

SENATE, No. 250

STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Senator JEFF VAN DREW

District 1 (Atlantic, Cape May and Cumberland)

SYNOPSIS

Provides tax credit eligibility for qualified businesses at certain airports under Grow New Jersey Assistance Program.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning tax credits to qualified businesses at certain
2 airports and amending P.L.2011, c.149

3

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

6

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

9 2. As used in P.L.2011, c.149 (C.34:1B-242 et seq.):

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

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

28 "Aviation district" means the area within a one-mile radius of the
29 outermost boundary of the "Atlantic City International Airport,"
30 established pursuant to section 24 of P.L.1991, c.252 (C.27:25A-
31 24).

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

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

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

39 a partnership;

40 an S corporation;

41 a limited liability company; or

42 a non-profit corporation.

43 If the business or tenant is a cooperative or part of a cooperative,
44 then the cooperative may qualify for credits by counting the full-
45 time employees and capital investments of its member

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

Matter underlined thus is new matter.

1 organizations, and the cooperative may distribute credits to its
2 member organizations. If the business or tenant is a cooperative
3 that leases to its member organizations, the lease shall be treated as
4 a lease to an affiliate or affiliates.

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

8 "Capital investment" in a qualified business facility means
9 expenses by a business or any affiliate of the business incurred after
10 application for:

11 a. site preparation and construction, repair, renovation,
12 improvement, equipping, or furnishing on real property or of a
13 building, structure, facility, or improvement to real property;

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

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

23 d. any of the foregoing.

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

33 In addition to the foregoing, if a business acquires or leases a
34 qualified business facility, the capital investment made or acquired
35 by the seller or owner, as the case may be, if pertaining primarily to
36 the premises of the qualified business facility, shall be considered a
37 capital investment by the business and, if pertaining generally to the
38 qualified business facility being acquired or leased, shall be
39 allocated to the premises of the qualified business facility on the
40 basis of the gross leasable area of the premises in relation to the
41 total gross leasable area in the qualified business facility. The
42 capital investment described herein may include any capital
43 investment made or acquired within 24 months prior to the date of
44 application so long as the amount of capital investment made or
45 acquired by the business, any affiliate of the business, or any owner
46 after the date of application equals at least 50 percent of the amount
47 of capital investment, allocated to the premises of the qualified
48 business facility being acquired or leased on the basis of the gross

1 leasable area of the premises in relation to the total gross leasable
2 area in the qualified business facility made or acquired prior to the
3 date of application.

4 "College or university" means a county college, an independent
5 institution of higher education, a public research university, or a
6 State college.

7 "Commitment period" means the period of time that is 1.5 times
8 the eligibility period.

9 "County college" means an educational institution established by
10 one or more counties, pursuant to chapter 64A of Title 18A of the
11 New Jersey Statutes.

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

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

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

38 "Doctoral university" means a university located within New
39 Jersey that is classified as a doctoral university under the Carnegie
40 Classification of Institutions of Higher Education's Basic
41 Classification methodology on the effective date of P.L.2017, c.221.

42 "Eligibility period" means the period in which a business may
43 claim a tax credit under the Grow New Jersey Assistance Program,
44 beginning with the tax period in which the authority accepts
45 certification of the business that it has met the capital investment
46 and employment requirements of the Grow New Jersey Assistance
47 Program and extending thereafter for a term of not more than 10

1 years, with the term to be determined solely at the discretion of the
2 applicant.

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

6 "Full-time employee" means a person:

7 a. who is employed by a business for consideration for at least
8 35 hours a week, or who renders any other standard of service
9 generally accepted by custom or practice as full-time employment;
10 or

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

19 c. who is a resident of another State but whose income is not
20 subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
21 et seq. or who is a partner of a business who works for the
22 partnership for at least 35 hours a week, or who renders any other
23 standard of service generally accepted by custom or practice as full-
24 time employment, and whose distributive share of income, gain,
25 loss, or deduction, or whose guaranteed payments, or any
26 combination thereof, is subject to the payment of estimated taxes, as
27 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
28 et seq.; and

29 d. who, except for purposes of the Statewide workforce, is
30 provided, by the business, with employee health benefits under a
31 health benefits plan authorized pursuant to State or federal law.

