within a
quarter mile of at least one United States Highway and at least two New Jersey State Highways, an increase of $1,500 per year;

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

(17) for a qualified business facility that includes a vacant commercial building having over 1,000,000 square feet of office or laboratory space available for occupancy for a period of over one year, an increase of $1,000 per year.

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

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

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

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

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

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

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

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

(a) for a project which creates 35 or more full-time jobs new to the municipality and makes a capital investment of at least $5,000,000, the total tax credit amount per full-time job shall be the greater of: (i) the total tax credit amount for a qualifying project in a Garden State Growth Zone as
calculated pursuant to subsections a. through f. of this section; or
(ii) the total capital investment of the project divided by the total
number of full-time jobs at that project but not greater than
\[ \frac{\$20,000,000}{10 \text{ years}} \]
\[ \$2,000,000 \text{ per year} \]
over the grant term of ten years;
(b) for a project which creates 70 or more new or retained full-time jobs and makes a capital investment of at least $10,000,000, the total tax credit amount per full-time job shall be the greater of: (i) the total tax credit amount for a qualifying project in a Garden State Growth Zone as calculated pursuant to subsections a. through f. of this section; or (ii) the total capital investment of the project divided by the total number of full-time jobs at that project but not greater than
\[ \frac{\$30,000,000}{10 \text{ years}} \]
\[ \$3,000,000 \text{ per year} \]
over the grant term of ten years;
(c) for a project which creates 100 or more new or retained full-time jobs and makes a capital investment of at least $15,000,000, the total tax credit amount per full-time job shall be the greater of: (i) the total tax credit amount for a qualifying project in a Garden State Growth Zone as calculated pursuant to subsections a. through f. of this section; or (ii) the total capital investment of the project divided by the total number of full-time jobs at that project but not greater than
\[ \frac{\$40,000,000}{10 \text{ years}} \]
\[ \$4,000,000 \text{ per year} \]
over the grant term of ten years;
(d) for a project which creates 150 or more new or retained full-time jobs and makes a capital investment of at least $20,000,000, the total tax credit amount per full-time job shall be the greater of: (i) the total tax credit amount for a qualifying project in a Garden State Growth Zone as calculated pursuant to subsections a. through f. of this section; or (ii) the total capital investment of the project divided by the total number of full-time jobs at that project but not greater than
\[ \frac{\$50,000,000}{10 \text{ years}} \]
\[ \$5,000,000 \text{ per year} \]
over the grant term of ten years;
or
(e) for a project which creates 250 or more new or retained full-time jobs and makes a capital investment of at least $30,000,000, the total tax credit amount per full-time job shall be the greater of: (i) the total tax credit amount for a qualifying project in a Garden State Growth Zone as calculated pursuant to subsections a. through f. of this section; or (ii) the total capital investment of the project divided by the total number of full-time jobs as defined herein at that project divided by the ten-year grant term.

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

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

1. $35,000,000 and provides a net benefit to the State as provided herein with respect to a qualified business facility in a Garden State Growth Zone which qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.);
2. $30,000,000 and provides a net benefit to the State as provided herein with respect to a mega project or a qualified business facility in a Garden State Growth Zone;
3. $10,000,000 and provides a net benefit to the State as provided herein with respect to a qualified business facility in an urban transit hub municipality;
4. $8,000,000 and provides a net benefit to the State as provided herein with respect to a qualified business facility in a distressed municipality;
5. $4,000,000 and provides a net benefit to the State as provided herein with respect to a qualified business facility in other priority areas, but not more than 90 percent of the withholdings of the business from the qualified business facility; and
6. $2,500,000 and provides a net benefit to the State as provided herein with respect to a qualified business facility in other eligible areas, but not more than 90 percent of the withholdings of the business from the qualified business facility.

[Notwithstanding the foregoing provisions of paragraphs (5) and (6) of this subsection, the limitations on tax credits relating to]
90 percent of the withholdings of the business from the qualified
business facility shall not apply to projects located in an area
determined to be in need of redevelopment pursuant to the "Local
seq.) or an "area in need of rehabilitation" as defined in section 3 of

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

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

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

6. a. (1) The combined value of all credits approved by the
authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) and
P.L.2011, c.149 (C.34:1B-242 et al.) prior to December 31, 2013
shall not exceed $1,750,000,000, except as may be increased by the
authority as set forth in paragraph (5) of subsection a. of section 35
of P.L.2009, c.90 (C.34:1B-209.3). Following the enactment of
the "New Jersey Economic Opportunity Act of 2013," P.L.2013,
c.161 (C.52:27D-489p et al.), there shall be no monetary cap on the
value of credits approved by the authority attributable to the
program pursuant to the "New Jersey Economic Opportunity Act of

