Sponsored by:
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SYNOPSIS
“Digital Currency Jobs Creation Act.”

CURRENT VERSION OF TEXT
Introduced Pending Technical Review by Legislative Counsel.

(Sponsorship Updated As Of: 8/28/2018)
AN ACT concerning digital currency, supplementing various parts
of the statutory law, and amending P.L.2011, c.149 and
P.L.1996, c.2.

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

1. (New section) This act shall be known and may be cited as
the “Digital Currency Jobs Creation Act.”

2. (New section) The purpose of this act is to promote
innovation in the burgeoning digital currency industry, to protect
consumers of digital currency services, and to create jobs in the
State of New Jersey.

3. (New section) As used in this act:
“Administrator” means a centralized authority with the power to
remove digital currency from circulation or to modify the
information stored in a distributed digital verification system.
“Affiliate” means any person that directly or indirectly controls,
is controlled by, or is under common control with, another person.
“Commissioner” means the Commissioner of Banking and
Insurance.
“Cyber security events” means any act or attempt, successful or
unsuccessful, to gain unauthorized access to, disrupt, or misuse a
registrant’s electronic systems or information stored on such
systems.
“Digital currency” means any type of digital unit that, regardless
of legal tender status, has no administrator and is:
a. used as a currency, medium of exchange or stored value; or
b. used as a substitute for government currency.
“Digital currency” shall not include:
(1) digital units that have nominal or no value as a currency or
medium of exchange and are not used as a substitute for
government currency;
(2) digital units that can be used solely with a gift card program;
(3) digital units that are used solely within online gaming
platforms and have no market or application outside of those
gaming platforms, or can be redeemed for real-world goods,
services, discounts, or purchases, but cannot be converted into, or
redeemed for government currency or digital currency; or
(4) digital units that are used solely within an affinity program
but do not otherwise meet the definition of digital currency as
defined herein.

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.
“Digital currency custodial activity” means any person who as a business maintains custody of digital currency owned, directly or through intermediaries, by a New Jersey person, regardless of whether the business incorporates the transmission, transfer, exchange, administration, receipts, control, or issuance of digital currency.

“Digital currency servicer” means:

a. any person who, as its primary business, engages in digital currency creation, including mining;

b. any person who, as its primary business, engages in the provision of a distributed digital verification system; or

c. any registrant.

“Distributed digital verification system” means a decentralized system for the trustless verification of information without the use of an intermediary custodian of that information.

“Distributed digital verification system activity” includes systems for tracking chain of title to property or rights into a commercial agreement.

“Gift card program” means a credit program that is:

a. usable at a single merchant or an affiliated group of merchants that share the same name, mark or logo or is usable at multiple unaffiliated merchants or service providers;

b. issued for a specified amount;

c. potentially but not necessarily able to be increased in value or reloaded;

d. purchased and reloaded on a prepaid basis for the future purchase or delivery of goods or services;

e. honored upon presentation; and

f. potentially but not necessarily able to be redeemed for the same type of funds that were used to purchase or load the device.

“Government currency” means government-issued currency that is designated as legal tender in its country of issuance through government decree, regulation, or law.

“New Jersey person” means any person that resides, is located, or is conducting business in New Jersey.

“Payment processor” means any person who acts as a payment processor to facilitate the purchase of, or payment of a bill for, a good or service through a clearance and settlement system by agreement with the creditor or seller. A payment processor:

a. facilitates the purchase of goods or services, or the payment of bills for goods or services other than money transmission itself; and

b. provides its services pursuant to a formal agreement with, at minimum, the seller or creditor that provided the goods or services and receives the funds.

“Person” means any individual, partnership, corporation, association, trust, or other business combination or entity, however organized.
“Principal beneficiary” means any person entitled to 10 percent or more of the benefits of a trust.

“Principal officer” means an executive officer of an entity, including the chief executive, financial, operating, and compliance officers, president, managing partner, general partner, controlling partner, and trustee, as applicable.

“Principal stockholder” means any person that directly or indirectly owns, controls, or holds with power to vote 10 percent or more of any class of outstanding capital stock of a corporate entity or possesses the power to direct or cause the direction of the management or policies of the entity.

“Qualified trust company” means banks, trust companies, bank holding companies, credit unions, building and loan associations, savings and loan associations, savings banks or mutual banks organized under the laws of any state or the United States, provided that they do not issue or sell payment instruments through authorized delegates who are not banks, bank holding companies, credit unions, building and loan associations, savings and loan associations, savings banks or mutual banks.