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

36 the requirement that employee health benefits are to be provided
37 shall be deemed to be satisfied if the benefits are provided in
38 accordance with industry practice by a third party obligated to
39 provide such benefits pursuant to a collective bargaining agreement;

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

43 35 hours of employment per week at a qualified business facility
44 shall constitute one "full-time employee," regardless of whether or
45 not the hours of work were performed by one or more persons.

46 For any project located in a Garden State Growth Zone which
47 qualifies under the "Municipal Rehabilitation and Economic
48 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or any

1 project located in the Atlantic City Tourism District as established
2 pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated
3 by the Casino Reinvestment Development Authority, and which
4 will include a retail facility of at least 150,000 square feet, of which
5 at least 50 percent will be occupied by either a full-service
6 supermarket or grocery store, 30 hours of employment per week at a
7 qualified business facility shall constitute one "full-time employee,"
8 regardless of whether the hours of work were performed by one or
9 more persons, and the requirement that employee health benefits are
10 to be provided shall be deemed to be satisfied if the employees of
11 the business are covered by a collective bargaining agreement.

12 "Full-time employee" shall not include any person who works as
13 an independent contractor or on a consulting basis for the business.
14 Full-time employee shall also not include any person who at the
15 time of project application works in New Jersey for consideration
16 for at least 35 hours per week, or who renders any other standard of
17 service generally accepted by custom or practice as full-time
18 employment but who prior to project application was not provided,
19 by the business, with employee health benefits under a health
20 benefits plan authorized pursuant to State or federal law.

21 "Garden State Create Zone" means the campus of a doctoral
22 university, and the area within a three-mile radius of the outermost
23 boundary of the campus of a doctoral university, according to a map
24 appearing in the doctoral university's official catalog or other
25 official publication on the effective date of P.L.2017, c.221.

26 "Garden State Growth Zone" or "growth zone" means the four
27 New Jersey cities with the lowest median family income based on
28 the 2009 American Community Survey from the US Census, (Table
29 708. Household, Family, and Per Capita Income and Individuals,
30 and Families Below Poverty Level by City: 2009); or a municipality
31 which contains a Tourism District as established pursuant to section
32 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino
33 Reinvestment Development Authority.

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

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

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

1 "Independent institution of higher education" means a college or
2 university incorporated and located in New Jersey, which by virtue
3 of law or character or license is a nonprofit educational institution
4 authorized to grant academic degrees and which provides a level of
5 education which is equivalent to the education provided by the
6 State's public institutions of higher education, as attested by the
7 receipt of and continuation of regional accreditation by the Middle
8 States Association of Colleges and Schools, and which is eligible to
9 receive State aid under the provisions of the Constitution of the
10 United States and the Constitution of the State of New Jersey, but
11 does not include any educational institution dedicated primarily to
12 the education or training of ministers, priests, rabbis or other
13 professional persons in the field of religion.

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

18 "Mega project" means:

19 a. a qualified business facility located in a port district housing
20 a business in the logistics, manufacturing, energy, defense, or
21 maritime industries, either:

22 (1) having a capital investment in excess of \$20,000,000, and at
23 which more than 250 full-time employees of the business are
24 created or retained; or

25 (2) at which more than 1,000 full-time employees of the
26 business are created or retained;

27 b. a qualified business facility located in an aviation district
28 housing a business in the aviation industry, in a Garden State
29 Growth Zone, or in a priority area housing the United States
30 headquarters and related facilities of an automobile manufacturer,
31 either:

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

35 (2) at which more than 1,000 full-time employees of the
36 business are created or retained;

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

41 d. a project located in an area designated in need of
42 redevelopment, pursuant to P.L.1992, c.79 (C.40A:12A-1 et al.)
43 prior to the enactment of P.L.2014, c.63 (C.34:1B-251 et al.) within
44 Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester,
45 Ocean, or Salem counties having a capital investment in excess of
46 \$20,000,000, and at which more than 150 full-time employees of
47 the business are created or retained; or

1 e. a qualified business facility primarily used by a business
2 principally engaged in research, development, or manufacture of a
3 drug or device, as defined in R.S.24:1-1, or primarily used by a
4 business licensed to conduct a clinical laboratory and business
5 facility pursuant to the "New Jersey Clinical Laboratory
6 Improvement Act," P.L.1975, c.166 (C.45:9-42.26 et seq.), either:

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

10 (2) at which more than 1,000 full-time employees of the
11 business are created or retained.