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

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

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

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

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

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

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

The credit amount that may be taken for a tax period of the tax certificate holder that exceeds the final liabilities of the business tax certificate holder for the tax period for which it was issued or may be carried forward for use by the tax certificate holder in any of the next 20 successive tax periods, and shall expire thereafter. The tax certificate holder may transfer the tax credit amount on or after the date of issuance or at any time prior to its expiration for use by the transferee in the tax period for which it was issued or in any of the next 20 successive tax periods. Notwithstanding the foregoing, no more than the amount of tax credits equal to the total credit amount divided by the duration of the eligibility period in years may be taken in any tax period.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6. Section 7 of P.L.2011, c.149 (C.34:1B-248) is amended to read as follows:

7. A business may apply to the Director of the Division of Taxation in the Department of the Treasury and the chief executive officer of the authority for a tax credit transfer certificate, covering one or more years, in lieu of the business being allowed any amount of the credit against the tax liability of the business. The tax credit transfer certificate, upon receipt thereof by the business from the director and the chief executive officer of the authority, may be sold or assigned, in full or in part, in an amount not less than $25,000, to any other person that may have a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), pursuant to section 1
The certificate provided to the business shall include a statement
waiving the business's right to claim that amount of the credit
against the taxes that the business has elected to sell or assign. The
sale or assignment of any amount of a tax credit transfer certificate
allowed under this section shall not be exchanged for consideration
received by the business of less than 75 percent of the transferred
credit amount before considering any further discounting to present
value which shall be permitted. Any amount of a tax credit transfer
certificate used by a purchaser or assignee against a tax liability
shall be subject to the same limitations and conditions that apply to
the use of the credit by the business that originally applied for and
was allowed the credit.
(cf: P.L.2011, c.149, s.7)

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

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

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

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

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

   (b) $250,000,000 shall be restricted to qualified residential projects located in: (i) urban transit hubs that are commuter rail in nature that otherwise do not qualify under subparagraph (a) of this
paragraph, (ii) a Garden State Growth Zone not located in a county mentioned in subparagraph (a) of this paragraph, (iii) disaster recovery projects that otherwise do not qualify under subparagraph (a) of this paragraph, or (iv) SDA municipalities located in Hudson County that were awarded State Aid in State Fiscal Year 2013 through the Transitional Aid to Localities program and otherwise do not qualify under subparagraph (a) of this paragraph; (c) $75,000,000 shall be restricted to qualified residential projects in distressed municipalities, deep poverty pockets, highlands development credit receiving areas or redevelopment areas, otherwise not qualifying pursuant to subparagraph (a) or (b) of this paragraph; and (d) $25,000,000 shall be restricted to qualified residential projects that are located within a qualifying economic redevelopment and growth grant incentive area otherwise not qualifying under subparagraph (a), (b), or (c) of this paragraph. (e) For subparagraphs (a) through (d) of this paragraph, not more than $40,000,000 of credits shall be awarded to any qualified residential project in a deep poverty pocket or distressed municipality and not more than $20,000,000 of credits shall be awarded to any other qualified residential project. The developer of a qualified residential project seeking an award of credits towards the funding of its incentive grant shall submit an incentive grant application prior to July 1, 2015 and if approved after the effective date of P.L.2013, c.161 shall submit a temporary certificate of occupancy for such project no later than July 28, 2015. Applications for tax credits pursuant to this subsection relating to an ancillary infrastructure project or infrastructure improvement in the public right of way, or both, shall be accompanied with a letter of support relating to the project or improvement by the governing body or agency in which the project is located. Credits awarded to a developer pursuant to this subsection shall be subject to the same financial and related analysis by the authority, the same term of the grant, and the same mechanism for administering the credits, and shall be utilized or transferred by the developer as if such credits had been awarded to the developer pursuant to section 35 of P.L.2009, c.90 (C.34:1B-209.3) for qualified residential projects thereunder. No portion of the revenues pledged pursuant to the “New Jersey Economic Opportunity Act of 2013,” P.L.2013, c.161 (C.52:27D-489p et al.) shall be subject to withholding or retainage for adjustment, in the event the developer or taxpayer waives its rights to claim a refund thereof. (3) A developer may apply to the Director of the Division of Taxation in the Department of the Treasury and the chief executive officer of the authority for a tax credit transfer certificate, if the developer is awarded a tax credit pursuant to paragraph (2) of this subsection, covering one or more years, in lieu of the developer
being allowed any amount of the credit against the tax liability of
the developer. The tax credit transfer certificate, upon receipt
thereof by the developer from the director and the chief executive
officer of the authority, may be sold or assigned, in full or in part,
to any other person that may have a tax liability pursuant to section
5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945,
(C.17:32-15), or N.J.S.17B:23-5. The certificate provided to the
developer shall include a statement waiving the developer's right to
claim that amount of the credit against the taxes that the developer
has elected to sell or assign. The sale or assignment of any amount
doing a tax credit transfer certificate allowed under this paragraph shall
not be exchanged for consideration received by the developer of
less than 75 percent of the transferred credit amount before
considering any further discounting to present value that may be
permitted. Any amount of a tax credit transfer certificate used by a
purchaser or assignee against a tax liability shall be subject to the
same limitations and conditions that apply to the use of the credit by
the developer who originally applied for and was allowed the credit.

