

ASSEMBLY, No. 4

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED DECEMBER 16, 2020

Sponsored by:

Assemblywoman ELIANA PINTOR MARIN

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Assemblyman CRAIG J. COUGHLIN

District 19 (Middlesex)

Assemblyman LOUIS D. GREENWALD

District 6 (Burlington and Camden)

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District 22 (Middlesex, Somerset and Union)

Assemblyman ERIC HOUGHTALING

District 11 (Monmouth)

Assemblyman ANDREW ZWICKER

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

SYNOPSIS

"New Jersey Economic Recovery Act of 2020"; provides for administration of programs and policies related to jobs, property development, food deserts, community partnerships, small and early stage businesses, State procurement, wind energy, and film production, and makes an appropriation.

CURRENT VERSION OF TEXT

As introduced.

1 AN ACT concerning State economic development policy, and
2 amending and supplementing various parts of the statutory law,
3 and making an appropriation.
4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*
7

8 1. (New section) P.L. , c. (C.) (pending before the
9 Legislature as this bill) shall be known and may be cited as the "New
10 Jersey Economic Recovery Act of 2020."
11

12 2. (New section) Sections 2 through 8 of P.L. , c. (C.)
13 (pending before the Legislature as this bill) shall be known and may
14 be cited as the "Historic Property Reinvestment Act."
15

16 3. (New section) As used in sections 2 through 8 of P.L. ,
17 c. (C.) (pending before the Legislature as this bill):

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

21 "Board" means the Board of the New Jersey Economic
22 Development Authority, established pursuant to section 4 of
23 P.L.1974, c.80 (C.34:1B-4).

24 "Cost of rehabilitation" means the consideration given, valued in
25 money, whether given in money or otherwise, for the materials and
26 services which constitute the rehabilitation.

27 "Director" means the Director of the Division of Taxation in the
28 Department of the Treasury.

29 "Income producing property" means a structure or site that is used
30 in a trade or business or to produce rental income.

31 "New Jersey S corporation" means the same as the term is defined
32 in section 12 of P.L.1993, c.173 (C.54A:5-10).

33 "Officer" means the State Historic Preservation Officer or the
34 official within the State designated by the Governor or by statute in
35 accordance with the provisions of chapter 3023 of Title 54, United
36 States Code (54 U.S.C. s.302301 et seq), to act as liaison for the
37 purpose of administering historic preservation programs in the State.

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

40 "Project financing gap" means the part of the total cost of
41 rehabilitation, including reasonable and appropriate return on
42 investment, that remains to be financed after all other sources of
43 capital have been accounted for, including, but not limited to,
44 developer contributed capital, which shall not be less than 20 percent
45 of the total cost of rehabilitation, and investor or financial entity

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 capital or loans for which the developer, after making all good faith
2 efforts to raise additional capital, certifies that additional capital
3 cannot be raised from other sources.

4 "Property" means a structure, including its site improvements and
5 landscape features, assessed as real property, and used for: a
6 commercial purpose; a residential rental purpose, provided the
7 structure contains at least four dwelling units; or any combination
8 thereof.

9 "Qualified property" means a property located in the State of New
10 Jersey that is an income producing property, and that is:

11 (a) (i) individually listed, or located in a district listed on the
12 National Register of Historic Places in accordance with the with the
13 provisions of chapter 3021 of Title 54, United States Code (54 U.S.C.
14 s.302101 et seq), or on the New Jersey Register of Historic Places
15 pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.), or individually
16 designated, or located in a district designated, by the Pinelands
17 Commission as a historic resource of significance to the Pinelands in
18 accordance with the Pinelands comprehensive management plan
19 adopted pursuant to the "Pinelands Protection Act," P.L.1979, c.111
20 (C.13:18A-1 et seq.), and

21 (ii) if located within a district, certified by either the officer or the
22 Pinelands Commission, as appropriate, as contributing to the historic
23 significance of the district; or

24 (b) (i) individually identified or registered, or located in a
25 district composed of properties identified or registered, for protection
26 as significant historic resources in accordance with criteria
27 established by a municipality in which the property or district is
28 located if the criteria for identification or registration has been
29 approved by the officer as suitable for substantially achieving the
30 purpose of preserving and rehabilitating buildings of historic
31 significance within the jurisdiction of the municipality, and

32 (ii) if located within a district, certified by the officer as
33 contributing to the historic significance of the district.

34 "Rehabilitation" means the repair or reconstruction of the exterior
35 or interior of a qualified property or transformative project to make
36 an efficient contemporary use possible while preserving the portions
37 or features of the property that have significant historical,
38 architectural, and cultural values.

39 "Rehabilitation of the interior of the qualified property or
40 transformative project" means the repair or reconstruction of the
41 structural or substrate components and electrical, plumbing, and
42 heating components within the interior of a qualified property or
43 transformative project.

44 "Selected rehabilitation period" means a period of 24 months if
45 the beginning of such period is chosen by the business entity during
46 which, or parts of which, a rehabilitation is occurring, or a period of
47 60 months if a rehabilitation is reasonably expected to be completed
48 in distinct phases set forth in written architectural plans and

1 specifications completed before or during the physical work on the
2 rehabilitation.

3 “Transformative project” means a property that is:

4 (a) an income producing property, not including a residential
5 property, whose rehabilitation the authority determines will generate
6 substantial increases in State revenues through the creation of
7 increased business activity within the surrounding area;

8 (b) individually listed on the New Jersey Register of Historic
9 Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.) and
10 which, before the enactment of P.L. , c. (C.) (pending before
11 the Legislature as this bill), received a Determination of Eligibility
12 from the Keeper of the National Register of Historic Places in
13 accordance with the provisions of Part 60 of Title 36 of the Code of
14 Federal Regulations;

15 (c) located within a one-half mile radius of the center point of a
16 transit village, as designated by the New Jersey Department of
17 Transportation; and

18 (d) located within a city of the first class, as classified under
19 N.J.S.40A:6-4.
20

21 4. (New section) a. (1) A business entity, upon successful
22 application to the New Jersey Economic Development Authority, and
23 commitment to the authority to pay each worker employed to perform
24 construction work at the qualified property or transformative project
25 a wage not less than the prevailing wage rate for the worker’s craft
26 or trade, as determined by the Commissioner of Labor and Workforce
27 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.),
28 shall be allowed a credit against the tax otherwise due pursuant to
29 section 5 of P.L.1945, c.162 (C.54:10A-5), the tax imposed on
30 insurers generally pursuant to P.L.1945, c.132 (C.54:18A-1 et. seq.),
31 or the tax imposed on marine insurance companies pursuant to
32 R.S.54:16-1 et. seq., for 40 percent of the cost of rehabilitation paid
33 by the business entity for the rehabilitation of a qualified property or
34 transformative project, if the cost of rehabilitation during a business
35 entity’s selected rehabilitation period is not less than the greater of
36 (1) the adjusted basis of the structure of the qualified property or
37 transformative project used for federal income tax purposes as of the
38 beginning of the business entity’s selected rehabilitation period, or
39 (2) \$5,000. The amount of the credit claimed in any accounting or
40 privilege period shall not reduce the amount of the tax liability to less
41 than the statutory minimum provided in subsection (e) of section 5 of
42 P.L.1945, c.162 (C.54:10A-5).

43 (2) The prevailing wage requirements shall apply to projects that
44 are allowed a tax credit in excess of \$500,000, and shall apply at a
45 qualified property or transformative project during the selected
46 rehabilitation period. In the event a qualified property or
47 transformative project, or the aggregate of all qualified properties and
48 transformative projects approved for awards under the program,

1 constitute a lease of more than 55 percent of a facility, the prevailing
2 wage requirements shall apply to the entire facility.

3 (3) Prior to approval of an application by the authority, the
4 Department of Labor and Workforce Development, the Department
5 of Environmental Protection, and the Department of the Treasury
6 shall each report to the authority whether the business entity is in
7 substantial good standing with the respective department, or has
8 entered into an agreement with the respective department that
9 includes a practical corrective action plan for the business entity. The
10 authority may also contract with an independent third party to
11 perform a background check on the business entity. Following
12 approval of an application by the authority, but prior to the start of
13 any construction or rehabilitation at the qualified property or
14 transformative project, the authority shall enter into a rehabilitation
15 agreement with the business entity. The authority shall negotiate the
16 terms and conditions of the rehabilitation agreement on behalf of the
17 State, but the terms shall require the business entity to consent to the
18 disclosure of tax expenditure information as described in paragraph
19 (8) of subsection b. of section 1 of P.L.2009, c.189 (C.52:27B-20a).

20 (4) A rehabilitation project shall be eligible for a tax credit only
21 if the business entity demonstrates to the authority at the time of
22 application that:

23 (a) without the tax credit, the rehabilitation project is not
24 economically feasible; and

25 (b) a project financing gap exists.

26 b. A business entity may claim a credit under this section during
27 the accounting or privilege period: (1) in which it makes the final
28 payment for the cost of the rehabilitation if the business entity has
29 chosen a selected rehabilitation period of 24 months; or (2) in which
30 a distinct project phase of the rehabilitation is completed if the
31 business entity has chosen a selected rehabilitation period of 60
32 months. The credit may be claimed against any State tax, listed in
33 paragraph (1) of subsection a. of this section, liability otherwise due
34 after any other credits permitted pursuant to law have been applied.
35 The amount of credit claimed in an accounting or privilege period
36 that cannot be applied for that accounting or privilege period due to
37 limitations in this section may be transferred pursuant to section 5 of
38 P.L. , c. (C.) (pending before the Legislature as this bill) or
39 carried over, if necessary, to the nine accounting or privilege periods
40 following the accounting or privilege period for which the credit was
41 allowed.

42 c. A business entity shall submit to the authority satisfactory
43 evidence of the actual cost of rehabilitation, as certified by a certified
44 public accountant, evidence of completion of the rehabilitation or
45 phase, and a certification that all information provided by the
46 business entity to the authority is true, including information
47 contained in the application, the rehabilitation agreement, any
48 amendment to the rehabilitation agreement, and any other

1 information submitted by the business entity to the authority pursuant
2 to sections 2 through 8 of P.L. , c. (C.) (pending before the
3 Legislature as this bill). The business entity, or an authorized agent
4 of the business entity, shall certify under the penalty of perjury that
5 the information provided pursuant to this subsection is true.

6
7 5. (New section) a. The authority shall, in cooperation with the
8 director, establish and administer a corporation business tax credit
9 transfer certificate program and an insurance premiums tax credit
10 transfer certificate program to enable business entities with unused,
11 otherwise allowable amounts of tax credits issued pursuant to
12 sections 2 through 8 of P.L. , c. (C.) (pending before the
13 Legislature as this bill) to exchange these credits, in whole or in part,
14 for private financial assistance prior to the expiration of the tax
15 credit.

16 A certificate issued by the director shall include a statement
17 waiving the rights of the business entity to which the tax credit has
18 been granted to claim any amount of remaining credit against any tax
19 liability.

20 b. A business entity holding an unused, otherwise allowable tax
21 credit issued pursuant to sections 2 through 8 of P.L. , c. (C.)
22 (pending before the Legislature as this bill) may apply to the director
23 for a tax credit transfer certificate pursuant to subsection a. of this
24 section. Upon receipt thereof, the business entity may sell or assign,
25 in full or in part, the tax credit transfer certificate to another taxpayer
26 in exchange for private financial assistance to be provided by the
27 purchaser or assignee of the tax credit transfer certificate to the seller
28 thereof. The developer shall not sell a tax credit transfer certificate
29 allowed under this section for consideration received by the
30 developer of less than 85 percent of the transferred credit amount
31 before considering any further discounting to present value which
32 shall be permitted, except a developer of a residential project
33 consisting of newly-constructed residential units that has received
34 federal low income housing tax credits under 26 U.S.C.
35 s.42(b)(2)(B)(i) may assign a tax credit transfer certificate for
36 consideration of no less than 75 percent subject to the submission of
37 a plan to the authority and the New Jersey Housing and Mortgage
38 Finance Agency to use the proceeds derived from the assignment of
39 tax credits to complete the residential project. The purchaser or
40 assignee of the tax credit transfer certificate may apply the face value
41 of the tax credit transfer certificate acquired against the purchaser's
42 or assignee's applicable tax liability by claiming the tax credit on the
43 purchaser's or assignee's corporation business tax or insurance
44 premiums tax return with the corresponding tax credit transfer
45 certificate accompanying the tax return. A purchaser or assignee of
46 a tax credit transfer certificate pursuant to this section shall not make
47 any subsequent transfers, assignments, or sales of the tax credit
48 transfer certificate.

1 c. The authority shall publish on its Internet website the
2 following information concerning each tax credit transfer certificate
3 approved by the authority and the director pursuant to this section:

- 4 (1) the name of the transferor;
5 (2) the name of the transferee;
6 (3) the value of the tax credit transfer certificate;
7 (4) the State tax against which the transferee may apply the tax
8 credit; and
9 (5) the consideration received by the transferor.

10
11 6. (New section) a. The authority shall, in consultation with the
12 officer and the director, promulgate rules and regulations in
13 accordance with the "Administrative Procedure Act," P.L.1968,
14 c.410 (C.52:14B-1 et seq.), as the officer deems necessary to
15 administer the provisions of sections 2 through 8 of P.L. ,
16 c. (C.) (pending before the Legislature as this bill), including
17 but not limited to rules establishing administrative fees to implement
18 the provisions of sections 2 through 8 of P.L. , c. (C.)
19 (pending before the Legislature as this bill), setting of an annual
20 application submission date, requiring annual reporting by each
21 business entity that receive a tax credit pursuant to sections 2 through
22 8 of P.L. , c. (C.) (pending before the Legislature as this
23 bill), and requiring those reports to include certifications by the
24 Department of Labor and Workforce Development, the Department
25 of Environmental Protection, and the Department of the Treasury that
26 the business entity, and any contractors or subcontractors performing
27 work at the qualified property or transformative project, are in
28 substantial good standing with the respective department, or has
29 entered into an agreement with the respective department that
30 includes a practical corrective action plan for the business entity. The
31 rules and regulations adopted pursuant to this section shall also
32 include a provision to require that business entities forfeit all tax
33 credits awarded in any year in which any such report is not received,
34 and to allow the authority to extend, in individual cases, the deadline
35 for any annual reporting or certification requirement established
36 pursuant to this section.

37 b. For every tax credit allowed pursuant to section 4 of P.L. ,
38 c. (C.) (pending before the Legislature as this bill), the
39 authority, in consultation with the officer, shall certify to the director:
40 the total cost of rehabilitation; that the property meets the definition
41 of qualified property or transformative project, as applicable; and that
42 the rehabilitation has been completed in substantial compliance with
43 the requirements of the Secretary of the Interior's Standards for
44 Rehabilitation pursuant to section 67.7 of Title 36, Code of Federal
45 Regulations. The business entity shall attach the certification to the
46 tax return on which the business entity claims the credit.