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

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

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

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

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

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

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

42 a. the "Port of New York District" of the Port Authority of
43 New York and New Jersey, as defined in Article II of the Compact
44 Between the States of New York and New Jersey of 1921; or

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

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

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

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

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

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

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

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

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

31 "Public research university" means a public research university
32 as defined in section 3 of P.L.1994, c.48 (C.18A:3B-3).

33 "Qualified business facility" means any building, complex of
34 buildings or structural components of buildings, and all machinery
35 and equipment located within a qualified incentive area, used in
36 connection with the operation of a business that is not engaged in
37 final point of sale retail business at that location unless the building,
38 complex of buildings or structural components of buildings, and all
39 machinery and equipment located within a qualified incentive area,
40 are used in connection with the operation of:

41 a. a final point of sale retail business located in a Garden State
42 Growth Zone that will include a retail facility of at least 150,000
43 square feet, of which at least 50 percent is occupied by either a full-
44 service supermarket or grocery store; or

45 b. a tourism destination project located in the Atlantic City
46 Tourism District as established pursuant to section 5 of P.L.2011,
47 c.18 (C.5:12-219).

48 "Qualified incentive area" means:

- 1 a. an aviation district;
- 2 b. a port district;
- 3 c. a distressed municipality or urban transit hub municipality;
- 4 d. an area (1) designated pursuant to the "State Planning Act,"
5 P.L.1985, c.398 (C.52:18A-196 et seq.), as:
 - 6 (a) Planning Area 1 (Metropolitan);
 - 7 (b) Planning Area 2 (Suburban); or
 - 8 (c) Planning Area 3 (Fringe Planning Area);
 - 9 (2) located within a smart growth area and planning area
10 designated in a master plan adopted by the New Jersey
11 Meadowlands Commission pursuant to subsection (i) of section 6 of
12 P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan
13 adopted by the New Jersey Meadowlands Commission pursuant to
14 section 20 of P.L.1968, c.404 (C.13:17-21);
 - 15 (3) located within any land owned by the New Jersey Sports and
16 Exposition Authority, established pursuant to P.L.1971, c.137
17 (C.5:10-1 et seq.), within the boundaries of the Hackensack
18 Meadowlands District as delineated in section 4 of P.L.1968, c.404
19 (C.13:17-4);
 - 20 (4) located within a regional growth area, rural development
21 area zoned for industrial use as of the effective date of P.L.2016,
22 c.75, town, village, or a military and federal installation area
23 designated in the comprehensive management plan prepared and
24 adopted by the Pinelands Commission pursuant to the "Pinelands
25 Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.);
 - 26 (5) located within the planning area of the Highlands Region as
27 defined in section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands
28 development credit receiving area or redevelopment area;
 - 29 (6) located within a Garden State Growth Zone;
 - 30 (7) located within land approved for closure under any federal
31 Commission on Base Realignment and Closure action; or
 - 32 (8) located only within the following portions of the areas
33 designated pursuant to the "State Planning Act," P.L.1985, c.398
34 **[(C.52:18A-196 et al.)]** (C.52:18A-196 et seq.), as Planning Area
35 4A (Rural Planning Area), Planning Area 4B
36 (Rural/Environmentally Sensitive) or Planning Area 5
37 (Environmentally Sensitive) if Planning Area 4A (Rural Planning
38 Area), Planning Area 4B (Rural/Environmentally Sensitive) or
39 Planning Area 5 (Environmentally Sensitive) is located within:
 - 40 (a) a designated center under the State Development and
41 Redevelopment Plan;
 - 42 (b) a designated growth center in an endorsed plan until the
43 State Planning Commission revises and readopts New Jersey's State
44 Strategic Plan and adopts regulations to revise this definition as it
45 pertains to Statewide planning areas;
 - 46 (c) any area determined to be in need of redevelopment pursuant
47 to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and

1 C.40A:12A-6) or in need of rehabilitation pursuant to section 14 of
2 P.L.1992, c.79 (C.40A:12A-14);

3 (d) any area on which a structure exists or previously existed
4 including any desired expansion of the footprint of the existing or
5 previously existing structure provided the expansion otherwise
6 complies with all applicable federal, State, county, and local
7 permits and approvals;

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

11 (f) any area on which an existing tourism destination project is
12 located; or

13 e. a small aviation district.

14 "Qualified incentive area" shall not include any property located
15 within the preservation area of the Highlands Region as defined in
16 section 3 of P.L.2004, c.120 (C.13:20-3).

