SENATE, No. 1551

STATE OF NEW JERSEY
216th LEGISLATURE

INTRODUCED FEBRUARY 27, 2014

Sponsored by:
Senator RAYMOND J. LESNIAK
District 20 (Union)

SYNOPSIS

CURRENT VERSION OF TEXT
As introduced.
AN ACT concerning incentives for certain economic development
projects and designated as the Economic Opportunity Act of

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 $100,000
$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:

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

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.
entity is an organization in a group of organizations under common
control as defined pursuant to subsection (b) or (c) of section 414 of
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).
"Aviation district" means the area within a one-mile radius of the
outermost boundary of the "Atlantic City International Airport,

"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; or
a 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.

"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
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 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; or

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

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

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

"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 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 "The South Jersey Port Corporation Act," P.L.1968, c.60 (C.12:11A-1 et seq.).

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

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

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

c. are the proposed site of a disaster recovery project, a qualified incubator facility, a highlands development credit receiving area or redevelopment area, a tourism destination project, or transit oriented development; or

d. contain: a vacant commercial building having over 400,000 square feet of office, laboratory, or industrial space available for occupancy for a period of over one year; or a site that has been negatively impacted by the approval of a "qualified business
"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); or
3. a construction project under section 3 of P.L. 2011, c. 176 (C. 18A:36C-3) located in a Garden State Growth Zone. Any such construction project shall not be subject to the requirements that the application and award of any tax credits, grants, or other benefits provided under P.L. 2011, c. 149 (C. 34:1B-242 et al.) shall be provided prior to the commencement of such construction project; provided, however, that any such construction project shall only be eligible for tax credits, grants, or other benefits provided by P.L. 2011, c. 149 (C. 34:1B-242 et al.) if such construction project shall not be economically viable without the use of such tax credits, grants, or other benefits provided by P.L. 2011, c. 149 (C. 34:1B-242 et al.).

"Qualified incentive area" means:

1. an aviation district;
2. a port district;
3. a distressed municipality or urban transit hub municipality;
4. 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 Base Closure and Realignment Commission 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," 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 100,000 or
more square feet of office, laboratory, or industrial space; which is
located near, and presents opportunities for collaboration with, a
research institution, teaching hospital, college, or university; and
within which, at least 75 percent of the gross leasable area is
restricted for use by one or more technology startup companies
during the commitment period.

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

"SDA district" means an SDA district as defined in section 3 of

"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 equaling at least 110 percent of the requested tax credit allocation amount, which determination is calculated prior to taking into account the value of the requested tax credit and shall be based on the benefits
generated during the first 20 years following the completion of the project, except that:

(a) for a mega project or a project located in a Garden State Growth Zone, the determination shall be based on the benefits generated during a period of up to 30 years following the completion of the project, as determined by the authority, and except that,

(b) 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.), the net positive benefit determination shall be based on the benefits generated during a period of up to 35 years following completion of the project, as determined by the authority, and shall equal at least 100 percent of the requested tax credit allocation amount and may utilize the value of those property taxes subject to the provisions of section 24 of P.L.2013 c.161 (C.52:27D-489r) and incremental sales and excise taxes that are derived from activities within the area and which are rebated or retained by the municipality pursuant to the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) or any other law providing for such rebate or retention, and

(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); 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. The 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 industrial premises for continued industrial use by the business, a minimum investment of $20 per square foot of gross leasable area;

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

(3) for the rehabilitation, improvement, fit-out, or retrofit of an existing non-industrial premises for continued non-industrial use by the business, a minimum investment of $40 per square foot of gross leasable area; and
(4) for the new construction of a non-industrial premises for
non-industrial use by the business, a minimum investment of $120
per square foot of gross leasable area.

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
(C.52:27BBB-1 et al.), and provided further that in satisfaction of
the provisions of paragraphs (1) and (2) of this subsection, the
certification with respect to a construction project under section 3
of P.L.2011, c.176 (C.18A:36C-3) in a Garden State Growth Zone
shall indicate that the provision of tax credits under the program is a
material factor in the business decision to make a capital
investment. 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.), or with respect to a construction project under section 3 of P.L.2011, c.176 (C.18A:36C-3) in a Garden State Growth Zone, the business's assertion that the provision of tax credits under the program is a material factor in the business decision to make a capital investment, 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. In 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, up to 7.5 percent of retail facilities included in a mixed use project shall be eligible for a grant of tax credits along with the non-retail facilities. 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 may make an application on behalf of the business which meets the requirements for the tax credit, or a group of non-qualifying businesses, such 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, such 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, $1000 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;
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; 
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; 
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; and 
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. 
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, 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.), the total tax credit shall be: 
(a) for a project which creates 35 or more new or retained full-time jobs 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 $20,000,000 over the grant term;
(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 $20,000,000 over the grant term;
(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 $30,000,000 over the grant term;
(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 $40,000,000 over the grant term; 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.