“Registrant” means a person duly registered or completing a registration under this act.

“Registration” means the process set forth in section 6 of this act.

4. (New section) A municipality shall not prohibit, abridge, levy a tax upon, or otherwise restrict the creation, retention, transmission or any other use of the digital currency within the State, except as otherwise provided for in this act.

5. (New section) a. No person shall, without completing a registration as set forth in this act, engage in any digital currency custodial activity for more than 30 days. Only a person engaging in digital currency custodial activity as its primary business may complete a registration under this act.

b. This section shall not apply to qualified trust companies and payment processors.

6. (New section) The registration required under this act shall be in writing, under oath, and completed in a form prescribed by the Department of Banking and Insurance, which shall contain the following:

a. the exact name of the registrant, including any “doing business as” name, the form of organization, and the jurisdiction where organized or incorporated;

b. a list of the registrants, affiliates, and an organization chart illustrating the relationship between and among the applicant and its affiliates;

c. for each principal officer, principal stockholder, and principal beneficiary of the registrant, as applicable, and for all
individuals to be employed by the registrant, who have access to any customer funds, whether denominated in digital currency or government currency:

(1) a set of completed fingerprints; and

(2) two portrait-style photographs of each individual measuring not more than two inches by two inches;

d. an organization chart of the registrant and its management structure, including its principal officers or senior management, indicating lines of authority and the allocation of duties among its principal officers or senior management;

e. a business plan, including a description of the proposed, current, and historical business of the registrant, including details on the products and services provided and to be provided, all associated website addresses, the jurisdictions in which the registrant is engaged in business, the principal place of business, the primary markets of operation, the projected customer base, any specific marketing targets, and the physical address of any operation in New Jersey; and

f. a registration fee to be set by the commissioner.

7. (New section) In the event of any material change in the registration information required by section 6 of the act, the registrant shall, within seven days of the change, supplement or amend its registration by completing a form as prescribed by the commissioner.

8. (New section) a. Each registrant shall establish and maintain an effective cyber security program to ensure the availability and functionality of the registrant’s electronic systems and to protect those systems and any sensitive data stored on those systems from unauthorized access or tampering. The cyber security program shall be designed to, at a minimum, perform the following core cyber security functions:

(1) identify internal and external cyber risks by, at a minimum, identifying the information stored on the registrant’s systems, the sensitivity of such information, and how and by whom such information may be accessed;

(2) protect the registrant’s electronic systems, and the information stored on those systems from unauthorized access, use of other malicious acts through the use of defensive infrastructure and the implementation of policies and procedures;

(3) detect system intrusions, data breaches, unauthorized access to systems or information, malware, and other cyber security events;

(4) respond to detected cyber security events to mitigate any negative effects; and

(5) recover from cyber security events and restore normal operations and services.
b. Each registrant shall implement a written cyber security policy setting forth its policies and procedures for the protection of its electronic systems and customer and counterparty data stored on those systems, which shall be reviewed and approved by the registrant’s board of directors or equivalent governing body at least annually. The cyber security policy shall address the following areas:

1. information security;
2. data governance and classification;
3. access controls;
4. business continuity and disaster recovery planning and resources;
5. capacity and performance planning;
6. systems operations and availability concerns;
7. systems and network security;
8. systems and application development and quality assurance;
9. physical security and environmental controls;
10. customer data privacy;
11. vendor and third-party service provider management;
12. monitoring and implementing changes to core protocols not directly controlled by the registrant, as applicable; and
13. incident response.

c. Each registrant shall designate a qualified employee to serve as the registrant’s Chief Information Security Officer responsible for overseeing and implementing the registrant’s cyber security program and enforcing its cyber security policy.

d. Each registrant’s cyber security program shall, at a minimum, include audit functions as follows:

1. Each registrant shall conduct penetration testing of its electronic systems, at least annually, and vulnerability assessment of those systems, at least quarterly; and
2. Each registrant shall maintain audit trail systems that:
   a. track and maintain data that allows for the complete and accurate reconstruction of all financial transactions and accounting;
   b. protect the integrity of data stored and maintained as part of the audit trail from alteration or tampering;
   c. protect the integrity of hardware from alteration or tampering, including by limiting electronic and physical access permissions to hardware and maintaining logs of physical access to hardware that allows for event reconstruction;
   d. log system events including, at minimum, access and alterations made to the audit trail systems by the systems or by an authorized user, and all system administrator functions performed on the systems; and
   e. maintain records produced as part of the audit trail in accordance with the recordkeeping requirements set forth in this act.
e. Each registrant’s cyber security program shall, at minimum, include written procedures, guidelines, and standards reasonably designed to ensure the security of all applications utilized by the registrant. All procedures, guidelines, and standards shall be reviewed, assessed, and updated by the registrant’s Chief Information Security Officer at least annually.

f. Each registrant shall:
   (1) employ cyber security personnel adequate to manage the registrant’s cyber security risks and to perform the core cyber security functions specified in subsection a. of this section.
   (2) provide and require cyber security personnel to attend regular cyber security update and training sessions; and
   (3) require key cyber security personnel to take steps to stay abreast of changing cyber security threats and countermeasures.

9. (New section) Each registrant shall maintain and enforce confidential, written compliance policies, including policies with respect to anti-fraud, anti-money laundering, cyber security, privacy and information security, which shall be reviewed and approved by the registrant’s board of directors or an equivalent governing body.

10. (New section) The registrant shall hold digital currency of the same type and amount as that which it has custody from any New Jersey person. Each registrant shall be prohibited from selling, transferring, assigning, lending, hypothecating, pledging, or otherwise using or encumbering any digital currency, the custody of which is maintained for a New Jersey person, except for the sale, transfer, or assignment of such assets at the direction of the New Jersey person.

11. (New section) Each registrant shall make, keep, and preserve all of its books and records of its digital currency custodial activity in their original form or native file format for a period of at least five years from the date of their creation and in a condition that will allow the Department of Banking and Insurance to determine whether the registrant is complying with all applicable laws, rules, and regulations. The books and records maintained by each registrant shall, without limitation, include:
   a. for each transaction:
      (1) the amount, date, and precise time of the transaction, any payment instructions, the total amount of fees and charges received and paid to, by, or on behalf of the registrant; and
      (2) to the extent the registrant has knowledge of or has reason to know, account numbers, telephone numbers, email addresses and physical addresses of parties to the transaction;
   b. a general ledger containing all asset, liability, ownership equity, income, and expense accounts;
   c. bank statements and bank reconciliation records;
d. any statements or valuations sent or provided to customers
and counterparties;
e. records or minutes of meetings of the board of directors or
an equivalent governing body;
f. communications and documentation related to investigations
of customer complaints and transaction error resolution or
concerning facts giving rise to possible violations of laws, rules, or
regulations; and
  g. all other records required to be maintained in accordance
with this act.

12. (New section)  a. No registrant shall advertise its products,
services, or activities in New Jersey or to any New Jersey person
without including the legal name of the registrant and the legend
that the registrant is a “registered New Jersey digital currency
custodian.”
  b. Each registrant shall maintain, for examination by the
commissioner, all advertising and marketing materials for a period
of at least seven years from the date of their creation, including but
not limited to print media, internet media, including websites, radio
and television advertising, road show materials, presentations, and
brochures. Each registrant shall maintain hard copy, website
captures of material changes to internet advertising and marketing,
and audio and video scripts of its advertising and marketing
materials, as applicable.
  c. In all advertising and marketing materials, each registrant
shall comply with all disclosure requirements under federal and
State laws, rules, and regulations.
  d. In all advertising and marketing materials, each registrant
and any person or entity acting on its behalf, shall not, directly or
by implication, make any false, misleading, or deceptive
representations or omissions.

13. (New section) Each registrant shall permit and assist the
Department of Banking and Insurance to examine the registrant
whenever in the commissioner’s judgment such examination is
necessary or advisable, including, without limitation, to determine
compliance with the requirements set forth in this act. The
examination may include, without limitation, the premises, books,
records, and any other pertinent material of the registrant or its
affiliates.