17 "Qualified incubator facility" means a commercial building
18 located within a qualified incentive area: which contains 50,000 or
19 more square feet of office, laboratory, or industrial space; which is
20 located near, and presents opportunities for collaboration with, a
21 research institution, teaching hospital, college, or university; and
22 within which, at least 50 percent of the gross leasable area is
23 restricted for use by one or more technology startup companies
24 during the commitment period.

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

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

1 "SDA municipality" means a municipality in which an SDA
2 district is situate.

3 "Small aviation district" means an area located within the
4 boundaries of a general aviation airport operated by an interstate
5 authority created pursuant to an interstate compact and is located in
6 a county of the sixth class.

7 "State college" means a State college or university established
8 pursuant to chapter 64 of Title 18A of the New Jersey Statutes.

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

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

19 "Tourism destination project" means a qualified non-gaming
20 business facility that will be among the most visited privately
21 owned or operated tourism or recreation sites in the State, and
22 which is located within the qualified incentive area and has been
23 determined by the authority to be in an area appropriate for
24 development and in need of economic development incentive
25 assistance, including a non-gaming business within an established
26 Tourism District with a significant impact on the economic viability
27 of that District.

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

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

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

48 (cf: P.L.2017, c.221, s.1)

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

3 5. a. The total amount of the tax credit for an eligible business
4 for each new or retained full-time job shall be as set forth in
5 subsections b. through f. of this section. The total tax credit amount
6 shall be calculated and credited to the business annually for each
7 year of the eligibility period. Notwithstanding any other provisions
8 of P.L.2013, c.161 (C.52:27D-489p et al.), a business may assign its
9 ability to apply for the tax credit under this subsection to a non-
10 profit organization with a mission dedicated to attracting investment
11 and completing development and redevelopment projects in a
12 Garden State Growth Zone. The non-profit organization or
13 organization operating a qualified incubator facility may make an
14 application on behalf of a business which meets the requirements
15 for the tax credit, or a group of non-qualifying businesses or
16 positions, located at a qualified business facility, that shall be
17 considered a unified project for the purposes of the incentives
18 provided under this section. For any project located in a Garden
19 State Growth Zone that qualifies under the "Municipal
20 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
21 (C.52:27BBB-1 et al.), or any project located in a Garden State
22 Growth Zone which contains a Tourism District as established
23 pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated
24 by the Casino Reinvestment Development Authority, and which
25 will include a retail facility of at least 150,000 square feet, of which
26 at least 50 percent will be occupied by either a full-service
27 supermarket or grocery store, a business may assign its ability to
28 apply for the tax credit under this subsection to the developer of the
29 facility. The developer may make an application on behalf of the
30 business which meets the requirements for the tax credit, or a group
31 of non-qualifying businesses located at the business facility, that
32 shall be considered a unified project for the purposes of the
33 incentives provided under this section, and the developer may apply
34 for tax credits available based on the number of jobs provided by
35 the business or businesses and the total capital investment of the
36 business or businesses and the developer.

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

39 (1) (a) for a qualified business facility located within an urban
40 transit hub municipality, located within a Garden State Growth
41 Zone, located within a small aviation district, or which is a mega
42 project, \$5,000 per year;

43 (b) for a qualified business facility located within a Garden State
44 Create Zone and used by an eligible business in a targeted industry
45 to conduct a collaborative research relationship with a doctoral
46 university within the zone, \$5,000 per year;