47 c. (1) The total amount of credits approved by the authority
48 pursuant to sections 2 through 8 of P.L. , c. (C.) (pending

1 before the Legislature as this bill) shall not exceed the limitations set
2 forth in section 98 of P.L. , c. (C.) (pending before the
3 legislature as this bill).. If the authority approves less than the total
4 amount of tax credits authorized pursuant to this subsection in a fiscal
5 year, the remaining amount, plus any amounts remaining from
6 previous fiscal years, shall be added to the limit of subsequent fiscal
7 years until that amount of tax credits are claimed or allowed. Any
8 unapproved, uncertified, or recaptured portion of tax credits during
9 any fiscal year may be carried over and reallocated in succeeding
10 years.

11 (2) Notwithstanding the provisions of paragraph (1) of this
12 subsection and section 98 of P.L. , c. (C.) (pending before
13 the legislature as this bill) to the contrary, the authority may approve
14 tax credits, pursuant to sections 2 through 8 of P.L. , c. (C.)
15 (pending before the Legislature as this bill), for the rehabilitation of
16 a transformative project in an amount that causes the total amount of
17 credits approved during the fiscal year to exceed the limitations set
18 forth in section 98 of P.L. , c. (C.) (pending before the
19 legislature as this bill), provided that the amount of the excess shall
20 be subtracted from the total amount of credits that may be approved
21 by the authority in the subsequent fiscal year, and the amount of the
22 excess shall not exceed 50 percent of the total tax credits otherwise
23 authorized for the fiscal year.

24 The authority, in consultation with the officer, shall devise criteria
25 for allocating tax credit amounts if the approved amounts combined
26 exceed the total amount in each fiscal year, including rules that
27 allocate over multiple fiscal years a single credit amount granted in
28 excess of \$2,000,000. The criteria shall include a project's historic
29 importance, positive impact on the surrounding neighborhood,
30 economic sustainability, geographic diversity, and consistency with
31 Statewide growth and development policies and plans.

32

33 7. (New section) a. The authority, in collaboration with the
34 director, shall adopt rules for the recapture of an entire or partial tax
35 credit amount allowed under sections 2 through 8 of P.L. ,
36 c. (C.) (pending before the Legislature as this bill). The rules
37 shall require the authority to notify the director of the recapture of an
38 entire or partial tax credit amount. The recapture of funds shall be
39 subject to the State Uniform Tax Procedure Law, R.S.54:48-1 et seq.
40 and recaptured funds shall be deposited in the General Fund of the
41 State.

42 b. If, before the end of five full years after the completion of the
43 rehabilitation of the qualified property or transformative project, a
44 developer that has received a tax credit pursuant to section 4 of
45 P.L. , c. (C.) (pending before the Legislature as this bill)
46 modifies the qualified property or transformative project so that it
47 ceases to meet the requirements for the rehabilitation of a qualified
48 property or transformative project as defined under the program or

1 ceases to meet the requirement of the rehabilitation agreement then
2 the tax credit allowed under the program shall be recaptured in
3 accordance with the rules adopted pursuant to subsection a. of this
4 section.

5 c. In the case of a business entity that has chosen a selected
6 rehabilitation period of 60 months, if the architectural plans change
7 in the course of the phased rehabilitation project so that the
8 rehabilitation of the qualified property or transformative project
9 would, upon the rehabilitation's completion, no longer qualify for a
10 tax credit pursuant to the requirements of sections 2 through 8 of
11 P.L. , c. (C.) (pending before the Legislature as this bill),
12 then the business entity's tax liability for that accounting or privilege
13 period shall be increased by the full amount of the tax credit that the
14 authority had previously granted upon the completion of a distinct
15 prior project phase that the business entity has applied against its tax
16 liability in a prior accounting or privilege period. Any portion of the
17 tax credit that the business entity has not yet used at the time of the
18 disallowance by the officer shall be deemed void.

19
20 8. (New section) On or before December 31 of the fourth year
21 following the effective date of sections 2 through 8 of P.L. ,
22 c. (C.) (pending before the Legislature as this bill), the
23 authority, in consultation with the officer and the director, shall
24 prepare and submit a written report regarding the number and total
25 monetary amount of tax credits granted for the rehabilitation of
26 qualified properties or transformative projects pursuant to section 4
27 of P.L. , c. (C.) (pending before the Legislature as this bill),
28 the geographical distribution of the credits granted, a summary of the
29 tax credit transfer program established pursuant to section 5 of
30 P.L. , c. (C.) (pending before the Legislature as this bill), an
31 evaluation of the effectiveness of the tax credits provided pursuant to
32 sections 2 through 8 of P.L. , c. (C.) (pending before the
33 Legislature as this bill) in promoting the rehabilitation of historic
34 properties, recommendations for administrative or legislative
35 changes to increase the effectiveness of the program, and any other
36 information that the authority, the officer, or the director may deem
37 useful or appropriate. This report shall be submitted to the Governor
38 and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the
39 Legislature.

40
41 9. (New section) Sections 9 through 19 of P.L. , c. (C.)
42 (pending before the Legislature as this bill) shall be known and may
43 be cited as the "Brownfields Redevelopment Incentive Program Act."
44

45 10. (New section) As used in sections 9 through 19 of P.L. ,
46 c. (C.) (pending before the Legislature as this bill):

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

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

4 "Brownfield site" means any former or current commercial or
5 industrial site that is currently vacant or underutilized and on which
6 there has been, or there is suspected to have been, a discharge of a
7 contaminant or on which there is a contaminated building.

8 "Contaminated building" means a structure upon which abatement
9 or removal of asbestos, polychlorinated biphenyls, contaminated
10 wood or paint, or other infrastructure remedial activities is necessary.

11 "Contamination" or "contaminant" means any discharged
12 hazardous substance as defined pursuant to section 3 of P.L.1976,
13 c.141 (C.58:10-23.11b), hazardous waste as defined pursuant to
14 section 1 of P.L.1976, c.99 (C.13:1E-38), pollutant as defined
15 pursuant to section 3 of P.L.1977, c.74 (C.58:10A-3), or hazardous
16 building material, including, but not limited to, asbestos, lead paint,
17 and polychlorinated biphenyl.

18 "Department" means the Department of Environmental
19 Protection.

20 "Developer" means any person that enters or proposes to enter into
21 a redevelopment agreement with the authority pursuant to the
22 provisions of section 13 of P.L. , c. (C.) (pending before the
23 Legislature as this bill).

24 "Director" means the Director of the Division of Taxation in the
25 Department of the Treasury.

26 "Licensed site remediation professional" means an individual who
27 is licensed by the Site Remediation Professional Licensing Board
28 pursuant to section 7 of P.L.2009, c.60 (C.58:10C-7) or the
29 department pursuant to section 12 of P.L.2009, c.60 (C.58:10C-12).

30 "Program" means the Brownfields Redevelopment Incentive
31 Program established by section 11 of P.L. , c. (C.) (pending
32 before the Legislature as this bill).

33 "Project financing gap" means the part of the total remediation
34 cost, including reasonable and appropriate return on investment, that
35 remains to be financed after all other sources of capital have been
36 accounted for, including, but not limited to, developer contributed
37 capital, which shall not be less than 20 percent of the total
38 remediation cost, and investor or financial entity capital or loans for
39 which the developer, after making all good faith efforts to raise
40 additional capital, certifies that additional capital cannot be raised
41 from other sources.

42 "Redevelopment agreement" means an agreement between the
43 authority and a developer under which the developer agrees to
44 perform any work or undertaking necessary for the remediation of a
45 contaminated site located at the site of the redevelopment project,
46 and for the clearance, development or redevelopment, construction,
47 or rehabilitation of any structure or improvement of commercial,

1 industrial, or public structures or improvements within an area of
2 land whereon a brownfield site is located.

3 "Redevelopment project" means a specific construction project or
4 improvement undertaken, pursuant to the terms of a redevelopment
5 agreement, by a developer within an area of land whereon a
6 brownfield site is located. A redevelopment project may involve
7 construction or improvement upon lands, buildings, improvements,
8 or real and personal property, or any interest therein, including lands
9 under water, riparian rights, space rights, and air rights, acquired,
10 owned, developed or redeveloped, constructed, reconstructed,
11 rehabilitated, or improved.

12 "Remediation" or "remediate" means all necessary actions to
13 investigate and clean up or respond to any known, suspected, or
14 threatened discharge of contaminants, including, as necessary, the
15 preliminary assessment, site investigation, remedial investigation,
16 and remedial action, as those terms are defined in section 23 of
17 P.L.1993, c.139 (C.58:10B-1); provided, however, "remediation" or
18 "remediate" shall not include the payment of compensation for
19 damage to, or loss of, natural resources.

20 "Remediation costs" means all reasonable costs associated with
21 the remediation of a contaminated site, except any costs incurred in
22 financing the remediation.

23

24 11. (New section) The Brownfields Redevelopment Incentive
25 Program is established as a program under the jurisdiction of the New
26 Jersey Economic Development Authority. The purpose of the
27 program is to compensate developers of redevelopment projects
28 located on brownfield sites for remediation costs. To implement this
29 purpose, the authority shall issue tax credits. The total value of tax
30 credits approved by the authority shall not exceed the limitations set
31 forth in section 98 of P.L. , c. (C.) (pending before the
32 legislature as this bill).; For the purpose of determining the
33 aggregate value of tax credits approved in a fiscal year, a tax credit
34 shall be deemed to have been approved at the time the authority
35 approves an application for an award of a tax credit. If the authority
36 approves less than the total amount of tax credits authorized pursuant
37 to this section in a fiscal year, the remaining amount, plus any
38 amounts remaining from previous fiscal years, shall be added to the
39 limit of subsequent fiscal years until that amount of tax credits are
40 claimed or allowed. Any unapproved, uncertified, or recaptured
41 portion of tax credits during any fiscal year may be carried over and
42 reallocated in succeeding years.

43

44 12. (New section) a. A developer seeking a tax credit for a
45 redevelopment project shall submit an application to the authority
46 and the department in a form and manner prescribed in regulations
47 adopted by the authority, in consultation with the department,

1 pursuant to the provisions of the "Administrative Procedure Act,"
2 P.L.1968, c.410 (C.52:14B-1 et seq.).

3 b. A redevelopment project shall be eligible for a tax credit only
4 if the developer demonstrates to the authority and the department at
5 the time of application that:

6 (1) except as provided in subsection j. of this section, the
7 developer has not commenced any remediation or clean up at the site
8 of the redevelopment project, except for preliminary assessments and
9 investigations, prior to applying for a tax credit pursuant to this
10 section, but intends to remediate and redevelop the site immediately
11 upon approval of the tax credit;

12 (2) the redevelopment project is located on a brownfield site;

13 (3) without the tax credit, the redevelopment project is not
14 economically feasible;

15 (4) a project financing gap exists;

16 (5) the developer has obtained and submitted to the authority a
17 letter evidencing support for the redevelopment project from the
18 governing body of the municipality in which the redevelopment
19 project is located; and

20 (6) each worker employed to perform remediation, or
21 construction at the redevelopment project shall be paid not less than
22 the prevailing wage rate for the worker's craft or trade, as determined
23 by the Commissioner of Labor and Workforce Development pursuant
24 to P.L.1963, c.150 (C.34:11-56.25 et seq.). The prevailing wage
25 requirements shall apply to redevelopment projects that are allowed
26 a tax credit in excess of \$500,000 for construction work through the
27 completion of the redevelopment project. In the event a
28 redevelopment project, or the aggregate of all redevelopment project
29 approved for an award under the program, constitute a lease of more
30 than 55 percent of a facility, the prevailing wage requirements shall
31 apply to the entire facility.

32 c. A redevelopment project that received a reimbursement
33 pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26
34 through 58:10B-31) shall not be eligible to apply for a tax credit
35 under the program. If the authority receives an application and
36 supporting documentation for approval of a reimbursement pursuant
37 to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through
38 58:10B-31) prior to the effective date of sections 9 through 19 of
39 P.L. , c. (C.) (pending before the Legislature as this bill),
40 then the authority may consider the application and award a tax credit
41 to a developer, provided that the authority shall take final action on
42 all applications for approval of a reimbursement pursuant to sections
43 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through 58:10B-31)
44 no later than July 1, 2019. No applications shall be submitted
45 pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26
46 through 58:10B-31) after the effective date sections 9 through 19 of
47 P.L. , c. (C.) (pending before the Legislature as this bill).

1 d. (1) Prior to approval of an application, the Department of
2 Labor and Workforce Development, the Department of
3 Environmental Protection, and the Department of the Treasury shall
4 each report to the chief executive officer of the authority whether the
5 developer is in substantial good standing with the respective
6 department, or has entered into an agreement with the respective
7 department that includes a practical corrective action plan for the
8 developer. The authority may also contract with an independent third
9 party to perform a background check on the developer. Provided that
10 the developer is in substantial good standing, or has entered into such
11 an agreement, and following approval of an application by the board,
12 the authority shall enter into a redevelopment agreement with the
13 developer, as provided for in section 13 of P.L. , c. (C.)
14 (pending before the Legislature as this bill).

15 (2) The authority, in consultation with the department, may
16 impose additional requirements upon an applicant through rule or
17 regulation adopted pursuant to the provisions of the "Administrative
18 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), if the authority
19 or the department determines the additional requirements to be
20 necessary and appropriate to effectuate the purposes of sections 9
21 through 19 of P.L. , c. (C.) (pending before the Legislature
22 as this bill).

23 e. The authority, in consultation with the department, shall
24 conduct a review of the applications through a competitive
25 application process whereby the authority and the department shall
26 evaluate all applications submitted by a date certain, as if all received
27 applications were submitted on that date. In addition to the eligibility
28 criteria set forth in subsection b. of this section, the authority may
29 consider additional factors that may include, but shall not be limited
30 to: the economic feasibility of the remediation project; the benefit of
31 the remediation project to the community in which the remediation
32 project is located; the degree to which the remediation project
33 enhances and promotes job creation and economic development and
34 addresses environmental concerns of communities that have been
35 historically and disproportionately impacted by environmental
36 hazards; and, if the developer has a board of directors, the extent to
37 which that board of directors is diverse and representative of the
38 community in which the remediation project is located. The
39 authority, in consultation with the department, shall submit
40 applications that comply with the eligibility criteria set forth in this
41 section, fulfill the additional factors considered by the authority
42 pursuant to this subsection, satisfy the submission requirements, and
43 provide adequate information for the subject application, to the board
44 for final approval.