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 50 percent of the gross amount of tax credits for each
retained full-time job, 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
class 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
(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, 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 P.L.2009,
c.90 (C.34:1B-209.3). Following the enactment of the "New Jersey
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 2013," P.L.2013,
c.161 (C.52:27D-489p et al.).

(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 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
(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 business that exceeds the final liabilities of the business for the tax period may be carried forward for use by the business in the next 20 successive tax periods, and shall expire thereafter.

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

(3) (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 by a 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 amount of credit that may be used by a shareholder of the corporation shall be determined by allocating to each shareholder of the S corporation that proportion of the tax credit of the corporation that is equal to the shareholder’s proportionate share of the corporation, whether or not distributed, or the total distributive income or gain of the S corporation for its tax period ending with or within the shareholder’s tax period, and the credit may be applied by the 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 will be allocated to the parent shareholder
corporation which shall allocate the credit among its shareholders in
the manner described in subsubparagraph (i) above.

(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) above.

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 [the
business shall forfeit its] 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] the business’ Statewide
workforce [the threshold levels required by this paragraph] has
been restored to at least 80 percent of the number of full-time
employees in its Statewide workforce in the last tax period prior to
the credit amount approval 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 [ the business shall forfeit its] 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) (a) 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 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), and which qualifies for a tax credit pursuant to 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 will then meet the minimum number of employees required in subparagraph (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 total certified capital investment of the
project 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). 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
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.L2011, 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
seq., the tax derived from a business at the site of a redevelopment
project that is required to collect the tax pursuant to the "Sales and
Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), the tax imposed
pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.) from the purchase
of furniture, fixtures and equipment, or materials 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 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 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.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. 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 of 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. 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.

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

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

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

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

8. This act shall take effect immediately.

STATEMENT

This bill makes various changes to New Jersey’s economic development laws in response to recommendations from various interested parties after a careful review of those laws since enactment of the “New Jersey Economic Opportunity Act of 2013.”

The bill will make tax credit transfer certificates more widely available by reducing the minimum amount of the credits that may be transferred to $25,000.

The bill makes several changes to the "Grow New Jersey Assistance Act” to better reflect the realities of the marketplace in order to attract businesses to create new jobs and retain current employees. The bill clarifies a provision of the law concerning the standard of service generally accepted by custom or practice as full-time employment in a supermarket, grocery, or other similar retail industry in order to encourage food purveyors to locate within Camden and Atlantic City. The bill also amends the definition of qualified business facility to include a construction project under
section 3 of P.L.2011, c.176 (C.18A:36C-3) that is located in a Garden State Growth Zone.

The bill modifies the net positive benefit test under GROW New Jersey to require a business to demonstrate that a capital investment would benefit both the State and the municipality in which the capital investment will be made.

The bill would make several changes to GROW New Jersey that are designed to encourage non-profit corporations to undertake projects. The bill would modify the net positive benefit test for non-profits by excluding from the calculation the value of tax exemptions and of the requested tax credit. GROW New Jersey currently allows a business to assign its ability to apply for a tax credit 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 bill would expand upon this provision by allowing a non-profit organization to make an application for tax credits on behalf of a group of businesses that would not, on their own, qualify for tax credits, and to consider the application as a unified project that may be eligible for incentives. The bill also allows the developer of a project that will bring a large full-service supermarket to Camden to apply for tax credits on behalf of the business, if so assigned by the business, and to also apply for tax credits on behalf of a group of businesses that would not, on their own, qualify for tax credits, and to consider the application as a unified project that may be eligible for incentives.

The bill also amends GROW New Jersey to address the allocation of tax credits to the shareholders of New Jersey S corporations and New Jersey Qualified Subchapter S Subsidiaries that undertake a project in a Garden State Growth Zone.

The bill adjusts provisions of the law that address the consequences to a business that must reduce the number of employees State-wide, and at a particular facility, in a given tax period in order to provide, that rather than forfeiture of tax credits, the business would suffer a pro rata reduction of the amount of credits. The bill also modifies the law applicable to businesses that exceed the employment requirements set forth in their incentive agreements to encourage and reward the creation and retention of additional jobs.

Finally, the bill would make several technical changes to clarify provisions of the “New Jersey Economic Opportunity Act of 2013” and to correct errors in that law. One such correction is a change to the date by which the developer of a qualified residential project seeking an award of tax credits towards the funding of its incentive grant must submit a temporary certificate of occupancy for the project from July 28, 2015 to July 28, 2018.