- 1 (2) for a qualified business facility located within a distressed
2 municipality but not qualifying under paragraph (1) of this
3 subsection, \$4,000 per year;
- 4 (3) for a project in a priority area, \$3,000 per year; and
- 5 (4) for a project in other eligible areas, \$500 per year.
- 6 c. In addition to the base amount of the tax credit, the amount
7 of the tax credit to be awarded for each new or retained full-time
8 job shall be increased if the qualified business facility meets any of
9 the following priority criteria or other additional or replacement
10 criteria determined by the authority from time to time in response to
11 evolving economic or market conditions:
 - 12 (1) for a qualified business facility located in a deep poverty
13 pocket or in an area that is the subject of a Choice Neighborhoods
14 Transformation Plan funded by the federal Department of Housing
15 and Urban Development, an increase of \$1,500 per year;
 - 16 (2) for a qualified business facility located in a qualified
17 incubator facility, an increase of \$500 per year;
 - 18 (3) for a qualified business facility located in a mixed-use
19 development that incorporates sufficient moderate income housing
20 on site to accommodate a minimum of 20 percent of the full-time
21 employees of the business, an increase of \$500 per year;
 - 22 (4) for a qualified business facility located within a transit
23 oriented development, an increase of \$2,000 per year;
 - 24 (5) for a qualified business facility, other than a mega project, at
25 which the capital investment in industrial premises for industrial
26 use by the business is in excess of the minimum capital investment
27 required for eligibility pursuant to subsection b. of section 3 of
28 P.L.2011, c.149 (C.34:1B-244), an increase of \$1,000 per year for
29 each additional amount of investment that exceeds the minimum
30 amount required for eligibility by 20 percent, with a maximum
31 increase of \$3,000 per year;
 - 32 (6) for a business with new full-time jobs and retained full-time
33 jobs at the project with an average salary in excess of the existing
34 average salary for the county in which the project is located, or, in
35 the case of a project in a Garden State Growth Zone, a business that
36 employs full-time positions at the project with an average salary in
37 excess of the average salary for the Garden State Growth Zone, an
38 increase of \$250 per year during the commitment period for each 35
39 percent by which the project's average salary levels exceeds the
40 county or Garden State Growth Zone average salary, with a
41 maximum increase of \$1,500 per year;
 - 42 (7) for a business with large numbers of new full-time jobs and
43 retained full-time jobs during the commitment period, the increases
44 shall be in accordance with the following schedule:
 - 45 (a) if the number of new full-time jobs and retained full-time
46 jobs is between 251 and 400, \$500 per year;
 - 47 (b) if the number of new full-time jobs and retained full-time
48 jobs is between 401 and 600, \$750 per year;

- 1 (c) if the number of new full-time jobs and retained full-time
2 jobs is between 601 and 800, \$1000 per year;
- 3 (d) if the number of new full-time jobs and retained full-time
4 jobs is between 801 and 1,000, \$1,250 per year;
- 5 (e) if the number of new full-time jobs and retained full-time
6 jobs is in excess of 1,000, \$1,500 per year;
- 7 (8) for a business in a targeted industry, an increase of \$500 per
8 year;
- 9 (9) for a qualified business facility exceeding the Leadership in
10 Energy and Environmental Design's "Silver" rating standards or
11 completes substantial environmental remediation, an additional
12 increase of \$250 per year;
- 13 (10) for a mega project or a project located within a Garden State
14 Growth Zone at which the capital investment in industrial premises
15 for industrial use by the business exceeds the minimum capital
16 investment required for eligibility pursuant to subsection b. of
17 section 3 of P.L.2011, c.149 (C.34:1B-244), an increase of \$1,000
18 per year for each additional amount of investment that exceeds the
19 minimum amount by 20 percent, with a maximum increase of
20 \$5,000 per year;
- 21 (11) for a project in which a business retains at least 400 jobs
22 and is located within the municipality in which it was located
23 immediately prior to the filing of the application hereunder and is
24 the United States headquarters of an automobile manufacturer, an
25 increase of \$1,500 per year;
- 26 (12) for a project located in a municipality in Atlantic,
27 Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean,
28 and Salem counties with a 2007 Municipality Revitalization Index
29 greater than 465, an increase of \$1,000 per year;
- 30 (13) for a project located within a half-mile of any light rail
31 station constructed after the effective date of P.L.2013, c.161
32 (C.52:27D-489p et al.), an increase of \$1,000 per year;
- 33 (14) for a marine terminal project in a municipality located
34 outside the Garden State Growth Zone, but within the geographical
35 boundaries of the South Jersey Port District, an increase of \$1,500
36 per year;
- 37 (15) for a project located within an area determined to be in need
38 of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79
39 (C.40A:12A-5 and C.40A:12A-6), and which is located within a
40 quarter mile of at least one United States Highway and at least two
41 New Jersey State Highways, an increase of \$1,500 per year;
- 42 (16) for a project that generates solar energy on site for use
43 within the project of an amount that equals at least 50 percent of the
44 project's electric supply service needs, an increase of \$250 per year;
- 45 (17) for a qualified business facility that includes a vacant
46 commercial building having over 1,000,000 square feet of office or
47 laboratory space available for occupancy for a period of over one
48 year, an increase of \$1,000 per year; and

1 (18) for an eligible business in a targeted industry at a qualified
2 business facility on the campus of a college or university other than
3 a doctoral university, or at a qualified business facility within a
4 three-mile radius of the outermost boundary of the campus of a
5 college or university other than a doctoral university, which facility
6 is used by the business to conduct a collaborative research
7 relationship with the college or university, an increase of \$1,000 per
8 year. The boundary of the campus of a college or university shall
9 be based upon a map appearing in the college's or university's
10 official catalog or other official publication on the effective date of
11 P.L.2017, c.221.