45 f. The authority shall award tax credits to redevelopment
46 projects until either the available tax credits are exhausted or all
47 redevelopment projects that are eligible for a tax credit pursuant to
48 the provisions of sections 9 through 19 of P.L. , c. (C.)

(pending before the Legislature as this bill) receive a tax credit, whichever occurs first. If insufficient funding exists to allow a tax credit to a developer in accordance with the provisions of subsection a. of section 16 of P.L. , c. (C.) (pending before the Legislature as this bill), the authority may offer the developer a value of the tax credit below the amount provided for in subsection a. of section 16 of P.L. , c. (C.) (pending before the Legislature as this bill).

g. A developer shall pay to the authority or to the department, as appropriate, the full amount of the direct costs of an analysis concerning the developer's application for a tax credit, which a third party retained by the authority or department performs, if the authority or department deems such retention to be necessary.

h. If the authority determines that a developer made a material misrepresentation on the developer's application, the developer shall forfeit all tax credits awarded under the program.

i. If circumstances require a developer to amend its application to the authority, then the developer, or an authorized agent of the developer, shall certify to the authority that the information provided in its amended application is true, under the penalty of perjury.

j. A developer that has commenced remediation or clean up at the site of a redevelopment project prior to application may still apply for a tax credit under the program, if the developer certifies to the authority, under the penalty of perjury, that the developer was unaware of the extent of the site contamination when the developer commenced the redevelopment project.

13. (New section) a. Following approval of an application by the board, but prior to the start of any remediation or clean up at the site of the redevelopment project, the authority shall enter into a redevelopment agreement with the developer. The chief executive officer of the authority shall negotiate the terms and conditions of the redevelopment agreement on behalf of the State.

b. The redevelopment agreement shall specify the amount of the tax credit to be awarded to the developer, the date on which the developer shall complete the remediation, and the projected project remediation cost. The redevelopment agreement shall require the developer to submit progress reports to the authority and to the department every six months pursuant to section 15 of P.L. , c. (C.) (pending before the Legislature as this bill). The redevelopment agreement shall also require the developer to consent to the disclosure of tax expenditure information as described in paragraph (8) of subsection b. of section 1 of P.L.2009, c.189 (C.52:27B-20a).

c. The authority shall not enter into a redevelopment agreement with a developer unless:

(1) the redevelopment project complies with standards established by the authority in accordance with the green building manual prepared by the Commissioner of Community Affairs

1 pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding
2 the use of renewable energy, energy-efficient technology, and non-
3 renewable resources to reduce environmental degradation and
4 encourage long-term cost reduction;

5 (2) the redevelopment project complies with the authority's
6 affirmative action requirements, adopted pursuant to section 4 of
7 P.L.1979, c.303 (C.34:1B-5.4); and

8 (3) the developer pays each worker employed to perform
9 remediation work or construction work at the redevelopment project
10 not less than the prevailing wage rate in accordance with the
11 requirements of paragraph (6) of subsection b. of section 12 of
12 P.L. , c. (C.)(pending before the Legislature as this bill) for
13 the worker's craft or trade, as determined by the Commissioner of
14 Labor and Workforce Development pursuant to P.L.1963, c.150
15 (C.34:11-56.25 et seq.).

16 d. The authority shall not enter into a redevelopment agreement
17 with a developer who is liable, pursuant to paragraph (1) of
18 subsection c. of section 8 of P.L.1976, c.141 (C.58:10-23.11g), for
19 the contamination at the brownfield site proposed to be in the
20 redevelopment agreement.

21 e. (1) Except as provided in paragraph (2) of this subsection,
22 the authority shall not enter into a redevelopment agreement for a
23 redevelopment project that includes at least one retail establishment
24 that will have more than 10 employees, or at least one distribution
25 center that will have more than 20 employees, unless the
26 redevelopment agreement includes a precondition that any business
27 that serves as the owner or operator of the retail establishment or
28 distribution center enters into a labor harmony agreement with a labor
29 organization or cooperating labor organizations which represent
30 retail or distribution center employees in the State.

31 (2) A labor harmony agreement shall be required only if the State
32 has a proprietary interest in the redevelopment project and shall
33 remain in effect for as long as the State acts as a market participant
34 in the redevelopment project. The authority may enter into a
35 redevelopment agreement with a developer without the labor
36 harmony agreement required under paragraph (1) of this subsection
37 only if the authority determines that the redevelopment project would
38 not be feasible if a labor harmony agreement is required. The
39 authority shall support the determination by a written finding, which
40 provides the specific basis for the determination.

41 (3) As used in this subsection, "labor harmony agreement" means
42 an agreement between a business that serves as the owner or operator
43 of a retail establishment or distribution center and one or more labor
44 organizations, which requires, for the duration of the agreement: that
45 any participating labor organization and its members agree to refrain
46 from picketing, work stoppages, boycotts, or other economic
47 interference against the business; and that the business agrees to
48 maintain a neutral posture with respect to efforts of any participating

1 labor organization to represent employees at an establishment or
2 other unit in the retail establishment or distribution center, agrees to
3 permit the labor organization to have access to the employees, and
4 agrees to guarantee to the labor organization the right to obtain
5 recognition as the exclusive collective bargaining representatives of
6 the employees in an establishment or unit at the retail establishment
7 or distribution center by demonstrating to the New Jersey State Board
8 of Mediation, Division of Private Employment Dispute Settlement,
9 or a mutually agreed-upon, neutral, third-party, that a majority of
10 workers in the unit have shown their preference for the labor
11 organization to be their representative by signing authorization cards
12 indicating that preference. The labor organization or organizations
13 shall be from a list of labor organizations that have requested to be
14 on the list and that the Commissioner of Labor and Workforce
15 Development has determined represent substantial numbers of retail
16 or distribution center employees in the State.

17 f. The redevelopment agreement shall provide that issuance of
18 a tax credit under the program shall be conditioned upon the
19 subrogation to the department of all rights of the developer to recover
20 remediation costs from any other person who discharges a hazardous
21 substance or is in any way responsible, pursuant to section 8 of
22 P.L.1976, c.141 (C.58:10-23.11g), for a hazardous substance that
23 was discharged at the brownfield site.

24 g. A developer may seek a revision to the redevelopment
25 agreement if the developer cannot complete the remediation on or
26 before the date set forth in the redevelopment agreement. A
27 developer's ability to change the date on which the developer shall
28 complete the remediation shall be subject to the availability of tax
29 credits in the year of the revised date of completion.

30 h. A developer shall submit to the authority satisfactory
31 evidence of the actual remediation costs, as certified by a certified
32 public accountant, evidence of completion of the remediation, and a
33 certification that all information provided by the developer to the
34 authority is true, including information contained in the application,
35 the redevelopment agreement, any amendment to the redevelopment
36 agreement, and any other information submitted by the developer to
37 the authority pursuant to sections 9 through 19 of P.L. ,
38 c. (C.) (pending before the Legislature as this bill). The
39 developer, or an authorized agent of the developer, shall certify under
40 the penalty of perjury that the information provided pursuant to this
41 subsection is true.

42 i. The redevelopment agreement shall include a requirement
43 that the chief executive officer of the authority receive annual reports
44 from the Department of Environmental Protection, the Department of
45 Labor and Workforce Development, and the Department of the
46 Treasury that demonstrating the developer, and each contractors and
47 subcontractor performing work on the redevelopment project, is in
48 substantial good standing with the respective department, or has

1 entered into an agreement with the respective department that
2 includes a practical corrective action plan for the developer. The
3 redevelopment agreement shall also include a provision allowing
4 authority to recapture the tax credits for any year in which any such
5 report is not received. The redevelopment agreement shall also
6 require a developer to engage in on-site consultations with the
7 Division of Workplace Safety and Health in the Department of
8 Health.

9
10 14. (New section) To qualify for a tax credit under the program,
11 a developer shall:

12 a. enter into a memorandum of agreement or other oversight
13 document with the Commissioner of Environmental Protection in
14 accordance with the provisions of section 37 of P.L.1997, c.278
15 (C.58:10B-29); or

16 b. comply with the requirements set forth in subsection b. of
17 section 30 of P.L.2009, c.60 (C.58:10B-1.3) for the remediation of
18 the site of the redevelopment project.

19
20 15. (New section) Commencing with the date six months
21 following the date the authority and a developer execute a
22 redevelopment agreement and every six months thereafter until
23 completion of the project, the developer shall submit an update of the
24 status of the redevelopment project to the authority and to the
25 department, including the remediation costs incurred by the
26 developer for the remediation of the contaminated property located
27 at the site of the redevelopment project. Unless the authority
28 determines that extenuating circumstances exist, the authority's
29 approval of a tax credit shall expire if the authority, the department,
30 or both, do not timely receive the status update required under this
31 section. The authority may rescind an award of tax credits under the
32 program if a redevelopment project fails to advance in accordance
33 with the redevelopment agreement.

34
35 16. (New section) a. Upon completion of the redevelopment
36 project, the developer shall seek certification from the department
37 that:

38 (1) the redevelopment project is complete;

39 (2) the developer complied with the requirements of section 15 of
40 P.L. , c. (C.) (pending before the Legislature as this bill),
41 including the requirements of any memorandum of agreement or
42 other oversight document that the developer may have executed with
43 the Commissioner of Environmental Protection pursuant to that
44 section; and

45 (3) the remediation costs were actually and reasonably incurred.
46 Upon receipt of certification, and confirmation by the authority that
47 the developer's obligations under the redevelopment agreement have
48 been met, a developer shall be awarded a credit against the tax

1 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in an
2 amount not to exceed 40 percent of the actual remediation costs, or
3 40 percent of the projected remediation costs as set forth in the
4 redevelopment agreement, or \$4,000,000, whichever is least. The
5 developer, or an authorized agent of the developer, shall certify that
6 the information provided to the department and the authority
7 pursuant to this subsection is true under the penalty of perjury.

8 b. When filing an application for certification pursuant to
9 subsection a. of this section, the developer shall submit to the director
10 the total remediation costs incurred by the developer for the
11 remediation of the subject property located at the site of the
12 redevelopment project as provided in the redevelopment agreement
13 and certified by a certified public accountant, information concerning
14 the occupancy rate of the buildings or other work areas located on
15 the property subject to the redevelopment agreement, and such other
16 information as the director deems necessary in order to make the
17 certifications and findings pursuant to this section.

18 c. A developer shall apply the credit awarded against the
19 developer's liability for the tax imposed pursuant to section 5 of
20 P.L.1945, c.162 (C.54:10A-5) for the privilege period during which
21 the director awards the developer a tax credit pursuant to subsection
22 a. of this section. A developer shall not carry forward any unused
23 credit. Credits awarded to a partnership shall be passed through to
24 the partners, members, or owners, respectively, pro-rata, or pursuant
25 to an executed agreement among the partners, members, or owners
26 documenting an alternate distribution method provided to the director
27 accompanied by any additional information as the director may
28 prescribe.

29 d. The director shall prescribe the order of priority of the
30 application of the credit awarded under this section and any other
31 credits allowed by law against the tax imposed under section 5 of
32 P.L.1945, c.162 (C.54:10A-5). The amount of the credit applied
33 under this section against the tax imposed pursuant to section 5 of
34 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with
35 any other credits allowed by law, shall not reduce the tax liability to
36 an amount less than the statutory minimum provided in subsection
37 (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

38
39 17. (New section) a. A developer may apply to the director and
40 the chief executive officer of the authority for a tax credit transfer
41 certificate, during the privilege period in which the director awards
42 the developer a tax credit pursuant to section 16 of P.L. ,
43 c. (C.) (pending before the Legislature as this bill), in lieu of
44 the developer being allowed to apply any amount of the tax credit
45 against the developer's State tax liability. The tax credit transfer
46 certificate, upon receipt thereof by the developer from the director
47 and the chief executive officer of the authority, may be sold or
48 assigned, in the privilege period during which the developer receives

1 the tax credit transfer certificate from the director, to another person,
2 who may apply the credit against a tax liability pursuant to section 5
3 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132
4 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231
5 (C.17:32-15), or N.J.S.17B:23-5. The tax credit transfer certificate
6 provided to the developer shall include a statement waiving the
7 developer's right to claim the credit that the developer has elected to
8 sell or assign.

9 b. The developer shall not sell or assign a tax credit transfer
10 certificate allowed under this section for consideration received by
11 the developer of less than 85 percent of the transferred credit amount
12 before considering any further discounting to present value which
13 shall be permitted, except a developer of a residential project
14 consisting of newly-constructed residential units that has received
15 federal low income housing tax credits under 26 U.S.C.
16 s.42(b)(2)(B)(i) may assign a tax credit transfer certificate for
17 consideration of no less than 75 percent subject to the submission of
18 a plan to the authority and the New Jersey Housing and Mortgage
19 Finance Agency to use the proceeds derived from the assignment of
20 tax credits to complete the residential project.. The tax credit transfer
21 certificate issued to a developer by the director shall be subject to any
22 limitations and conditions imposed on the application of State tax
23 credits pursuant to section 16 of P.L. , c. (C.) (pending before
24 the Legislature as this bill) and any other terms and conditions that
25 the director may prescribe.

26 c. A purchaser or assignee of a tax credit transfer certificate
27 pursuant to this section shall not make any subsequent transfers,
28 assignments, or sales of the tax credit transfer certificate.

29 d. The authority shall publish on its Internet website the
30 following information concerning each tax credit transfer certificate
31 approved by the authority and the director pursuant to this section:

- 32 (1) the name of the transferor;
33 (2) the name of the transferee;
34 (3) the value of the tax credit transfer certificate;
35 (4) the State tax against which the transferee may apply the tax
36 credit; and
37 (5) the consideration received by the transferor.

