AN ACT excluding certain out-of-State businesses and employees
restoring critical infrastructure from certain taxes, fees, and
business registration requirements when temporarily performing
work or services in this State during a declared disaster or
emergency and supplementing chapter 50 of Title 54 of the
Revised Statutes.

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

1. As used in P.L., c. (C.) (pending before the
Legislature as this bill):

“Critical infrastructure” means property and equipment owned
or used by communication networks, electric generation,
transmission, and distribution systems, gas distribution systems,
water pipelines and related support facilities that service multiple
customers and residents including, but not limited to, real and
personal property such as buildings, offices, lines, poles, pipes,
structures, and equipment.

“Declared disaster or emergency” means a disaster or emergency
event for which a Governor’s State of Emergency Proclamation is
issued or for which a Presidential Declaration of a Major Disaster
or Emergency is issued;

“Director” means the Director of the Division of Taxation in the
Department of the Treasury;

“Disaster or emergency related work” means repairing,
renovating, installing, building, rendering services, or other
business activities that relate to critical infrastructure damaged,
impaired, or destroyed by the declared disaster or emergency;

“Disaster period” means a period beginning 10 days before the
first day of the Governor’s proclamation or the President’s
declaration, whichever occurs first, and ending 60 days after the end
of the declared disaster or emergency period;

“Home state” means the state, or other jurisdiction, in which an
out-of-State business maintains its principal place of business or, in
the case of an out-of-State employee, the principal location where
the employee engages in his or her professional practice.

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

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
1Senate SBA committee amendments adopted October 22, 2018.
2Assembly ABU committee amendments adopted December 6, 2018.
"Infrastructure" means property and equipment owned or used by communication networks, electric generation, transmission, and distribution systems, gas distribution systems, water pipelines, and public roads and bridges and related support facilities that service multiple customers and residents including, but not limited to, real and personal property such as buildings, offices, lines, poles, pipes, structures, and equipment.¹

"Out-of-State business" means a business entity that does not have a physical presence in this State and does not otherwise engage in business activity or do business in this State, but whose services are requested by a business that is registered to do business in this State or by a State or local government for purposes of performing disaster or emergency related in this State, provided that an out-of-State business also includes a business entity that is affiliated with the business that is registered to do business in this State solely through common ownership and provided further that the out-of-State business does not have a physical presence in this State, does not engage in activities in this State, is not doing business in this State, and does not have registration or tax filing obligations ¹, other than being included in a combined return as a non-taxable member pursuant to section 18 of P.L.2018, c.48 (C.54:10A-4.6)¹ in this State prior to the declared disaster or emergency; and

"Out-of-State employee" means an employee who does not work in this State, except for disaster or emergency related work ¹on critical infrastructure² during the disaster period.

2. a. An out-of-State business that conducts operations within this State for purposes of performing "work or rendering services related to a declared disaster or emergency" disaster or emergency related work¹ during the disaster period shall not be considered to have established a level of physical presence or engaged in business activities at a level that is sufficient to require that out-of-State business to ²:

(1)² register, file, and report and pay State or local taxes or fees that require the filing of a New Jersey tax return, including but not limited to employer withholding and unemployment insurance;² or ²

(2)² require that out-of-State business, or its out-of-State employees, to be subject to any State or local licensing or registration requirements ²¹. This includes ²¹, including but not limited to² all State and local business licensing and registration requirements ²²and all State and local taxes and fees including, but not limited to, unemployment insurance sales and use tax, and any ad valorem tax on equipment used or consumed during the disaster period ¹and not remaining in the State¹; provided, however, that
the out-of-State business, or its out-of-State employees, shall be
duly licensed, or otherwise legally authorized to engage in the
activity, in the applicable home state\textsuperscript{2}.