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

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

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

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

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

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

b. Notwithstanding any other law to the contrary, every Garden
State Growth Zone Development Entity that owns real property
within a Garden State Growth Zone and that undertakes the
clearance, re-planning, development, or redevelopment of such
property is hereby granted an exemption on improvements to such
eligible property for any new construction, improvements, or
substantial rehabilitation of structures on real property for a period
of 20 years from receiving a final Certificate of Occupancy,
provided however, that a municipality located within the Garden
State Growth Zone shall, by ordinance, opt-in to such program within 90 calendar days of the enactment of P.L.2013, c.161 (C.52:27D-489p et al.). The exemption allowed by this subsection shall be dependent upon: (1) the owner of the real property making improvements to the real property after the enactment of P.L.2013, c.161 (C.52:27D-489p et al.); and (2) the Division of Codes and Standards, in consultation with the eligible municipality, issuing a final Certificate of Occupancy within 10 years of the date of enactment of P.L.2013, c.161 (C.52:27D-489p et al.).

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

   (1) In the eleventh year after completion, 10 percent of taxes otherwise due;
   (2) In the twelfth year after completion, 20 percent of taxes otherwise due;
   (3) In the thirteenth year after completion, 30 percent of taxes otherwise due;
   (4) In the fourteenth year after completion, 40 percent of taxes otherwise due;
   (5) In the fifteenth year after completion, 50 percent of taxes otherwise due;
   (6) In the sixteenth year after completion, 60 percent of taxes otherwise due;
   (7) In the seventeenth year after completion, 70 percent of taxes otherwise due;
   (8) In the eighteenth year after completion, 80 percent of taxes otherwise due;
   (9) In the nineteenth full year after completion, 90 percent of taxes otherwise due;
   (10) In the twentieth year after completion, and each year thereafter, 100 percent of taxes.

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) a transit project;

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

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

(g) located in a Garden State Growth Zone;

(h) a disaster recovery project;

(i) an aviation project;

(j) a tourism destination project; or

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

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

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

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

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

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

(cf: P.L.2013, c.161, s.19)

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

18. a. Notwithstanding any rules of the council to the contrary, for developments consisting of newly-constructed residential units located, or to be located, within the jurisdiction of any regional planning entity required to adopt a master plan or comprehensive management plan pursuant to statutory law, including the New Jersey Meadowlands Commission pursuant to subsection (i) of section 6 of P.L.1968, c.404 (C.13:17-6), the Pinelands Commission pursuant to section 7 of the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-8), the Monmouth Economic Revitalization Planning Authority pursuant to section 5 of P.L.2006, c.16 (C.52:271-5), or its successor, and the Highlands Water Protection and Planning Council pursuant to section 11 of P.L.2004, c.120 (C.13:20-11), but excluding joint planning boards formed pursuant to section 64 of P.L.1975, c.291 (C.40:55D-77), there shall be required to be reserved for occupancy by low or moderate income households at least 20 percent of the residential units constructed, to the extent this is economically feasible.

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

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

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

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

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

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

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

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

For the purposes of this section:

"Applicant" means a designated redeveloper of a redevelopment project approved pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.), that undertakes to provide and donate public infrastructure.

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

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

"Public infrastructure" means:

- buildings and structures, such as schools; fire houses; police stations; recreation centers; public works garages; and water and sewer treatment and pumping facilities;
- open space with improvements such as athletic fields; playgrounds; planned parks;
- public transportation facilities such as train stations and public parking facilities. To qualify as public infrastructure under this section, the facilities, land, or both, shall have a minimum fair market value of $5 million; provided, however, that multiple lands and facilities, valued individually at less than $5 million, that are part of the same redevelopment project may be aggregated to achieve the minimum $5 million requirement. In the case of open space without improvements, the land shall have a minimum fair market value of at least $1 million prior to its dedication as open space. Sidewalks, streets, roads, ramps, and jug handles shall not be deemed public infrastructure for the purposes of this section.
"Rebate" means a refund or other repayment of a fee paid by an applicant pursuant to law.

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

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

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

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

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

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

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

(c) the redevelopment project will create retail, commercial, or office space with a square footage of at least 100,000 square feet.

When a project is completed in components or phases, the ratables, housing units, and newly created square footage may be aggregated by the applicant to meet the thresholds set forth within this paragraph.
(2) The applicant has not received a tax credit under the “Grow New Jersey Assistance Program” established by section 3 of P.L.2011, c.149 (C.34:1B-244).

(3) The applicant has not received a grant under a State or a local Economic Redevelopment and Growth Grant program pursuant to section 4 or section 5 of P.L.2009, c.90 (C.52:27D-489d or C.52:27D-489e).

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

(5) The applicant is not partnered with the New Jersey Sports and Exposition Authority for the redevelopment project.

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

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

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

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

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

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

This act shall take effect immediately.