38
39 18. (New section) Beginning the year next following the year in
40 which sections 9 through 19 of P.L. , c. (C.) (pending before
41 the Legislature as this bill) take effect and every two years thereafter,
42 a State college or university established pursuant to chapter 64 of
43 Title 18A of the New Jersey Statutes shall, pursuant to an agreement
44 executed between the State college or university and the authority,
45 prepare a report on the implementation of the program, and submit
46 the report to the authority, the Governor, and, pursuant to section 2
47 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. Each biennial
48 report required under this section shall include a description of each

1 redevelopment project receiving a tax credit under the program, a
 2 detailed analysis of the consideration given in each project to the
 3 factors set forth in sections 12 and 13 of P.L. , c. (C.)
 4 (pending before the Legislature as this bill), the return on investment
 5 for incentives awarded, the redevelopment project's impact on the
 6 State's economy, and any other metrics the State college or university
 7 determines are relevant based upon national best practices. The
 8 authority shall prepare a written response to the report, which the
 9 authority shall submit to the Governor and, pursuant to section 2 of
 10 P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

11
 12 19. (New section) Notwithstanding the provisions of the
 13 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
 14 seq.), to the contrary, the chief executive officer of the authority, in
 15 consultation with the Commissioner of Environmental Protection,
 16 may adopt, immediately upon filing with the Office of
 17 Administrative Law, regulations that the chief executive officer and
 18 commissioner deem necessary to implement the provisions of
 19 sections 9 through 19 of P.L. , c. (C.) (pending before the
 20 Legislature as this bill), which regulations shall be effective for a
 21 period not to exceed 180 days from the date of the filing. The chief
 22 executive officer, in consultation with the Commissioner of
 23 Environmental Protection, shall thereafter amend, adopt, or readopt
 24 the regulations in accordance with the requirements of P.L.1968,
 25 c.410 (C.52:14B-1 et seq.). The rules shall require annual reporting
 26 by developers that receive tax credits pursuant to the program, in
 27 addition to the regular progress updates and .Developers shall obtain
 28 certifications by the Department of Labor and Workforce
 29 Development, the Department of Environmental Protection, and the
 30 Department of the Treasury stating that the developer, and each
 31 contractor and subcontractor performing work on the redevelopment
 32 project, is in substantial good standing with the respective
 33 department, or has entered into an agreement with the respective
 34 department that includes a practical corrective action plan. The rules
 35 and regulations adopted pursuant to this section shall also include a
 36 provision to require that developers forfeit all tax credits awarded in
 37 any year in which any such report is not received, and to allow the
 38 authority to extend, in individual cases, the deadline for any annual
 39 reporting or certification requirement established pursuant to this
 40 section.

41
 42 20. (New section) Sections 20 through 34 of P.L. , c. (C.)
 43 (pending before the Legislature as this bill) shall be known and may
 44 be cited as the "New Jersey Innovation Evergreen Act."

45
 46 21. (New section) As used in sections 20 through 34 of P.L. ,
 47 c. (C.) (pending before the Legislature as this bill):

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

3 "Director" means the Director of the Division of Taxation in the
4 Department of the Treasury.

5 "Follow-on investment" means a subsequent investment made by
6 an investor who has a previous investment in a New Jersey high-
7 growth business.

8 "Fund" means the "New Jersey Innovation Evergreen Fund"
9 established by section 23 of P.L. , c. (C.) (pending before
10 the Legislature as this bill).

11 "High-growth business" means a business that is growing
12 significantly faster than the average growth rate of the economy or is
13 a start-up company that is investing in developing a product or new
14 business model that will allow it to grow significantly faster than the
15 average growth rate of the economy within the next three to five
16 years.

17 "Incentive area" means an area in this State: (1) designated
18 pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196
19 et seq.), as Planning Area 1 (Metropolitan); or (2) that has been
20 designated as a qualified opportunity zone pursuant to 26 U.S.C.
21 s.1400Z-1.

22 "Innovation ecosystem" means funding, programs, and events that
23 support the establishment and expansion of high-growth companies
24 in targeted sectors. Examples of such funding, programs, and events
25 include: mentoring programs for start-ups, meet-up or networking
26 events, funding for locating a business in a collaborative workspace,
27 programs that provide businesses services, and entrepreneurial
28 education to companies.

29 "Opportunity zone" means a federal population census tract in this
30 State that was eligible to be designated as a qualified opportunity
31 zone pursuant to 26 U.S.C. s.1400Z-1 as may be amended.

32 "Principal business operations" means at least 50 percent of the
33 business's employees, who are not primarily engaged in retail sales,
34 reside in the State, or at least 50 percent of the business's payroll for
35 employees not primarily engaged in retail sales is paid to individuals
36 living in this State.

37 "Program" means the New Jersey Innovation Evergreen Program
38 established by section 22 of P.L. , c. (C.) (pending before
39 the Legislature as this bill).

40 "Purchaser" means an entity registered to do business in this State
41 with the Director of the Division of Revenue and Enterprise Services
42 in the Department of the Treasury that purchases an allocation of tax
43 credits under the program.

44 "Qualified business" means a business that, at the time of the first
45 qualified investment in the business and throughout the period of the
46 qualified investment under the program, is registered to do business
47 in this State with the Director of the Division of Revenue and
48 Enterprise Services in the Department of the Treasury; has its

1 principal business operations located in the State and intends to
2 maintain its principal business operations in the State after receiving
3 a qualified investment under the program; is engaged in a targeted
4 industry; and employs fewer than 250 persons at the time of the
5 qualified investment

6 "Qualified investment" means the direct investment of money by
7 the fund in a qualified business for the purchase of shares of stock,
8 with an additional investment in an option or warrant or a follow-on
9 investment, in the discretion of the authority, all of which is matched
10 by an investment by a qualified venture firm.

11 "Qualified venture firm" means a venture firm that is approved by
12 the authority as a qualified venture firm pursuant to section 29 of
13 P.L. , c. (C.) (pending before the Legislature as this bill).

14 "Special purpose vehicle" means an entity controlled by or under
15 common control with a venture firm that is formed solely for the
16 purpose of investing in a New Jersey high-growth business alongside
17 the venture firm.

18 "Targeted industry" means any industry identified from time to
19 time by the authority which shall initially include advanced
20 transportation and logistics, advanced manufacturing, aviation,
21 autonomous vehicle and zero-emission vehicle research or
22 development, clean energy, life sciences, hemp processing,
23 information and high technology, finance and insurance, professional
24 services, film and digital media, and non-retail food and beverage
25 businesses, including food innovation and other innovative industries
26 that disrupt current technologies or business models.

27 "Venture firm" means a partnership, corporation, trust, or limited
28 liability company that invests cash in a business during the early or
29 expansion stages of a business in exchange for an equity stake in the
30 business in which the investment is made. Venture firm may include
31 a venture capital fund, a family office fund, or a corporate investor
32 fund, provided that a professional manager administers the venture
33 firm.

34

35 22. (New section) The New Jersey Innovation Evergreen
36 Program is established as a program under the jurisdiction of the New
37 Jersey Economic Development Authority. The purpose of the
38 program is to invest in innovation as a catalyst for economic growth
39 and to advance the competitiveness of the State's businesses in the
40 global economy. Beginning on the effective date of sections 20
41 through 34 of P.L. , c. (C.) (pending before the Legislature
42 as this bill), the authority shall auction up to \$300,000,000 in tax
43 credits in annual amounts not to exceed the limitations set forth in
44 section 98 of P.L. , c. (C.) (pending before the legislature as
45 this bill). The authority shall not undertake an auction if, exclusive
46 of reserves, including the reserve set aside for follow-on investments
47 pursuant to subsection d. of section 23 of P.L. , c. (C.)
48 (pending before the Legislature as this bill), more than \$15,000,000

1 is available to the authority, from moneys received from any prior
2 auction of tax credits pursuant to the program, to allocate to qualified
3 venture firms.

4
5 23. (New section) a. The authority shall establish and maintain
6 a dedicated fund to be known as the "New Jersey Innovation
7 Evergreen Fund." The authority shall use the money in the fund to
8 carry out the purposes enumerated in subsections b. and c. of this
9 section. The authority shall credit the fund with money paid by
10 purchasers; distributions from payments or repayments made to the
11 authority in accordance with subsection c. of section 31 of P.L. ,
12 c. (C.) (pending before the Legislature as this bill); earnings
13 received, if any, from the investment or reinvestment of money
14 credited to the fund; and any money which, from time to time, may
15 otherwise become available for the purposes of the fund.

16 b. The authority shall allocate the money in the fund to qualified
17 venture firms to make qualified investments of capital in qualified
18 businesses through a special purpose vehicle in accordance with
19 section 30 of P.L. , c. (C.) (pending before the Legislature
20 as this bill) and to pay the administrative, legal, and auditing
21 expenses of the authority incurred in the administration of the
22 program. In addition, the authority shall use 75 basis points of the
23 total amounts deposited in the fund, calculated on an annual basis,
24 for programs administered by the authority that create an innovation
25 ecosystem that supports and promotes high-growth businesses in the
26 State.

27 c. The authority shall deposit into the fund dividends and returns
28 on investments paid to the authority by or on behalf of a qualified
29 business. Upon the fund holding total deposits of \$500,000,000 and
30 thereafter upon a qualified investment in a qualified business
31 achieving a return on investment of twice the original and follow-on
32 investment, 50 percent of any return on investment in excess of twice
33 the original and follow-on investment shall be paid to the General
34 Fund of the State.

35 d. The authority shall account for and calculate reserves for
36 follow-on investments, programs that support the State's innovation
37 ecosystem, and administrative, legal, and auditing expenses of the
38 authority in administering the program. The authority shall not
39 include these reserves when calculating the amount in the fund
40 available for new qualified investments.

41
42 24. (New section) a. The authority shall sell the tax credits
43 authorized pursuant to section 22 of P.L. , c. (C.) (pending
44 before the Legislature as this bill) to purchasers through a
45 competitive auction process.

46 b. The authority shall determine the form and manner in which
47 potential purchasers may bid for tax credits available under the

1 program. To be awarded a tax credit under the program, a potential
2 purchaser shall:

3 (1) specify the requested amount of tax credits, which shall not
4 be less than \$1,000,000;

5 (2) specify the amount the potential purchaser will pay in
6 exchange for the requested amount of tax credits, which shall not be
7 less than 85 percent of the requested dollar amount of tax credits;

8 (3) commit to serve on the New Jersey Innovation Evergreen
9 Advisory Board, established pursuant to section 32 of P.L. ,
10 c. (C.) (pending before the Legislature as this bill), and to
11 otherwise provide mentorship, networking, and collaboration
12 opportunities to qualified businesses that receive funding under the
13 program; and

14 (4) provide any other information that the chief executive officer
15 of the authority determines is necessary.

16 c. Prior to an auction, the authority shall establish and disclose
17 to bidders the weighted criteria the authority will utilize, which the
18 authority shall base on the price offered to purchase the tax credits
19 and the quality of the mentorship and networking opportunities and
20 other support of the State's innovation ecosystem offered by a
21 purchaser in its bid. The authority may pro rate the amount of tax
22 credits allocated to each purchaser. A potential purchaser that
23 submits a bid for tax credits under this section shall receive a written
24 notice from the authority indicating whether the authority has
25 approved it as a purchaser of tax credits and, if so, the amount of tax
26 credits approved.

27 d. Except as provided in section 22 of P.L. , c. (C.)
28 (pending before the Legislature as this bill), the authority shall hold
29 one competitive auction per calendar year.

30 e. The authority may contract with an independent third party to
31 conduct the competitive bidding process through which State tax
32 credits issued by the authority may be sold.

33

34 25. (New section) a. A purchaser that submits a successful bid
35 for the purchase of tax credits pursuant to section 24 of P.L. ,
36 c. (C.) (pending before the Legislature as this bill) shall enter
37 into a contract with the authority that includes payment information
38 and the commitments made by the purchaser in its auction bid. A
39 purchaser that submits a successful bid for the purchase of tax credits
40 pursuant to section 24 of P.L. , c. (C.) (pending before the
41 Legislature as this bill) shall pay by wire transfer the amount
42 specified in its auction bid to the authority for deposit into the fund.
43 Upon receipt thereof, the chief executive officer shall notify the
44 director to issue tax credits in the amount approved. Failure by the
45 purchaser to pay the amount agreed upon on time may disqualify the
46 purchaser from purchasing the tax credits and the authority may
47 reassign the right to purchase the credits to another bidder. Failure
48 by the purchaser to adhere to the commitments made in its auction

1 bid may disqualify the purchaser from participating in future auctions
2 and may result in the recapture of a portion of the tax credits.

3 b. The authority shall credit to the fund any money paid to the
4 authority by a purchaser for an allocation of tax credits under the
5 program.

6 c. The authority shall ensure that no undue financial advantage
7 shall inure to a purchaser that also is: managing a qualified venture
8 firm; beneficially owning, through rights, options, convertible
9 interests, or otherwise, more than 15 percent of the voting securities
10 or other voting ownership interests of a qualified venture firm; or
11 controlling the direction of investments for a qualified venture firm.
12 The chief executive officer of the authority shall certify that the
13 authority is monitoring the activities of such purchasers and has taken
14 appropriate steps to ensure no undue financial advantage inures to the
15 purchasers.

16

17 26. (New section) a. A purchaser shall apply a credit awarded
18 pursuant to sections 20 through 34 of P.L. , c. (C.) (pending
19 before the Legislature as this bill) against the State tax liability due
20 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) of the
21 purchaser for the current privilege period as of the date of the credit's
22 approval. A purchaser may carry forward an unused credit resulting
23 from the limitations of subsection b. of this section, if necessary, for
24 use in the seven privilege periods next following the privilege period
25 for which the credit is awarded.

26 b. The director shall prescribe the order of priority of the
27 application of the credits awarded under sections 20 through 34 of
28 P.L. , c. (C.) (pending before the Legislature as this bill) and
29 any other credits allowed by law. The amount of a credit applied
30 under sections 20 through 34 of P.L. , c. (C.) (pending before
31 the Legislature as this bill) against the tax imposed pursuant to
32 section 5 of P.L.1945, c.162 (C.54:10A-5) for a privilege period,
33 together with any other credits allowed by law, shall not reduce the
34 tax liability of the purchaser to an amount less than the statutory
35 minimum provided in subsection (e) of section 5 of P.L.1945, c.162
36 (C.54:10A-5).

37

38 27. (New section) a. A purchaser may apply to the authority and
39 the director for a tax credit transfer certificate, in the privilege period
40 during which the director allows the purchaser a tax credit pursuant
41 to sections 20 through 34 of P.L. , c. (C.) (pending before
42 the Legislature as this bill), in lieu of the purchaser being allowed to
43 apply any amount of the tax credit against the purchaser's State tax
44 liability. A tax credit may be sold or assigned, in full or in part, to
45 another person that may have a tax liability pursuant to section 5 of
46 P.L.1945, c.162 (C.54:10A-5). The tax credit transfer certificate
47 provided to the purchaser shall include a statement waiving the

1 purchaser's right to claim the credit that the purchaser has elected to
2 sell or assign.

3 b. The purchaser shall not sell or assign a tax credit transfer
4 certificate allowed under this section for consideration received by
5 the purchaser of less than 85 percent of the transferred credit amount
6 before considering any further discounting to present value which
7 shall be permitted. The tax credit transfer certificate issued to a
8 purchaser by the director shall be subject to any limitations and
9 conditions imposed on the application of State tax credits pursuant to
10 section 26 of P.L. , c. (C.) (pending before the Legislature
11 as this bill) and any other terms and conditions that the director may
12 prescribe.