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

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

21 (2) for a qualified business facility located within an urban
22 transit hub municipality or a Garden State Create Zone, the gross
23 amount for each new or retained full-time job shall not exceed
24 \$12,000 per year;

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

28 (4) for a qualified business facility in other priority areas, the
29 gross amount for each new or retained full-time job shall not exceed
30 \$10,500 per year;

31 (5) for a qualified business facility in other eligible areas, the
32 gross amount for each new or retained full-time job shall not exceed
33 \$6,000 per year; and

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

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

44 (a) for a project which creates 35 or more full-time jobs new to
45 the municipality and makes a capital investment of at least
46 \$5,000,000, the total tax credit amount per full-time job shall be the
47 greater of: (i) the total tax credit amount for a qualifying project in
48 a Garden State Growth Zone as calculated pursuant to subsections

- 1 a. through f. of this section; or (ii) the total capital investment of the
2 project divided by the total number of full-time jobs at that project
3 but not greater than \$2,000,000 per year over the grant term of
4 **【ten】 10** years;
- 5 (b) for a project which creates 70 or more full-time jobs new to
6 the municipality and makes a capital investment of at least
7 \$10,000,000, the total tax credit amount per full-time job shall be
8 the greater of: (i) the total tax credit amount for a qualifying project
9 in a Garden State Growth Zone as calculated pursuant to
10 subsections a. through f. of this section; or (ii) the total capital
11 investment of the project divided by the total number of full-time
12 jobs at that project but not greater than \$3,000,000 per year over the
13 grant term of **【ten】 10** years;
- 14 (c) for a project which creates 100 or more full-time jobs new to
15 the municipality and makes a capital investment of at least
16 \$15,000,000, the total tax credit amount per full-time job shall be
17 the greater of: (i) the total tax credit amount for a qualifying project
18 in a Garden State Growth Zone as calculated pursuant to
19 subsections a. through f. of this section; or (ii) the total capital
20 investment of the project divided by the total number of full-time
21 jobs at that project but not greater than \$4,000,000 per year over the
22 grant term of **【ten】 10** years;
- 23 (d) for a project which creates 150 or more full-time jobs new to
24 the municipality and makes a capital investment of at least
25 \$20,000,000, the total tax credit amount per full-time job shall be
26 the greater of: (i) the total tax credit amount for a qualifying project
27 in a Garden State Growth Zone as calculated pursuant to
28 subsections a. through f. of this section; or (ii) the total capital
29 investment of the project divided by the total number of full-time
30 jobs at that project but not greater than \$5,000,000 per year over the
31 grant term of **【ten】 10** years; or
- 32 (e) for a project which creates 250 or more full-time jobs new to
33 the municipality and makes a capital investment of at least
34 \$30,000,000, the total tax credit amount per full-time job shall be
35 the greater of: (i) the total tax credit amount for a qualifying project
36 in a Garden State Growth Zone as calculated pursuant to
37 subsections a. through f. of this section; or (ii) the total capital
38 investment of the project divided by the total number of full-time
39 jobs as defined herein at that project divided by the **【ten-year】 10-**
40 **year** grant term.
- 41 e. After the determination by the authority of the gross amount
42 of tax credits for which a business is eligible pursuant to subsection
43 d. of this section, the final total tax credit amount shall be
44 calculated as follows: (1) for each new full-time job, the business
45 shall be allowed tax credits equaling 100 percent of the gross
46 amount of tax credits for each new full-time job; and (2) for each
47 retained full-time job, the business shall be allowed tax credits

1 equaling the lesser of 50 percent of the gross amount of tax credits
2 for each retained full-time job, or one-tenth of the capital
3 investment divided by the number of retained and new full-time
4 jobs per year over the grant term of ~~ten~~ 10 years, unless the jobs
5 are part of a mega project which is the United States headquarters
6 of an automobile manufacturer located within a priority area or in a
7 Garden State Growth Zone, in which case the business shall be
8 entitled to tax credits equaling 100 percent of the gross amount of
9 tax credits for each retained full-time job, or unless the new
10 qualified business facility would replace a facility that has been
11 wholly or substantially damaged as a result of a federally-declared
12 disaster, in which case the business shall be entitled to tax credits
13 equaling 100 percent of the gross amount of tax credits for each
14 retained full-time job.