14. (New section) a. Each registrant shall, prior to engaging in
digital currency custodial activity with any customer, disclose in
clear, conspicuous writing all material risks to the customer
associated with the particular digital currency custodial activities in
which it engages. Such risks may include, without limitation:
(1) Digital currency is not legal tender, is not backed by the United States government, and the digital currency held by the registrant on behalf of the customer is not subject to Federal Deposit Insurance Corporation protections; (2) Transactions in the digital currency held by the registrant on behalf of the customer may be irreversible, and, accordingly, losses due to fraudulent or accidental transactions may not be recoverable; (3) Laws determining the rights and obligations of digital currency users are not fully developed, and a court of law may find that the elements of this transaction, including without limitation the timing, amount, identity or location of the parties, may not be the same as if the transaction had occurred with the U.S. dollar; (4) The value of the digital currency held by the registrant on behalf of the customer may change more quickly and unexpectedly than that of government currencies like the U.S. dollar, and may in fact become zero; and (5) Technological difficulties experienced by the registrant may prevent the customer from accessing the digital currency held by the registrant on behalf of the customer.

b. Each registrant shall, prior to engaging in digital currency custodial activity with any customer, disclose in clear, conspicuous writing all relevant terms and conditions associated with its digital currency custodial activity. Such disclosures may include, without limitation:

(1) the customer’s liability for unauthorized transactions; (2) the customer’s right to interrupt or prevent any transaction and the procedure to initiate such an interruption or prevention; (3) the circumstances under which the registrant will, absent a court or government order, disclose information concerning the customer’s account to third parties; (4) the customer’s right to receive periodic account statements and valuations from the registrant; (5) the customer’s right to receive a receipt, trade ticket, or other evidence of a transaction; and (6) the customer’s right to prior notice of a change in the registrant’s rules or policies.

c. Each registrant shall, prior to engaging in digital currency custodial activity with any customer, disclose in clear, conspicuous writing the terms and conditions of the transaction. The disclosures may include, without limitation:

(1) the amount of the transaction; (2) any fees, expenses, and charges borne by the customer, including applicable exchange rates; (3) the type and nature of the transaction; and (4) a warning that once executed the transaction may not be undone.

d. Each registrant shall ensure that all disclosures required in the section are acknowledged in writing as received by customers.
e. Each registrant shall, upon completion of any transaction, provide to any customer initiating the transaction, a receipt containing the following information:
   (1) the name and contact information of the registrant, including a telephone number established by the registrant to answer questions and register complaints;
   (2) the type, value, date, and precise time of the transaction;
   (3) any fee charged; and
   (4) any exchange rate applied.

15. (New section) a. Each registrant shall establish and maintain written policies and procedures to fairly and timely resolve customer complaints.
   b. Each registrant shall provide, in a clear and conspicuous manner, on its website or websites, and in all physical locations the following disclosures:
      (1) the registrant’s mailing address, email address, and telephone number for the receipt of complaints;
      (2) a statement that the complainant may also bring a complaint to the attention of the Department of Banking and Insurance; and
      (3) the Department of Banking and Insurance’s mailing address, website, and telephone number.

16. (New section) a. If it appears to the commissioner that any person has committed or is about to commit a violation of any provision of this act or of any rule or order of the commissioner, the commissioner may apply to the Superior Court for an order enjoining that person from violating or continuing to violate this act or any rule, regulation or order of the commissioner and for injunctive or other relief as the nature of the case may require.
   b. If, after notice and hearing, the commissioner finds that a person has violated any provision of this act or a rule adopted under this act, the commissioner may order the person to pay the commissioner a civil penalty in an amount specified by the commissioner, not to exceed $5,000 for each violation. Each violation shall constitute a separate offense and the penalty under this section shall be in addition to a suspension or revocation of a license. No proceeding shall be initiated and no penalty shall be assessed pursuant to this section until after that person has been notified in writing of the nature of the violation and has been afforded a reasonable period of time, as set forth in the notice, to correct the violation and has failed to do so. The provisions of the “Penalty Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.), shall apply.
   c. The commissioner, in the exercise of the commissioner's reasonable judgment, is authorized to compromise, settle, and collect civil penalties with any person for violations of any
provision of this act, or of any rule, regulation or order issued or
promulgated pursuant to this act.