13 c. A buyer or assignee of a tax credit transfer certificate pursuant
14 to this section shall not make any subsequent transfers, assignments,
15 or sales of the tax credit transfer certificate.

16 d. Ten percent of the consideration received by a purchaser from
17 the sale or assignment of a tax credit transfer certificate pursuant to
18 this section shall be remitted to the director and deposited in the
19 General Fund of the State.

20 e. The authority shall publish on its Internet website the
21 following information concerning each tax credit transfer certificate
22 approved by the authority and the director pursuant to this section:

- 23 (1) the name of the transferor;
24 (2) the name of the transferee;
25 (3) the value of the tax credit transfer certificate;
26 (4) the State tax against which the transferee may apply the tax
27 credit; and
28 (5) the consideration received by the transferor.
29

30 28. (New section) a. The authority shall establish an application
31 process and determine the form and manner through which a venture
32 firm may make and file an application for certification as a qualified
33 venture firm. The authority may accept applications on a rolling
34 basis or on a date set by the authority.

35 b. In evaluating applicants for certification as a qualified venture
36 firm, the authority shall establish weighted criteria by which the
37 authority will evaluate all venture firms applying in the same
38 calendar year and shall establish a minimum acceptable score. The
39 criteria shall include, but not be limited to:

- 40 (1) the management structure of the applicant, including:
41 (a) quality of the leadership, including willingness to work with
42 the authority to support targeted industries and the innovation
43 ecosystem in the State, and to locate in the State;
44 (b) the investment experience of the principals with qualified
45 businesses;
46 (c) the knowledge, experience, and capabilities of the applicant
47 in subject areas relevant to high-growth businesses in the State;

- 1 (d) the tenure and turnover history of principals and senior
2 investment professionals of the applicant;
- 3 (e) whether the State's investment with the applicant under this
4 program would exceed 15 percent of the total invested in the
5 applicant by all investors, including investments in any special
6 purpose vehicles;
- 7 (f) the applicant's stage of fundraising; and
- 8 (g) whether fees, expenses, and the remuneration of the general
9 partner or manager are similar to those of peer investors;
- 10 (2) the applicant's investment strategy, including:
- 11 (a) the applicant's track record of investing in high-growth
12 businesses;
- 13 (b) whether the investment strategy of the applicant is focused on
14 high-growth businesses, including the percentage of the investment
15 identified to be invested in New Jersey or surrounding geographic
16 areas; and
- 17 (c) the performance history of the general partner or fund
18 manager based on a review of investment returns on individual funds
19 on an absolute basis and relative to peers; and
- 20 (3) The location of the applicant's venture firm and the proposed
21 structure of the applicant venture firm's investments in qualified
22 businesses, with preference given to applicant venture firms that are
23 located in incentive areas and to applicant venture firms that agree to
24 dedicate a greater portion of qualified investments into qualified
25 businesses located within incentive areas.
- 26
- 27 29. (New section) a. The authority shall certify or refuse to
28 certify a venture firm as a qualified venture firm based on the criteria
29 for certification set forth in section 28 of P.L. , c. (C.)
30 (pending before the Legislature as this bill), and subsections b. and
31 c. of this section.
- 32 b. The authority shall not certify a venture firm as a qualified
33 venture firm if the venture firm has: (1) an equity capitalization, net
34 assets, or written commitments of less than \$10,000,000 in the form
35 of cash or cash equivalents on the date the determination for
36 certification is made; or (2) fewer than two principals or persons
37 employed to direct the qualified investment of capital with at least
38 five years of money management experience in the venture capital or
39 private equity sectors on the date the determination for certification
40 is made. The authority may adopt, pursuant to the provisions of the
41 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
42 seq.), rules setting forth additional disqualifying criteria and
43 adjusting the minimum equity capitalization, net assets, or written
44 commitments of a qualified venture firm.
- 45 c. Prior to certifying a venture firm as a qualified venture firm,
46 the Department of Labor and Workforce Development, the
47 Department of Environmental Protection, and the Department of the
48 Treasury shall each report to the chief executive officer of the

1 authority whether the venture firm is in substantial good standing
2 with the respective department, or has entered into an agreement with
3 the respective department that includes a practical corrective action
4 plan for the venture firm. The authority may also contract with an
5 independent third party to perform a background check on the
6 venture firm.

7 d. The authority shall provide written notification to each
8 venture firm that is certified as a qualified venture firm by the
9 authority and shall provide written notification to each venture firm
10 that the authority refuses to certify as a qualified venture firm,
11 communicating in detail the grounds for the authority's refusal. The
12 authority shall review each qualified venture firm annually for the
13 disqualifying criteria set forth in subsection b. of this section or other
14 reasonable industry-accepted standards as determined by the
15 authority. The authority may decertify a qualified venture firm at any
16 time pursuant to the disqualifying criteria set forth in subsection b.
17 of this section. Decertification shall not affect any previously made
18 qualified investment or the fund's commitment to make a follow-on
19 investment in a qualified business.

20
21 30. (New section) a. (1) The authority is authorized to allocate
22 money credited to the fund to one or more qualified venture firms for
23 qualified investments at the times, in the amounts, and subject to the
24 terms and conditions that the authority shall determine to be
25 necessary and appropriate to effectuate the purposes of sections 20
26 through 34 of P.L. , c. (C.) (pending before the Legislature
27 as this bill); provided that no more than two qualified investments
28 shall be made with each qualified venture firm in a calendar year.

29 (2) Each qualified investment shall not exceed \$5,000,000 in
30 initial investment, exclusive of follow-on investments; provided,
31 however, if a qualified investment is in a business: (a) which utilizes
32 intellectual property that is core to the its business model and was
33 developed at a New Jersey-based college or university; (b) is
34 considered a university spin-off business as determined by the
35 authority; or (c) is certified by the State as a "minority business" or a
36 "women's business" pursuant to P.L.1986, c.195 (C.52:27H-21.17 et
37 seq.), then the qualified investment shall not exceed \$6,250,000 in
38 initial investment, exclusive of follow-on investments.

39 (3) The fund shall not invest in a qualified venture firm if the
40 authority determines that an undue financial advantage would inure
41 to a purchaser if the investment occurs or if the investment would be
42 inconsistent with the investment policies and goals of the State.

43 (4) The authority shall have a goal for 25 percent of the fund
44 money that is allocated to qualified venture firms is reserved for
45 investment in businesses located in opportunity zones.

46 (5) Within one year of the effective date of P.L. , c. (C.)
47 (pending before the Legislature as this bill), the authority shall
48 undertake a disparity study of investment by venture firms in women-

1 and minority-owned business enterprises in this State. Based on the
2 finding of the disparity study, the authority, following board
3 approval, may institute a set-aside plan to ensure that fund money
4 allocated to qualified venture firms is reserved for investment in
5 women- and minority-owned business enterprises in this State.

6 b. The authority shall make and enter into an agreement with
7 each qualified venture firm to which the authority allocates money
8 under the program. The agreement shall include provisions that
9 require the qualified venture firm to:

10 (1) make investments in qualified businesses that equal or exceed
11 the amount of capital received by the qualified venture firm from the
12 fund under the program;

13 (2) cause an audit of the qualified venture firm's books and
14 accounts, which a certified public accountant, who is licensed in
15 accordance with the "Accountancy Act of 1997," P.L.1997, c.259
16 (C.45:2B-42 et seq.), or licensed in accordance with the laws of
17 another state, shall conduct at least once in each year in which the
18 qualified venture firm is in receipt of fund money or in which the
19 qualified venture firm is responsible for the management of fund
20 money allocated to the qualified venture firm by the authority;

21 (3) enter into an agreement with each qualified business that
22 receives a qualified investment, which agreement shall, at a
23 minimum, require the qualified business to use the qualified
24 investment of capital to support its business operations in this State
25 and to provide the information required under section 31 of P.L. ,
26 c. (C.) (pending before the Legislature as this bill);

27 (4) upon the identification of a qualified investment, create a
28 special purpose vehicle for the qualified investment of the fund;

29 (5) upon the identification of a qualified investment, indicate the
30 amount of follow-on investment the authority should reserve, and
31 periodically provide updates concerning this amount;

32 (6) agree that the qualified venture firm will publicize its
33 participation in the "New Jersey Innovation Evergreen Fund;"

34 (7) consent to the authority publicly disclosing the qualified
35 venture firm on the list of qualified investment firms participating in
36 the program; and

37 (8) consent to the disclosure of tax expenditure information as
38 described in paragraph (8) of subsection b. of section 1 of P.L.2009,
39 c.189 (C.52:27B-20a).

40 c. A qualified venture firm that has made and entered into an
41 agreement with the authority in accordance with subsection b. of this
42 section is authorized to make qualified investments of capital in one
43 or more qualified businesses from fund money allocated to the
44 qualified venture firm by the authority at the times, in the amounts,
45 and subject to the terms and conditions that the qualified venture firm
46 determines to be necessary and appropriate. The authority may limit
47 the amount of allocated fund money that a qualified venture firm
48 invests in a qualified business based upon the size of investments the

1 qualified business has received, the source of the investments, and
2 the industry in which the qualified business is engaged.

3
4 31. (New section) a. A qualified venture firm shall annually
5 report to the authority:

6 (1) the amount of the qualified investment, if any, uninvested at
7 the end of the preceding calendar year;

8 (2) all qualified investments made during the preceding calendar
9 year, including the number and wages of employees of each qualified
10 business at the time the venture firm made the qualified investment
11 and as of December 31 of that year;

12 (3) for any qualified investment in which the qualified venture
13 firm no longer has a position as of the end of the calendar year, the
14 number of employees of the business as of the date the investment
15 was terminated;

16 (4) financials, audited by a certified public accountant, who is
17 licensed in accordance with the "Accountancy Act of 1997,"
18 P.L.1997, c.259 (C.45:2B-42 et seq.), or licensed in accordance with
19 the laws of another state, of the qualified venture firm and the special
20 purpose vehicle that include a consolidated summary of the
21 performance of the qualified venture firm. Any information about the
22 performance of an individual business, including the qualified
23 business, shall be considered confidential and not subject to the
24 requirements of P.L.1963, c.73 (C.47:1A-1 et seq.); and

25 (5) any other information the authority requires to ascertain the
26 impact of the program on the economy of the State.

27 b. With respect to the information required under paragraphs (1)
28 through (4) of subsection a. of this section, the report shall include a
29 statement prepared by a certified public accountant, who is licensed
30 in accordance with the "Accountancy Act of 1997," P.L.1997, c.259
31 (C.45:2B-42 et seq.), or licensed in accordance with the laws of
32 another state, certifying that the accountant has reviewed the report
33 and that the information and representations contained in the report
34 are accurate.

35 c. Not later than 60 days after the sale or other disposition of a
36 qualified investment, the qualified venture firm shall provide to the
37 authority a report on the amount of the stock sold or disposed of and
38 the consideration received for the sale or disposition. The report shall
39 detail the cumulative effect of sequentially introduced positive or
40 negative values and include the gross income and details of any
41 offsetting fees that reduce the net distribution. Any dividend or
42 proceeds received by the authority for the sale or other disposition of
43 a qualified investment shall be deposited into the fund and used in
44 accordance with section 23 of P.L. , c. (C.) (pending before
45 the Legislature as this bill).

46 d. A qualified venture firm shall, as required at the discretion of
47 the authority, submit to the authority satisfactory evidence
48 supporting the information detailed in the annual report and

1 certifying that all information provided by the qualified venture firm
2 to the authority is true, including information contained in the
3 application for certification, the agreement between the qualified
4 venture firm and authority, any amendment to that agreement, and
5 any other information submitted by the qualified venture firm to the
6 authority pursuant to sections 20 through 34 of P.L. , c. (C.)
7 (pending before the Legislature as this bill). The qualified venture
8 firm, or an authorized agent of the qualified venture firm, shall certify
9 under the penalty of perjury that the information provided pursuant
10 to this section is true.

11

12 32. (New section) The New Jersey Innovation Evergreen
13 Advisory Board is established in but not of the authority for the
14 purposes of providing guidance and networking opportunities to
15 qualified businesses. The members of the board shall serve in a
16 voluntary capacity, to be appointed through a process to be
17 determined by the chief executive officer of the authority from
18 among purchasers and other strategic partners identified by the chief
19 executive officer, to support the State's innovation ecosystem. The
20 terms of the voluntary members so appointed, after the initial
21 appointments, shall be one year, and each member may be
22 reappointed.

23

24 33. (New section) Beginning the year next following the year in
25 which sections 20 through 34 of P.L. , c. (C.) (pending before
26 the Legislature as this bill) take effect and every two years thereafter,
27 the authority shall prepare a report on the implementation of the
28 program, and submit the report to the Governor, and, pursuant to
29 section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. Each
30 biennial report required under this section shall include the names
31 and locations of qualified businesses receiving capital; the amount of
32 each qualified investment; a report by a certified public accountant,
33 who is licensed in accordance with the "Accountancy Act of 1997,"
34 P.L.1997, c.259 (C.45:2B-42 et seq.), or licensed in accordance with
35 the laws of another state, of the consolidated performance of the fund;
36 the cumulative amount of capital committed by purchasers; the rate
37 and amount of fees charged by each qualified venture firm, including
38 performance-based earnings and carried interest; the classification of
39 each qualified business, according to the industrial sector and the size
40 of the qualified business; the State's return on investment; the total
41 number of jobs created in the State by the qualified business after the
42 qualified investment; the average wages paid for the jobs; and any
43 other metrics the authority determines are relevant based upon
44 national best practices.

45

46 34. (New section) Notwithstanding the provisions of the
47 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
48 seq.), to the contrary, the chief executive officer of the authority may

1 adopt, immediately, upon filing with the Office of Administrative
2 Law, regulations that the chief executive officer deems necessary to
3 implement the provisions of sections 20 through 34 of P.L. ,
4 c. (C.) (pending before the Legislature as this bill), which
5 regulations shall be effective for a period not to exceed 180 days from
6 the date of the filing. The chief executive officer shall thereafter
7 amend, adopt, or readopt the regulations in accordance with the
8 requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).
9

10 35. (New section) Sections 35 through 42 of P.L. , c. (C.)
11 (pending before the Legislature as this bill) shall be known and may
12 be cited as the "Food Desert Relief Act."
13

14 36. (New section) a. The Legislature finds and declares that: (1)
15 there are certain areas of the State, known as "food desert"
16 communities, in which residents are unable to obtain reasonable and
17 adequate access to nutritious foods and, in particular, to fresh fruits
18 and vegetables; (2) the inaccessibility of nutritious food in food
19 desert communities has been attributed, in large part, to the absence
20 of supermarkets and grocery stores in those communities; (3) low-
21 income families are more likely than others to live in food desert
22 communities and to lack the transportation or financial resources
23 necessary to reach distant wholesome markets; and (4) the
24 establishment of financial incentives to supermarkets, grocery stores,
25 mid-sized food retailers, and small food retailers is a reasonable
26 means by which to ensure that residents of food desert communities
27 in the State are provided with reasonable access to nutritious, fresh,
28 and delicious produce, and are afforded the opportunity thereby to
29 make healthier eating choices for themselves and for their families.