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

19 (1) \$35,000,000 and provides a net benefit to the State as
20 provided herein with respect to a qualified business facility in a
21 Garden State Growth Zone which qualifies under the "Municipal
22 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
23 (C.52:27BBB-1 et al.), or which contains a Tourism District as
24 established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and
25 regulated by the Casino Reinvestment Development Authority;

26 (2) \$30,000,000 and provides a net benefit to the State as
27 provided herein with respect to a mega project or a qualified
28 business facility in a Garden State Growth Zone;

29 (3) \$10,000,000 and provides a net benefit to the State as
30 provided herein with respect to a qualified business facility in an
31 urban transit hub municipality or a Garden State Create Zone;

32 (4) \$8,000,000 and provides a net benefit to the State as
33 provided herein with respect to a qualified business facility in a
34 distressed municipality;

35 (5) \$4,000,000 and provides a net benefit to the State as
36 provided herein with respect to a qualified business facility in other
37 priority areas, but not more than 90 percent of the withholdings of
38 the business from the qualified business facility; and

39 (6) \$2,500,000 and provides a net benefit to the State as
40 provided herein with respect to a qualified business facility in other
41 eligible areas, but not more than 90 percent of the withholdings of
42 the business from the qualified business facility.

43 Under paragraphs (1) through (6) of this subsection, with the
44 exception of a project located within a Garden State Growth Zone
45 which qualifies for the "Municipal Rehabilitation and Economic
46 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or which
47 contains a Tourism District as established pursuant to section 5 of
48 P.L.2011, c.18 (C.5:12-219) and regulated by the Casino

1 Reinvestment Development Authority, that divides the total capital
2 investment of the project by the total number of full-time jobs at
3 that project, for each application for tax credits in excess of
4 \$4,000,000 annually, the amount of tax credits available to be
5 applied by the business annually shall be the lesser of the maximum
6 amount under the applicable subsection or an amount determined by
7 the authority necessary to complete the project, with such
8 determination made by the authority's utilization of a full economic
9 analysis of all locations under consideration by the business; all
10 lease agreements, ownership documents, or substantially similar
11 documentation for the business's current in-State locations, as
12 applicable; and all lease agreements, ownership documents, or
13 substantially similar documentation for the potential out-of-State
14 location alternatives, to the extent they exist. Based on this
15 information, and any other information deemed relevant by the
16 authority, the authority shall independently verify and confirm the
17 amount necessary to complete the project.
18 (cf: P.L.2017, c.221, s.2)

19

20 3. This act shall take effect immediately.

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22

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STATEMENT

24

25 This bill allows a business located within a “small aviation
26 district” to receive tax credits for job creation and retention activity
27 under the Grow New Jersey Assistance Program, which is
28 administered by the New Jersey Economic Development Authority
29 (“authority”), if the business satisfies all other eligibility criteria.
30 The bill defines “small aviation district” as the area within the
31 boundaries of a general aviation airport that is located in a county
32 of the sixth class and operated by an interstate authority. Only the
33 area located within the boundaries of Cape May Airport currently
34 meets this definition.

35 The Grow New Jersey Assistance Program was established by
36 P.L.2011, c.149 (C.34:1B-242 et seq.) as an economic development
37 incentive program to be administered by the authority for the
38 purpose of creating and retaining jobs through the awarding of tax
39 credits. The program was substantively modified by “The New
40 Jersey Economic Opportunity Act of 2013,” P.L.2013, c.161, and
41 under the reconfigured, program tax credits are to be awarded to
42 businesses for eligible projects located in certain geographic areas
43 of the State that meet two financial conditions.

44 First, the financial assistance must be a material factor in a
45 project’s realization. Second, the project must yield fiscal benefits
46 to the State over a period of up to 20 years (or up to 30 years in the
47 case of a “mega project” or a project in one of five municipalities
48 designated as a Garden State Growth Zone, or up to 35 years if a

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1 project is located in the city of Camden) that equal or exceed 110
2 percent of the tax credit amount (or 100 percent in the case of the
3 city of Camden). The application deadline is June 30, 2019.

4 As of November 24, 2017, the authority had approved \$4.658
5 billion in Grow NJ tax credit awards.