17. (New section) a. Receipts from retail sales of energy and
utility service to a digital currency servicer or a company registered
under the “Digital Currency Jobs Creation Act,”
P.L. , c. (C. ) (pending before the Legislature as this bill)
for use or consumption directly and primarily in the creation of
digital currency, including mining, shall be exempt from the tax
imposed under the “Sales and Use Tax Act,” P.L.1966, c.30
(C.54:32B-1 et seq.).

b. A digital currency servicer may file an application for a sales
and use tax exemption with the Director of the Division of Taxation
in the Department of the Treasury. The director shall process the
application within 20 business days of receipt thereof. An
exemption for a digital currency servicer shall commence upon
notice of approval of its application. Upon approval of its
application, the director shall provide prompt notice to a business.

c. For the purposes of this section:
“Digital currency” means any type of digital unit that, regardless
of legal tender status, has no administrator and is:
(1) used as a currency, medium of exchange or stored value; or
(2) used as a substitute for government currency.
“Digital currency” shall not include:
(a) digital units that have nominal or no value as a currency or
medium of exchange and are not used as a substitute for
government currency;
(b) digital units that can be used solely with a gift card program
as defined in section 3 of P.L. , c. (C. ) (pending before the
Legislature as this bill);
(c) digital units that are used solely within online gaming
platforms and have no market or application outside of those
gaming platforms, or can be redeemed for real-world goods,
services, discounts, or purchases, but cannot be converted into, or
redeemed for government currency or digital currency; or
(d) digital units that are used solely within an affinity program
but do not otherwise meet the definition of digital currency as
defined herein.
“Digital currency servicer” means
(1) any person who, as its primary business, engages in digital
currency creation, including mining;
(2) any person who, as its primary business, engages in the
provision of a distributed digital verification system; or
(3) any registrant registered pursuant to P.L. , c. (C. )
(pending before the Legislature as this bill).

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

"Digital currency servicer” means the same as defined in the “Digital Currency Jobs Creation Act,” P.L. , c. (pending before the Legislature as this bill).

"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, except for purposes of the Statewide workforce, 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, 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. Full-time employee shall also not include any person who at the time of project application works in New Jersey for consideration for at least 35 hours per week, or who renders any other standard of service generally accepted by custom or practice as full-time
employment but who prior to project application was not provided, by the business, with employee health benefits under a health benefits plan authorized pursuant to State or federal law.

"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); or a municipality which contains a 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.

"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;
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; or
d. a project located in an area designated in need of redevelopment, pursuant to P.L.1992, c.79 (C.40A:12A-1 et al.) prior to the enactment of P.L.2014, c.63 (C.34:1B-251 et al.) 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 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 of New York 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

"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 Commission on Base Realignment and Closure 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 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:

a. 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

b. 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:

a. 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 Commission on Base Realignment and Closure 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
section 3 of P.L.2004, c.120 (C.13:20-3).
"Qualified incubator facility" means a commercial building
located within a qualified incentive area: which contains 50,000 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 50 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 in 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
(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
"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. “Targeted industry” shall include the
digital currency industry and shall include a digital currency
servicer or a business registered under the “Digital Currency Jobs
Creation Act,” P.L. ______, c. ______ (pending before the Legislature
as this bill).

"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. “Technology
startup company” shall include a company that is a digital currency
servicer or a company registered under the “Digital Currency Jobs
Creation Act,” P.L. ______, c. ______ (pending before the Legislature
as this bill), regardless of the number of years the business has been
in operation.

"Tourism destination project” means a qualified non-gaming
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, including a non-gaming business within an established
Tourism District with a significant impact on the economic viability
of that District.

"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.2014, c.63, s.2)
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, located at a qualified business facility, that shall 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.), or any project located in a Garden State Growth Zone which contains a 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, 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 shall 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, except in the case of a business in a targeted industry that is a digital currency servicer or a registrant under the “Digital Currency Jobs Creation Act,” P.L., c. (pending before the Legislature as this bill) an increase of $5,000 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; and

(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
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 $2,000,000 per year over the grant term of ten
years;

(b) for a project which creates 70 or more full-time jobs new to
the municipality 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 $3,000,000 per year over the
grant term of ten years;
(c) For a project which creates 100 or more full-time jobs new to the municipality 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 $4,000,000 per year over the grant term of ten years;

(d) For a project which creates 150 or more full-time jobs new to the municipality 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 $5,000,000 per year over the grant term of ten years; or

(e) For a project which creates 250 or more full-time jobs new to the municipality 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 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.), or which contains a 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;

(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.

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 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or which contains a 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, that divides 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.2014, c.63, s.4)

20. Section 1 of P.L.1996, c.2 (C.54:48-4.2) is amended to read
as follows:

1. As used in [this act] P.L.1996, c.2 (C.54:48-4.2 et al.):

"Cardholder" means the person or organization named on the
face of a credit card or debit card to whom or for whose benefit the
credit card or debit card is issued by an issuer.