30 b. The Legislature therefore determines that it is both reasonable
31 and necessary to authorize the New Jersey Economic Development
32 Authority to establish a program that provides financial assistance to
33 supermarkets, grocery stores, mid-sized food retailers, and small
34 food retailers to establish and retain locations in food desert
35 communities in order to provide a consistent, and easily accessible,
36 source of fresh produce to residents in those communities.
37

38 37. (New section) As used in sections 35 through 42 of P.L. ,
39 c. (C.) (pending before the Legislature as this bill):

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

43 "Department" means the Department of Agriculture.

44 "Eligible equipment costs" means expenditures for the
45 procurement of such equipment as is needed to allow a mid-sized
46 food retailer or small food retailer to store, refrigerate, or otherwise
47 maintain nutritious foods, including fresh fruits and vegetables, for

1 retail purposes, but within a standard range based upon industry
2 standards, as determined by the authority.

3 "Eligible technology costs" means expenditures for the
4 procurement or upgrade of technology systems to support online
5 ordering and e-commerce, including but is not limited to computer
6 hardware, software, internet connectivity, and database systems.

7 "Food desert community" means a physically contiguous area in
8 the State in which residents have limited access to nutritious foods,
9 such as fresh fruits and vegetables, through supermarkets and grocery
10 stores, and which has been designated as a food desert community
11 pursuant to subsection b. of section 38 of P.L. , c. (C.)
12 (pending before the Legislature as this bill).

13 "Initial operating costs" means expenditures for the operation of a
14 supermarket or grocery store within the first three years after opening
15 to the public, but within a standard range based upon industry
16 standards, as determined by the authority.

17 "Mid-sized food retailer" means a medium-sized retail outlet with
18 at least 2,500 but less than 16,000 square feet, of which at least 75
19 percent is occupied by food and related products.

20 "Program" means the Food Desert Relief Program established in
21 section 38 of P.L. , c. (C.) (pending before the Legislature
22 as this bill).

23 "Project cost" means the costs incurred in connection with the
24 establishment of a supermarket or grocery store within a food desert
25 community by the developer until the opening of the supermarket or
26 grocery store to the public, including the costs relating to lands,
27 buildings, improvements, real or personal property, or any interest
28 therein, including leases discounted to present value, including lands
29 under water, riparian rights, space rights and air rights acquired,
30 owned, developed or redeveloped, constructed, reconstructed,
31 rehabilitated or improved, any environmental remediation costs, plus
32 costs not directly related to construction, of an amount not to exceed
33 20 percent of the total costs, capitalized interest paid to third parties,
34 and the cost of infrastructure improvements, including ancillary
35 infrastructure projects.

36 "Project financing gap" means the part of the total project cost,
37 including return on investment, that remains to be financed after all
38 other sources of capital have been accounted for, including, but not
39 limited to, developer-contributed capital, which shall not be less than
40 20 percent of the total project cost, which may include the value of
41 any existing land and improvements in the project area owned or
42 controlled by the developer, and the cost of infrastructure
43 improvements in the public right-of-way, and investor or financial
44 entity capital or loans for which the developer, after making all good
45 faith efforts to raise additional capital, certifies that additional capital
46 cannot be raised from other sources on a non-recourse basis

47 "Small food retailer" means a small retail outlet, with less than
48 2,500 square feet, that sells a limited selection of foods and other

1 products, such as a bodega, convenience store, corner store,
2 neighborhood store, small grocery, or small-scale store.

3 "Supermarket or grocery store" means a retail outlet with at least
4 16,000 square feet, of which at least 90 percent is occupied by food
5 and related products.

6
7 38. (New section) a. (1) There is established the Food Desert
8 Relief Program to be administered by the New Jersey Economic
9 Development Authority. The program shall include tax credit
10 components, as provided in sections 39 and 40 of P.L. ,
11 c. (C. and C.) (pending before the Legislature as this bill),
12 in order to incentivize businesses to establish and retain new
13 supermarkets and grocery stores in food desert communities.

14 (2) The total value of tax credits approved by the authority
15 pursuant to sections 39 and 40 of P.L. , c. (C. and C.)
16 (pending before the Legislature as this bill) shall not exceed the
17 limitations set forth in section 98 of P.L. , c. (C.) (pending
18 before the legislature as this bill)..

19 b. The authority, in consultation with the Department of
20 Agriculture and the Department of Community Affairs, shall initially
21 designate not more than 50 separate geographic areas that are most
22 in need of a supermarket or grocery store as food desert communities
23 in this State. The Department of Agriculture and the Department of
24 Community Affairs shall develop criteria for the designation of food
25 desert communities, but each separate food desert community shall
26 consist of a distinct geographic area with a single defined border.
27 The criteria shall, at a minimum, incorporate analysis of municipal
28 or census tract poverty statistics, food desert information from the
29 Economic Research Service of the United States Department of
30 Agriculture, and healthier food retail tract information from the
31 federal Centers for Disease Control and Prevention. The departments
32 may also consider data related to municipal or census tract population
33 size and population density in making food desert community
34 designations pursuant to this subsection. The authority, in
35 consultation with the departments, shall continuously evaluate areas
36 previously designated as food desert communities and assess whether
37 they still meet the criteria for designation as a food desert community
38 and may designate additional food desert communities once every
39 three years following the effective date of sections 35 through 42 of
40 P.L. , c. (C.) (pending before the Legislature as this bill).

41 c. To receive a tax credit under section 39 or 40 of P.L. ,
42 c. (C. or C.) (pending before the Legislature as this bill),
43 a taxpayer shall submit an application to the authority in the form and
44 manner prescribed by the authority and in accordance with criteria
45 established by the authority. Following the approval of an
46 application, the authority may, pursuant to an award agreement,
47 award tax credits to an eligible taxpayer that:

- 1 (1) develops and opens for business to the public the first or
2 second supermarket or grocery store in a designated food desert
3 community; or
- 4 (2) owns and operates the first or second supermarket or grocery
5 store in a designated food desert community.
- 6 d. (1) The authority may sell all or a portion of the tax credits
7 made available in a fiscal year pursuant to subsection a. of this
8 section and dedicate the proceeds from such sale to provide grants
9 and loans to qualifying supermarkets, grocery stores, mid-sized food
10 retailers, and small food retailers. The amount of any grant or loan
11 provided pursuant to this subsection shall be in accordance with the
12 need of the supermarket, grocery store, mid-sized food retailer, or
13 small food retailer, as determined by the authority. The authority
14 shall sell tax credits pursuant to this section in the manner determined
15 by the authority; provided, however, the authority shall not sell tax
16 credits for less than 85 percent of the tax credit amount. Grants and
17 loans made available pursuant to this subsection shall be awarded to
18 entities that:
- 19 (a) are eligible for tax credits under subsection c. of this section in
20 lieu of tax credits; or
- 21 (b) own and operate a mid-sized food retailer or small food retailer
22 that commits to selling nutritious foods, including fresh fruits and
23 vegetables, in a designated food desert community.
- 24 (2) A mid-sized food retailer or small food retailer shall submit
25 an application to the authority to receive a grant or loan pursuant to
26 this subsection. The application shall be submitted in the form and
27 manner prescribed by the authority and in accordance with criteria
28 established by the authority. An entity eligible for a grant or loan
29 under subparagraph (a) of paragraph (1) of this subsection shall not
30 be required to submit a separate application to the authority for the
31 grant or loan, provided that the entity has submitted an application to
32 the authority pursuant to subsection c. of this section.
- 33 (3) Prior to awarding a grant or loan to a mid-sized food retailer
34 or small food retailer pursuant to this subsection, the Department of
35 Labor and Workforce Development, the Department of
36 Environmental Protection, and the Department of the Treasury shall
37 each report to the chief executive officer of the authority whether a
38 qualifying mid-sized food retailer or small food retailer is in
39 substantial good standing with the respective department, or has
40 entered into an agreement with the respective department that
41 includes a practical corrective action plan for the mid-sized food
42 retailer or small food retailer. The authority may also contract with
43 an independent third party to perform a background check on the
44 entity.
- 45 (4) A mid-sized food retailer or small food retailer shall, as
46 required at the discretion of the authority, submit to the authority
47 satisfactory information pertaining to the eligible equipment costs
48 and eligible technology costs, as certified by a certified public

1 accountant, certifications that all information provided by the mid-
2 sized food retailer or small food retailer to the authority is true,
3 including information contained in the application, any agreement
4 pertaining to the award of grants or loans under the program, any
5 amendment to such an agreement, and any other information
6 submitted by the mid-sized food retailer or small food retailer to the
7 authority pursuant to sections 35 through 42 of P.L. , c. (C.)
8 (pending before the Legislature as this bill), and evidence of the
9 eligible equipment costs and eligible technology costs of the mid-
10 sized food retailer or small food retailer. The mid-sized food retailer
11 or small food retailer, or an authorized agent of the mid-sized food
12 retailer or small food retailer, shall certify under the penalty of
13 perjury that the information provided pursuant to this subsection is
14 true.

15 e. The authority may provide technical assistance to any entity
16 that is eligible for a tax credit, grant, or loan under this section. The
17 technical assistance shall provide instructions to qualifying
18 supermarkets, grocery stores, and mid-sized food retailer or small
19 food retailers concerning best practices increasing the accessibility
20 of nutritious foods in food desert communities. Technical assistance
21 shall be made available in English as well as the two most commonly
22 spoken languages in New Jersey other than English. At the discretion
23 of the authority, technical assistance may be provided in addition to,
24 or in lieu of, any tax credit, grant, or loan awarded under sections 35
25 through 42 of P.L. , c. (C.) (pending before the Legislature
26 as this bill).

27 f. (1) The authority shall require that any tax credits, grants,
28 or loans awarded by the authority under the program be utilized by
29 the recipient for one or more of the following purposes, which shall
30 be set forth in the award agreement:

31 (a) to mitigate a project financing gap;

32 (b) to mitigate the initial operating costs of the supermarket or
33 grocery store; or

34 (c) to mitigate the eligible equipment costs or eligible technology
35 costs of the mid-sized food retailer or small food retailer in order to
36 make nutritious foods more accessible and affordable to residents
37 within food deserts; or

38 (d) to support initiatives to ensure food security of residents in
39 food desert communities.

40 (2) The value of tax credits or grants awarded to individual
41 entities under the program shall not exceed:

42 (a) in the case of an entity eligible under paragraph (1) of
43 subsection c. of this section, 40 percent of the total project cost for
44 the first supermarket or grocery store in a designated food desert
45 community, and 20 percent of the total project cost for the second
46 supermarket or grocery store in the food desert community; and

47 (b) in the case of an entity eligible under paragraph (2) of
48 subsection c. of this section, the initial operating costs of the first

1 supermarket or grocery store in a designated food desert community,
2 and one-half of the initial operating costs of the second supermarket
3 or grocery store in the food desert community; and

4 (c) in the case of an entity eligible for a grant or loan under
5 subparagraph (b) of paragraph (1) of subsection d. of this section, the
6 eligible equipment costs and eligible technology costs of the mid-
7 sized food retailer or small food retailer.

8 g. An entity that develops and opens a new supermarket or
9 grocery store in a designated food desert community shall be eligible
10 for a tax credit only if the entity demonstrates to the authority at the
11 time of application that each worker employed to perform
12 construction at the project shall be paid not less than the prevailing
13 wage rate for the worker's craft or trade, as determined by the
14 Commissioner of Labor and Workforce Development pursuant to
15 P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379
16 (C.34:11-56.58 et seq.).

17 h. (1) Except as provided in paragraph (2) of this subsection, a
18 labor harmony agreement shall be required if the State has a
19 proprietary interest in a supermarket or grocery store and the
20 agreement shall remain in effect for as long as the State acts as a
21 market participant in the project. The provisions of this paragraph
22 shall apply to a supermarket or grocery store that will have more than
23 10 employees.

24 (2) A labor harmony agreement under paragraph (1) of this
25 subsection shall not be required if the authority determines that the
26 supermarket or grocery store would not be feasible if a labor harmony
27 agreement is required. The authority shall support the determination
28 by a written finding, which provides the specific basis for the
29 determination.

30 (3) As used in this subsection, "labor harmony agreement" means
31 an agreement between a business that serves as the owner or operator
32 of a supermarket or grocery store and one or more labor
33 organizations, which requires, for the duration of the agreement: that
34 any participating labor organization and its members agree to refrain
35 from picketing, work stoppages, boycotts, or other economic
36 interference against the business; and that the business agrees to
37 maintain a neutral posture with respect to efforts of any participating
38 labor organization to represent employees at a supermarket or
39 grocery store, agrees to permit the labor organization to have access
40 to the employees, and agrees to guarantee to the labor organization
41 the right to obtain recognition as the exclusive collective bargaining
42 representatives of the employees at a supermarket or grocery store by
43 demonstrating to the New Jersey State Board of Mediation, Division
44 of Private Employment Dispute Settlement, or a mutually agreed-
45 upon, neutral, third-party, that a majority of workers in the unit have
46 shown their preference for the labor organization to be their
47 representative by signing authorization cards indicating that
48 preference. The labor organization or organizations shall be from a

1 list of labor organizations that have requested to be on the list and
2 that the Commissioner of Labor and Workforce Development has
3 determined represent substantial numbers of supermarket or grocery
4 store employees in the State.

5 i. The award agreement shall require that the recipient consent
6 to the disclosure of tax expenditure information as described in
7 paragraph (8) of subsection b. of section 1 of P.L.2009, c.189
8 (C.52:27B-20a). A recipient shall certify that all factual
9 representations made by the recipient in the application or award
10 agreement are true under the penalty of perjury. A material
11 misrepresentation of fact in either the application or award agreement
12 may result in recession and recapture of any grants or tax credits
13 awarded, or acceleration of any loans made, under sections 35
14 through 42 of P.L. , c. (C.) (pending before the Legislature
15 as this bill).