For purposes of \textsuperscript{2}[a] this section: for any exempted\textsuperscript{2} State or
local tax imposed on or measured by net or gross income or
receipts, all activity of the out-of-State business conducted in this
State \textsuperscript{1}related to the declared disaster or emergency\textsuperscript{1}, in accordance
with P.L. , c. (C. ) (pending before the Legislature as this
bill), shall be disregarded for any filing requirements for that tax,
including the filing required for a unitary or combined group of
which the out-of-State business may be a part.

b. An out-of-State employee shall not be considered to have
established residency or a physical presence or engaged in business
activities in this State that are sufficient to require that out-of-State
employee or that out-of-State employee’s employer to report and
pay State or local income taxes \textsuperscript{2}[f. to be subjected to State or local
tax withholdings] that require the filing of a New Jersey tax return\textsuperscript{2},
or to report and pay any other State or local tax or fee \textsuperscript{2}that requires
the filing of a New Jersey tax return\textsuperscript{2} during the disaster period.
This includes any related employer withholding and reporting and
payment obligations imposed by the State or a local government.

3. An out-of-State business or out-of-State employee shall be
required to pay State and local transaction taxes and fees including,
but not limited to, fuel taxes, sales and use taxes on receipts from
sales of goods and services subject to sales and use taxes, hotel and
motel occupancy taxes and fees, and motor vehicle rental taxes and
fees that the out-of-State business or the out-of-State employee
purchases for use or consumption in this State during the disaster
period, unless those transactions are \textsuperscript{1}otherwise\textsuperscript{1} exempt, excluded,
or not subject to \textsuperscript{1}2\textsuperscript{1} State or local tax or fee during the disaster
period.

4. An out-of-State business or out-of-State employee remaining
in this State after the disaster period shall be subject to the State’s
normal standards for establishing physical presence or residency,
engaging in business activity, and doing business in this State, and
shall be responsible for any ensuing State or local tax liabilities or
requirements of the business or an employee of the business.

5. a. An out-of-State business that enters this State shall, not
later than \textsuperscript{4}[30] 45\textsuperscript{4} days after the date the out-of-State business
enters this State, provide a written statement to the director
indicating that the out-of-State business is doing business in this
State for purposes of \textsuperscript{4}[responding to the declared disaster or
emergency] performing disaster or emergency related work\textsuperscript{4}, which
written statement shall include the name of the business, the state of
the business’s domicile, the principal address of the business, the business’s federal tax identification number, the date of the business’s entry into this State, and the business’s contact information.

b. A business that is registered to do business in this State shall provide a written statement that includes the information required to be provided to the director in accordance with subsection a. of this section for each out-of-State business affiliate that enters this State for purposes of [responding to the declared disaster or emergency] performing disaster or emergency related work. The written notification provided to the director also shall include contact information for the business that is registered to do business in this State, and shall be provided to the director by the business that is registered to do business in this State not later than 30 days after the date the out-of-State business enters this State.

c. The written statement and any information required to be provided to the director by an out-of-State business or by a business that is registered to do business in this State, on behalf of an affiliate, shall be a public or government record for purposes of P.L.1963, c.73 (C.47:1A-1 et seq.) and P.L.2001, c.404 (C.47:1A-5 et al.), and shall be open to the public for inspection. The written statement and any information required to be provided to the director shall not be a confidential or privileged record or file of the director subject to the provisions of R.S.54:50-8 and R.S.54:50-9.

6. An out-of-State business or an out-of-State employee that maintains a physical presence in this State or engages in business activity in this State after the disaster period shall comply with all State and local business registration requirements and all licensing and filing requirements ensuing as a result of establishing the required business presence or residency in this State.

7. Notwithstanding the provisions of the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the director may adopt immediately upon filing with the Office of Administrative Law such rules and regulations as the director determines to be necessary and appropriate to effectuate the purposes of P.L. , c. (C. ) (pending before the Legislature as this bill), which rules and regulations shall be effective for a period not to exceed 360 days following the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill) and may thereafter be amended, adopted, or readopted by the director in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

8. This act shall take effect immediately.
Excludes certain out-of-State businesses and employees from certain taxes, fees, and business registration requirements when temporarily performing in-State work or services during declared disaster or emergency.