"Card payment system" means a technical procedure by which
tax obligations owed the State may be paid by credit card or debit

"Credit card" means any instrument or device linked to an
established line of credit, whether known as a credit card, charge
card, credit plate, or by any other name, issued with or without fee
by an issuer for the use of the cardholder in satisfying outstanding
financial obligations, obtaining money, goods, services or anything
else of value on credit.

"Debit card" means any instrument or device, whether known as
a debit card, automated teller machine card, or by any other name,
issued with or without fee by an issuer for the use of the cardholder
in obtaining money, goods, services or anything else of value
through the electronic authorization of a financial institution to
debit the cardholder’s account.

“Digital currency” means any type of digital unit that, regardless
of legal tender status, has no administrator and is:

a. used as a currency, medium of exchange or stored value; or

b. used as a substitute for government currency.

“Digital currency” shall not include:

(1) digital units that have nominal or no value as a currency or
medium of exchange and are not used as a substitute for
government currency;

(2) digital units that can be used solely with a gift card program
as defined in section 3 of P.L. __, c. ___ (pending before the
Legislature as this bill);

(3) digital units that are used solely within online gaming
platforms and have no market or application outside of those
gaming platforms, or can be redeemed for real-world goods,
services, discounts, or purchases, but cannot be converted into, or
redeemed for government currency or digital currency; or

(4) digital units that are used solely within an affinity program
but do not otherwise meet the definition of digital currency as
defined herein.

"Electronic funds transfer" means any transfer of funds or digital
currency, other than a transaction originated by check, draft, or
similar paper instrument, that is initiated through an electronic
terminal, telephone, or computer or magnetic tape for the purpose
of ordering, instructing or authorizing a financial institution to debit
or credit an account.

"Electronic funds transfer system" means a technical procedure
by which tax obligations owed the State may be paid by an
electronic transaction between the financial institution of the person
or organization owing the obligation and the financial institution of
the State.

"Issuer" means the business organization or financial institution
that issues a credit card or debit card, or its duly authorized agent.

"Service charge" means a mandatory fee to be charged by the
Division of Taxation in excess of the total obligation under [this
act] P.L.1996, c.2 (C.54:48-4.2 et al.) owed by a person or
organization to offset processing charges or discount fees for the
use of a card payment system or an electronic funds transfer system.
(cf: P.L.1996, c.2, s.1)

21. The Commissioner of Banking and Insurance shall adopt,
pursuant to the “Administrative Procedure Act,” P.L.1968,
c.410 (C.52:14B-1 et seq.), rules and regulations the commissioner
deems to be necessary, to effectuate the purposes of this act.

22. This act shall take effect on the first day of the fourth month
after enactment, except the Commissioner of Banking and Insurance
may take such anticipatory action as may be necessary for the
implementation of this act.

STATEMENT

This bill, the “Digital Currency Jobs Creation Act,” establishes a
regulatory framework for digital currency businesses to operate in
New Jersey and creates certain incentives for digital currency
businesses to locate in the State.

The bill defines a “digital currency servicer” to mean:
(1) any person who, as its primary business, engages in digital
currency creation, including mining;
(2) any person who, as its primary business, engages in the
provision of a distributed digital verification system; or
(3) any registrant under this bill.

Under the bill, “digital currency” means any type of digital unit
that, regardless of legal tender status, has no administrator and is:
(1) used as a currency, medium of exchange or stored value; or
(2) used as a substitute for government currency.

The bill excludes from the definition of “digital currency”:
(1) digital units that have nominal or no value as a currency or
medium of exchange and are not used as a substitute for
government currency;
(2) digital units that can be used solely with a gift card program;
(3) digital units that are used solely within online gaming platforms and have no market or application outside of those gaming platforms, or can be redeemed for real-world goods, services, discounts, or purchases, but cannot be converted into, or redeemed for government currency or digital currency; or
(4) digital units that are used solely within an affinity program but do not otherwise meet the definition of digital currency as defined herein.

The bill prohibits a municipality from prohibiting, abridging, levying a tax upon, or otherwise restricting the creation, retention, transmission or any other use of the digital currency within the State, except as otherwise provided for in the bill.