16
17 39. (New section) a. For privilege periods beginning on or after
18 January 1 next following the effective date of sections 25 through 42
19 of P.L. , c. (C.) (pending before the Legislature as this bill),
20 a taxpayer eligible under subsection c. of section 38 of P.L. ,
21 c. (C.) (pending before the Legislature as this bill) shall be
22 awarded a credit against the tax due pursuant to section 5 of
23 P.L.1945, c.162 (C.54:10A-5). A taxpayer that qualifies for the
24 award of a tax credit under this section may claim 25 percent of the
25 total amount awarded in the privilege period in which the taxpayer
26 establishes and opens the supermarket or grocery store for business,
27 and an additional 25 percent of the total amount awarded in each of
28 the three privilege periods next following the initial opening,
29 provided that the supermarket or grocery store remains in business
30 and open to the public. For a taxpayer to be allowed a tax credit
31 pursuant to this section, the taxpayer shall meet the requirements of
32 this section, and the rules and regulations adopted pursuant to section
33 41 of P.L. , c. (C.) (pending before the Legislature as this
34 bill).

35 b. The order of priority of the application of the credit allowed
36 pursuant to this section and any other credits allowed against the tax
37 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for a
38 privilege period shall be as prescribed by the Director of the Division
39 of Taxation in the Department of the Treasury, in consultation with
40 the chief executive office of the authority. The amount of the credit
41 applied pursuant to this section against the tax imposed pursuant to
42 section 5 of P.L.1945, c.162 (C.54:10A-5), shall not reduce a
43 taxpayer's tax liability for a privilege period to an amount less than
44 the statutory minimum provided in subsection (e) of section 5 of
45 P.L.1945, c.162 (C.54:10A-5). Any credit shall be valid in the
46 privilege period in which the certification is approved and any unused
47 portion thereof may be carried forward into the next 10 privilege
48 periods or until exhausted, whichever is earlier.

1 c. The authority shall award tax credits to taxpayers until either
2 the available tax credits are exhausted or all projects that are eligible
3 for a tax credit pursuant to the provisions of sections 35 through 42
4 of P.L. , c. (C.) (pending before the Legislature as this bill)
5 receive a tax credit, whichever occurs first. If insufficient funding
6 exists to allow a tax credit to a taxpayer in accordance with the
7 provisions of subsection a. of section 38 of P.L. , c. (C.)
8 (pending before the Legislature as this bill), the authority may offer
9 the taxpayer a tax credit in an amount less than that provided in
10 subsection a. of this section.

11 d. Prior to awarding a tax credit to a supermarket or grocery
12 store, the Department of Labor and Workforce Development, the
13 Department of Environmental Protection, and the Department of the
14 Treasury shall each report to the chief executive officer of the
15 authority whether a qualifying supermarket or grocery store is in
16 substantial good standing with the respective department, or has
17 entered into an agreement with the respective department that
18 includes a practical corrective action plan for the supermarket or
19 grocery store. The authority may also contract with an independent
20 third party to perform a background check on the developer.

21 e. A supermarket or grocery store shall, as required at the
22 discretion of the authority, submit to the authority satisfactory
23 information pertaining to the project cost, project financing gap, and
24 the initial operating costs, as certified by a certified public
25 accountant, certifications that all information provided by the
26 supermarket or grocery store to the authority is true, including
27 information contained in the application, any agreement pertaining to
28 the award of tax credits under the program, any amendment to such
29 an agreement, and any other information submitted by the
30 supermarket or grocery store to the authority pursuant to sections 35
31 through 42 of P.L. , c. (C.) (pending before the Legislature
32 as this bill), and evidence of the initial opening and continued
33 operation of the supermarket or grocery store. The supermarket or
34 grocery store, or an authorized agent of the supermarket or grocery
35 store, shall certify under the penalty of perjury that the information
36 provided pursuant to this subsection is true.

37
38 40. (New section) a. For taxable years beginning on or after
39 January 1 next following the effective date of sections 35 through 42
40 of P.L. , c. (C.) (pending before the Legislature as this bill),
41 a taxpayer eligible under subsection c. of section 38 of P.L. ,
42 c. (C.) (pending before the Legislature as this bill) shall be
43 awarded a credit against the tax due pursuant to N.J.S.54A:1-1 et seq.
44 A taxpayer that qualifies for the award of a tax credit under this
45 section may claim 25 percent of the total amount awarded in the
46 taxable year in which the taxpayer establishes and opens the
47 supermarket or grocery store for business, and may claim 25 percent
48 of the total amount awarded in each of the three taxable years next

1 following the initial opening, provided that the supermarket or
2 grocery store remains in business and open to the public. For a
3 taxpayer to be awarded a tax credit pursuant to this section, the
4 taxpayer shall meet the requirements of this section, and the rules and
5 regulations adopted pursuant to section 41 of P.L. , c. (C.)
6 (pending before the Legislature as this bill).

7 b. The order of priority of the application of the credit allowed
8 pursuant to this section and any other credits allowed against the tax
9 imposed pursuant to N.J.S.54A:1-1 et seq. for a taxable year shall be
10 as prescribed by the Director of the Division of Taxation in the
11 Department of the Treasury, in consultation with the chief executive
12 officer of the authority. The amount of the credit applied pursuant to
13 this section against the tax imposed pursuant to N.J.S.54A:1-1 et seq.
14 shall not reduce a taxpayer's tax liability for a taxable year to an
15 amount less than zero. Any credit shall be valid in the taxable year in
16 which the certification is approved and any unused portion thereof
17 may be carried forward into the next 10 taxable years or until
18 depleted, whichever is earlier.

19 c. A business entity that is classified as a partnership for federal
20 income tax purposes shall not be allowed the credit directly under
21 N.J.S.54A:1-1 et seq., but the amount of credit of the taxpayer in
22 respect of a distributive share of partnership income shall be
23 determined by allocating to the taxpayer that proportion of the credit
24 acquired by the partnership that is equal to the taxpayer's share,
25 whether or not distributed, of the total distributive income or gain of
26 the partnership for its taxable year ending within or with the
27 taxpayer's taxable year.

28 A taxpayer that is a New Jersey S corporation shall not be allowed
29 the credit directly under N.J.S.54A:1-1 et seq., but the amount of
30 credit of a taxpayer in respect of a pro rata share of S corporation
31 income shall be determined by allocating to the taxpayer that
32 proportion of the credit acquired by the New Jersey S corporation
33 that is equal to the taxpayer's share, whether or not distributed, of the
34 total pro rata share of S corporation income of the New Jersey S
35 corporation for its taxable year ending within or with the taxpayer's
36 taxable year.

37 d. The authority shall award tax credits to taxpayers until either
38 the available tax credits are exhausted or all projects that are eligible
39 for a tax credit pursuant to the provisions of sections 35 through 42
40 of P.L. , c. (C.) (pending before the Legislature as this bill)
41 receive a tax credit, whichever occurs first. If insufficient funding
42 exists to allow a tax credit to a taxpayer in accordance with the
43 provisions of subsection a. of section 38 of P.L. , c. (C.)
44 (pending before the Legislature as this bill), the authority may offer
45 the taxpayer a tax credit in an amount less than that provided in
46 subsection a. of this section 40.

47 e. Prior to awarding a tax credit to a supermarket or grocery
48 store, the Department of Labor and Workforce Development, the

1 Department of Environmental Protection, and the Department of the
2 Treasury shall each report to the chief executive officer of the
3 authority whether a qualifying supermarket or grocery store, and each
4 contractor and subcontractor performing construction work at the
5 qualifying supermarket or grocery store, is in substantial good
6 standing with the respective department, or has entered into an
7 agreement with the respective department that includes a practical
8 corrective action plan. The authority may also contract with an
9 independent third party to perform a background check on the
10 developer.

11 f. A supermarket or grocery store shall, as required at the
12 discretion of the authority, submit to the authority satisfactory
13 information pertaining to the project cost, project financing gap, and
14 the initial operating costs, as certified by a certified public
15 accountant, certifications that all information provided by the
16 supermarket or grocery store to the authority is true, including
17 information contained in the application, any agreement pertaining to
18 the award of tax credits under the program, any amendment to such
19 an agreement, and any other information submitted by the
20 supermarket or grocery store to the authority pursuant to sections 35
21 through 42 of P.L. , c. (C.) (pending before the Legislature
22 as this bill), and evidence of the initial opening and continued
23 operation of the supermarket or grocery store. The supermarket or
24 grocery store, or an authorized agent of the supermarket or grocery
25 store, shall certify under the penalty of perjury that the information
26 provided pursuant to this subsection is true.

27

28 41. (New section) The authority, in consultation with the
29 department and the Director of the Division of Taxation in the
30 Department of the Treasury, shall adopt, pursuant to the
31 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
32 seq.), rules and regulations necessary to carry out the provisions of
33 sections 35 through 42 of P.L. , c. (C.) (pending before the
34 Legislature as this bill).

35

36 42. (New section) Within one year of the effective date of
37 sections 35 through 42 of P.L. , c. (C.) (pending before the
38 Legislature as this bill), the authority shall annually submit a report
39 to the Governor, the State Treasurer, and, pursuant to section 2 of
40 P.L.1991, c.164 (C.52:14-19.1), the Legislature, on the effectiveness
41 of the program in establishing supermarkets and grocery stores in
42 food desert communities.

43

44 43. (New section) Sections 43 through 53 of P.L. , c. (C.)
45 (pending before the Legislature as this bill) shall be known and may
46 be cited as the "New Jersey Community-Anchored Development
47 Act."

1 44. (New section) The purpose of the New Jersey Community-
2 Anchored Development Act is for the New Jersey Economic
3 Development Authority to facilitate, in partnership with the State's
4 key not-for-profit and governmental anchor institutions, large-scale
5 development projects with desirable employment and geographical
6 characteristics that are to impact a broader community. The
7 Legislature finds that where a broad commonality of goals exists
8 between anchor institutions and the State, the authority can
9 effectively utilize anchor institutions as investors in, and additional
10 overseers of, projects that the authority seeks to incentivize. Under
11 the legislation, anchor institutions in the areas of education, health
12 care, culture, community development, and economic development
13 are provided with the opportunity to act as investors in targeted
14 development, utilizing proceeds from the sale of State tax credits.
15 This approach harnesses the deep experience of the numerous anchor
16 institutions in the State, institutions that enjoy decades-long
17 relationships with communities around the State, making them ideal
18 partners for companies wanting to come to or expand in New Jersey.

19 This legislation seeks to overcome cost-of-occupancy differences
20 between New Jersey and less expensive options in other jurisdictions
21 for specific properties by reducing the cost of occupancy being
22 offered to a targeted company. This legislation represents a shift in
23 State economic development policy from a grant model to an
24 investment model, differing significantly from past award models in
25 that the legislation does not provide a certain dollar amount to private
26 employers based on the number and types of jobs being created or
27 preserved in the State.

28 The legislation affords an opportunity for an anchor institution and
29 the authority to become partners in a project, with the authority
30 receiving a negotiated current or deferred economic return on the tax
31 credit investment made by the anchor institution and ultimately the
32 return of the amount initially invested. Through a competitive
33 application process to the authority, a real estate partnership between
34 an anchor institution and a partner business will make its case for an
35 amount of tax credits necessary for that project to be able to establish
36 occupancy costs at a competitive level.

37 By its inclusion of designated federal opportunity zones and areas
38 eligible to be designated as federal opportunity zones as a separate
39 basis for projects to receive tax credits, the legislation seeks to
40 incentivize anchor institutions to look beyond the borders of their
41 host communities, permitting them to invest in other locales that lack
42 strong anchor institutions, thus expanding their influence and impact
43 by doing so. Simultaneously, such investments will further the
44 objectives of the State in attracting high-value employers and in
45 providing economic stimulus to areas of the State that prior
46 investment cycles have overlooked. The legislation is also expansive
47 enough to permit the addition of other beneficial uses to a qualifying

1 project; including housing, public amenities, parking, mixed uses,
2 and facilities of an anchor institution itself.

3 The tax credits issued by the authority to an applicant anchor
4 institution are to be issued pursuant to a tax credit agreement that sets
5 forth negotiated terms on which the authority has agreed to issue the
6 credits. The tax credit agreement is to include standards relating to
7 the anticipated economic results of the community-anchored project
8 and address accountability in the event that the community-anchored
9 project fails to meet the requirements specified in the tax credit
10 agreement.

11 The Legislature declares that two principal objectives underscore
12 the policy approach of this legislation: first, an incentive program
13 cannot succeed as a one-size-fits-all structure, and therefore an award
14 of tax credits is to be thoroughly underwritten by the authority and
15 specifically designed for scenarios in which the authority finds that
16 the award will be effective; and second, the State is better served
17 where the State's financial support is characterized and treated as an
18 investment rather than an explicit grant.

19

20 45. (New section) As used in sections 43 through 53 of P.L. ,
21 c. (C.) (pending before the Legislature as this bill):

22 "Affiliate" means an entity that directly or indirectly controls, is
23 under common control with, or is controlled by an anchor institution
24 or a partner business. Control exists in all cases in which the entity
25 is a member of a controlled group of corporations as defined pursuant
26 to section 1563 of the federal Internal Revenue Code (26 U.S.C.
27 s.1563) or the entity is an organization in a group of organizations
28 under common control that is subject to the regulations applicable to
29 organizations pursuant to subsection (b) or (c) of section 414 of the
30 federal Internal Revenue Code (26 U.S.C. s.414). A taxpayer may
31 establish by clear and convincing evidence, as determined by the
32 Director of the Division of Taxation in the Department of the
33 Treasury, that control exists in situations involving lesser
34 percentages of ownership than required by the above referenced
35 federal statutes.

36 "Anchor institution" means a governmental entity or nonprofit
37 entity incorporated pursuant to Title 15 of the Revised Statutes or
38 Title 15A of the New Jersey Statutes having a primary mission and
39 specific policy goals that align with those of the authority under the
40 program and that is a comprehensive health care system, a public
41 research university, a private research university, a major cultural
42 scientific, research and philanthropic institutions, or public colleges
43 which are separate from public research universities, certified as an
44 anchor institution by the board pursuant to subsection a. of section
45 46 of P.L. , c. (C.) (pending before the Legislature as this
46 bill).

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

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

4 "Commitment period" means the period of time, which shall be
5 not less than 10 years and no greater than twice the eligibility period
6 that is granted to an anchor institution, to distribute to the authority
7 the agreed upon returns on investment for the award of tax credits
8 pursuant to the program; provided, however, at the election of the
9 authority or upon the request of an anchor institution in order to
10 benefit the community-anchored project, and as determined in the
11 sole discretion of the authority, the authority may grant up to two
12 consecutive five-year extensions of the commitment period.