The bill provides that no person shall, without completing a registration as set forth in the bill, engage in any digital currency custodial activity for more than 30 days. Qualified trust companies and payment processors are not required to register. Only a person engaging in digital currency custodial activity as its primary business is permitted to complete a registration under the bill.

The registration is to be in writing, under oath, and completed in a form prescribed by the Department of Banking and Insurance, and is required to contain certain information including:

(1) the exact name of the registrant, the form of organization, and the jurisdiction where organized or incorporated;
(2) a list of the registrants, affiliates, and an organization chart illustrating the relationship between and among the application and its affiliates;
(3) fingerprints and photographs of key members of the applicant’s organization;
(4) an organization chart of the registrant and its management structure;
(5) a business plan; and
(6) a registration fee set by the commissioner.

The bill requires each registrant to establish and maintain an effective cyber security program to ensure the availability and functionality of the registrant’s electronic systems and to protect those systems and any sensitive data stored on those systems from unauthorized access or tampering.

Each registrant is required to designate a qualified employee to serve as the registrant’s Chief Information Security Officer responsible for overseeing and implementing the registrant’s cyber security program and enforcing its cyber security policy. Registrants are also required to maintain and enforce confidential, written compliance policies, including policies with respect to anti-fraud, anti-money laundering, cyber security, privacy and information security, which shall be reviewed and approved by the registrant’s board of directors or an equivalent governing body.
The bill includes further consumer protections, including a requirement that the registrant hold digital currency of the same type and amount as that which it has custody from any person. Registrants are prohibited from selling, transferring, assigning, lending, hypothecating, pledging, or otherwise using or encumbering any digital currency, the custody of which is maintained for a New Jersey person, except for the sale, transfer, or assignment of such assets at the direction of such person. Registrants are required to make, keep, and preserve all of its books and records of its digital currency custodial activity in their original form or native file format for a period of at least five years from the date of their creation and in a condition that will allow the department to determine whether the registrant is complying with all applicable laws, rules, and regulations.

The bill prohibits registrants from advertising its products, services, or activities in New Jersey or to any New Jersey person without including the legal name of the registrant and the legend that such registrant is a “registered New Jersey digital currency custodian.” The registrant shall maintain, for examination by the superintendent, all advertising and marketing materials for a period of at least seven years from the date of their creation, including but not limited to print media, internet media, including websites, radio and television advertising, road show materials, presentations, and brochures.

The bill provides that registrants must, prior to engaging in digital currency custodial activity with any customer, disclose in clear, conspicuous writing all material risks and relevant terms and conditions to the customer associated with the particular digital currency custodial activities in which it engages. Certain risks and relevant terms and conditions that must be disclosed are listed in the bill. Registrants must also establish and maintain written policies and procedures to fairly and timely resolve customer complaints.

The bill also provides certain incentives for digital currency businesses to locate in New Jersey. The bill exempts receipts from retail sales of energy and utility service to a digital currency servicer or registrant for use or consumption directly and primarily in the creation of digital currency, including mining, from the tax imposed under New Jersey’s “Sales and Use Tax Act.” The bill provides that a digital currency servicer or registrant may file an application for a sales and use tax exemption with the Director of the Division of Taxation in the Department of the Treasury.

The “Grow New Jersey Assistance Act,” N.J.S.A.34:1B-242, provides certain business and insurance premiums tax credits for job creation and retention in New Jersey. For the purposes of the “Grow New Jersey Assistance Act,” the bill designates digital currency servicers and registrants registered pursuant to this bill’s provisions to be in a “targeted industry” and a “technology startup company.” Therefore, in order for a digital currency servicer to be
eligible for that program, the minimum number of new or retained
full-time jobs would be a minimum of 10 new or 25 retained full-
time jobs, which is less than is required for certain other types of
business. Digital currency servicers and registrants would also be
eligible for, in addition to the base amount of the tax credit, an
additional $5,000 for each new or retained full-time job each year.

Current law, N.J.S.A.54:48-4.3, allows the Director of the
Division of Taxation to establish an electronic funds transfer system
for payments of State taxes. The bill amends the definition of
"electronic funds transfer" to include any transfer of digital
currency. Thus, this change would allow the director to accept
digital currency in the payment of State taxes.

The bill also provides for penalties for a violation of the bill’s
provisions, which include allowing the Commissioner of Banking
and Insurance to seek injunctive relief and a civil penalty in an
amount not to exceed $5,000 for each violation.