13 "Community-anchored project" means a capital project that is
14 located in an area that is designated as a New Jersey State opportunity
15 zone, an area of the State designated pursuant to the "State Planning
16 Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1
17 (Metropolitan), or a municipality with a Municipal Revitalization
18 Index distress score of at least 50 and for which an anchor institution
19 is to be awarded tax credits by the authority pursuant to a tax credit
20 agreement which establishes the award of tax credits as an investment
21 by the authority in the project, provided that the project will result in
22 a capital investment of at least \$10,000,000 in a New Jersey State
23 opportunity zone or in any other area of the State, but a project that
24 is not located in a New Jersey State opportunity zone is to be
25 primarily designed to result in the economic expansion of a targeted
26 industry in this State.

27 "Comprehensive health care system" means an entity in this State
28 with the primary purpose of offering comprehensive health care
29 services. "Comprehensive health care system" shall not include any
30 business that manages or offers one or more health benefits plans.

31 "Comprehensive health care services" means the basic health care
32 services provided under a health benefits plan, including medical and
33 surgical services provided by licensed health care providers who may
34 include, but are not limited to, family physicians, internists,
35 cardiologists, psychiatrists, rheumatologists, dermatologists,
36 orthopedists, obstetricians, gynecologists, neurologists,
37 endocrinologists, radiologists, nephrologists, emergency services
38 physicians, ophthalmologists, pediatricians, pathologists, general
39 surgeons, osteopathic physicians, physical therapists and
40 chiropractors. Basic benefits may also include inpatient or outpatient
41 services rendered at a licensed hospital, covered services performed
42 at an ambulatory surgical facility, and ambulance services.
43 "Comprehensive health care services" shall include only services
44 provided by licensed health care providers.

45 "Director" means the Director of the Division of Taxation in the
46 Department of the Treasury.

47 "Eligibility period" means the period in which an anchor
48 institution may claim, sell, transfer, or otherwise use a tax credit

1 under the New Jersey Community-Anchored Development Program,
2 beginning with the tax period in which the authority accepts
3 certification of the business that it has met the capital investment
4 requirements of the program and extending thereafter for a term of
5 not more than 10 years.

6 "Eligible position" means a full-time position in a business in this
7 State which the business has filled with a full-time employee. An
8 eligible position shall not include an independent contractor or a
9 consultant.

10 "Experienced nonprofit or governmental economic or community
11 development entity" means a nonprofit entity incorporated pursuant
12 to Title 15 of the Revised Statutes or Title 15A of the New Jersey
13 Statutes that has a core mission and a community track record of
14 advancing economic or community development in at least one area
15 of the State and that has appropriate prior experience in successfully
16 developing mixed-use projects and utilizing complex financing
17 arrangements in developing similar types of projects, as determined
18 by the board.

19 "Major cultural institution" means a public or nonsectarian
20 nonprofit institution within this State that engages in the cultural,
21 intellectual, scientific, environmental, educational, or artistic
22 enrichment of the people of this State, and which is designated by the
23 board as a major cultural institution.

24 "New full-time job" means an eligible position created by an
25 anchor institution or a partner business at the community-anchored
26 project that did not previously exist in this State. For the purposes of
27 determining a number of new full-time jobs, the eligible positions of
28 an affiliate shall be considered eligible positions of the business.

29 "New Jersey State opportunity zone" means a federal population
30 census tract in this State that was eligible to be designated as a
31 qualified opportunity zone pursuant to 26 U.S.C. s.1400Z-1.

32 "Partner business" means a corporation, partnership, firm,
33 enterprise, franchise, association, trust, sole proprietorship, or other
34 legal entity, but shall not include a public entity that enters into an
35 agreement with an anchor institution to rent and occupy commercial
36 space within a community-anchored project. Under the program a
37 partner business, subject to agreement with the anchor institution,
38 may lease one or more portions of the partner business's space in the
39 community-anchored project to one or more other persons or entities.

40 "Private research university" means Princeton University and any
41 other institution of higher education in this State designated by the
42 board as a private research university, based on criteria and metrics
43 established by the board.

44 "Program" means the New Jersey Community-Anchored
45 Development Program established pursuant to section 46 of P.L. ,
46 c. (C.) (pending before the Legislature as this bill).

1 "Public research university" means Rutgers, The State University
2 of New Jersey, Rowan University, the New Jersey Institute of
3 Technology, and Montclair State University.

4 "Qualified business accelerator or incubator facility" means a
5 commercial space that contains office, laboratory, or industrial space
6 and which is located near, and presents opportunities for
7 collaboration with, a public research university, a private research
8 university, teaching hospital, college, or university, and within which
9 at least 50 percent of the gross leasable area is restricted for use by
10 one or more targeted industry start-up companies during the
11 commitment period.

12 "Targeted industry" means any industry identified from time to
13 time by the authority which shall initially include advanced
14 transportation and logistics, advanced manufacturing, aviation,
15 autonomous vehicle and zero-emission vehicle research or
16 development, clean energy, life sciences, hemp processing,
17 information and high technology, finance and insurance, professional
18 services, film and digital media, and non-retail food and beverage
19 businesses, including food innovation and other innovative industries
20 that disrupt current technologies or business models.

21 "Tax credit agreement" means a tax credit agreement entered into
22 pursuant to section 50 of P.L. , c. (C.) (pending before the
23 Legislature as this bill) between the authority and an anchor
24 institution.

25 "Work First New Jersey program" means the Work First New
26 Jersey program established pursuant to P.L.1997, c. 38 (C.44:10-55
27 et seq.).

28
29 46. (New section) a. The New Jersey Community-Anchored
30 Development Program is established as a program under the
31 jurisdiction of the New Jersey Economic Development Authority.
32 The authority shall administer the program to invest in and
33 incentivize the expansion of targeted industries in the State and the
34 continued development of certain areas of the State through the
35 provision of tax credits to anchor institutions. The board shall certify
36 qualified anchor institutions based on the requirements of sections 43
37 through 53 of P.L. , c. (C.) (pending before the Legislature
38 as this bill), and may approve the award of a tax credit to an anchor
39 institution pursuant to sections 47 and 48 of P.L. , c. (C. and
40 C.) (pending before the Legislature as this bill). The value of
41 all tax credits approved by the authority to anchor institutions under
42 the program shall be subject to the limitations set forth in section 98
43 of P.L. , c. (C.) (pending before the Legislature as this bill).

44 b. (1) The authority shall administer the program to invest
45 in, and incentivize the establishment of, community-anchored
46 projects by anchor institutions, independently or in collaboration
47 with one or more partner businesses or governmental entities. The

1 authority's investment in community-anchored projects shall be in
2 the form of the award of tax credits to anchor institutions.

3 (2) (a) The authority may award a tax credit to an anchor
4 institution under the program, which the anchor institution shall
5 convert into an investment by the authority in a community-anchored
6 project, subject to the condition that the anchor institution either sell
7 and transfer the tax credit, or adopt a plan to use the tax credit in
8 order to finance the completion of the community-anchored project,
9 which condition shall be included in the tax credit agreement entered
10 into pursuant to section 50 of P.L. , c. (C.) (pending before
11 the Legislature as this bill). An anchor institution receiving tax
12 credits under the program shall use the proceeds derived from the
13 sale or financing of the tax credits to make an equity investment in
14 or to provide a loan or other financial support for the community-
15 anchored project that will permit the anchor institution, and, if
16 applicable, a partner business, to develop the community-anchored
17 project and to attract tenants, owners, investors, lenders, partners,
18 collaborators, and other beneficial parties to the community-
19 anchored project. A tax credit agreement, entered into pursuant to
20 section 50 P.L. , c. (C.) (pending before the Legislature as
21 this bill) shall detail the terms by which an anchor institution will
22 convert the award of tax credits into an investment by the authority
23 into the community-anchored project, subject to potential returns on
24 investment to the authority based on an agreed-upon formula for the
25 distribution of returns, including upon the sale of a community-
26 anchored project or at the end of the commitment period. For
27 community-anchored projects financed solely by governmental and
28 nonprofit entity investments, the authority shall negotiate an agreed
29 upon formula which shall include, but not be limited to, the potential
30 recapture of the value of the tax credits awarded. For community-
31 anchored projects that are not financed solely by governmental and
32 nonprofit entity investments, the authority shall negotiate an agreed
33 upon formula which shall include, but not be limited to, the potential
34 recapture of the value of the tax credits awarded and additional
35 returns on investment. The tax credit agreement shall, however,
36 specify that the authority's interest in the community-anchored
37 project shall be subordinate to the investments made by an anchor
38 institution and partner businesses. References to investments and
39 returns in sections 43 through 53 of P.L. , c. (C.) (pending
40 before the Legislature as this bill) shall also include loans and other
41 financial support and their corresponding returns.

42 (b) Consistent with an applicable tax credit agreement, a tax
43 credit awarded to an anchor institution for conversion into an
44 authority investment, as provided pursuant to subparagraph (a) of this
45 paragraph, may be applied against tax liability otherwise due
46 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to
47 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),

1 pursuant to section 1 of P.L.1950, c.231 (C.17:32-15), or pursuant to
2 N.J.S.17B:23-5.

3 (3) The authority shall develop protocols for assumptions testing
4 relating to projected and actual returns on investment under the
5 program and regularly analyze the returns on investment received by
6 the authority under the program, and shall evaluate future
7 applications and projections considering the results of the
8 assumptions testing and analysis.

9 c. The authority shall engage in program evaluation and
10 assumptions testing to ensure that the authority at least recaptures the
11 value of the tax credits awarded to all anchor institutions and realizes
12 additional returns on investment under the program; provided,
13 however, that for community-anchored projects financed solely by
14 governmental and nonprofit entity investments, the authority may
15 negotiate a potential return on investment, the calculation of which
16 would include, but not be limited to, recapture of the value of the tax
17 credits awarded for those community-anchored projects financed
18 solely by governmental and nonprofit entities.

19 d. Any funds distributed to the authority as a return on
20 investment pursuant to the program shall be deposited into the
21 General Fund of the State.

22

23 47. (New section) a. An anchor institution shall be eligible to
24 receive a tax credit under the program only if the anchor institution
25 submits a program application to the authority that results in
26 completion of a community-anchored project through a capital
27 investment in a New Jersey State opportunity zone or, if the
28 community-anchored project is primarily designed to result in the
29 economic expansion of a targeted industry in this State, in an area of
30 the State designated pursuant to the "State Planning Act," P.L.1985,
31 c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan) or
32 in a municipality with a Municipal Revitalization Index distress score
33 of at least 50.

34 b. At the time of application, an anchor institution seeking tax
35 credits pursuant to the program shall demonstrate to the authority:

36 (1) that the proposed community-anchored project will result in a
37 capital investment in a New Jersey State opportunity zone or, if the
38 project is primarily designed to result in the economic expansion of
39 a targeted industry in this State, in an area of the State designated
40 pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196
41 et seq.), as Planning Area 1 (Metropolitan) or in a municipality with
42 a Municipal Revitalization Index distress score of at least 50;

43 (2) the structure and terms of the financial, corporate, and real
44 estate instruments to be utilized to successfully complete and then
45 operate the community-anchored project, including, but not limited
46 to, the proposed economic and business relationship between the
47 anchor institution and any partner business;

1 (3) that the anchor institution, along with any partner business
2 participating in a community-anchored project, has not commenced
3 any construction at the site of the community-anchored project prior
4 to submitting an application, unless the authority determines that the
5 community-anchored project would not be completed otherwise or,
6 in the event the community-anchored project is to be undertaken in
7 phases, the requested tax credit covers only phases for which
8 construction has not yet commenced;

9 (4) the value of the tax credit that is necessary in each year of the
10 eligibility period, in order for the anchor institution to finance the
11 establishment of the community-anchored project;

12 (5) the total aggregate value of the tax credit for the entire
13 eligibility period that is necessary in order for the anchor institution
14 to finance the establishment of the community-anchored project;

15 (6) that the award of tax credits under the program will be
16 converted into an investment by the authority into the community-
17 anchored project, and demonstrate to the authority the anticipated
18 current and deferred returns, as applicable, on that investment;

19 (7) that the community-anchored project shall comply with the
20 standards established by the authority through regulation based on
21 the green building manual prepared by the Commissioner of
22 Community Affairs pursuant to section 1 of P.L.2007, c. 132
23 (C.52:27D-130.6), regarding the use of renewable energy, energy-
24 efficient technology, and non-renewable resources in order to reduce
25 environmental degradation and encourage long-term cost reduction;

26 (8) that the community-anchored project shall comply with the
27 authority's affirmative action requirements, adopted pursuant to
28 section 4 of P.L.1979, c.303 (C.34:1B-5.4);

29 (9) a description of the significant economic, social, planning,
30 employment, environmental, fiscal, and other benefits that would
31 accrue to the State, county, or municipality from the community-
32 anchored project;

33 (10) that each worker and subcontractor working on construction
34 of the community-anchored project prior to the start of the eligibility
35 period shall be paid not less than \$15 per hour or 120 percent of the
36 minimum wage fixed under subsection a. of section 5 of P.L.1966,
37 c.113 (C.34:11-56a4), whichever is higher;

38 (11) that during the eligibility period, each worker employed to
39 perform construction work and building services work at the
40 community-anchored project shall be paid not less than the prevailing
41 wage rate for the worker's craft or trade, as determined by the
42 Commissioner of Labor and Workforce Development pursuant to
43 P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379
44 (C.34:11-56.58 et seq.). In the event the community-anchored
45 project constitutes a lease of more than 55 percent of a single facility,
46 these requirements shall apply to the entire facility;

47 (12) that during the eligibility period, the anchor institution shall
48 partner with one or more local community organizations that provide

1 support and services to Work First New Jersey program recipients, in
2 order to provide work activity opportunities and other appropriate
3 services to Work First New Jersey program recipients, which
4 activities and services may include, but shall not be limited to: work-
5 study programs, internships, sector-based contextualized literacy
6 training, skills-based training in growth industries in the State, and
7 job retention and advancement services;

8 (13) the extent to which the community-anchored development
9 will result in the expansion of a targeted industry in this State;

10 (14) that the timing of the award and investment of tax credits
11 under the program shall allow for the successful completion and
12 operation of the community-anchored project; and

13 (15) that the community-anchored project is viable and that the
14 anchor institution is a credible partner for completing the
15 community-anchored project and providing the agreed-upon
16 potential returns to the authority, as detailed in the tax credit
17 agreement entered into pursuant to section 50 of P.L. , c. (C.)
18 (pending before the Legislature as this bill).

19 c. Prior to the board considering an application submitted by an
20 anchor institution, the Department of Labor and Workforce
21 Development, the Department of Environmental Protection, and the
22 Department of the Treasury shall each report to the chief executive
23 officer of the authority whether the anchor institution and any partner
24 business is in substantial good standing with the respective
25 department, or has entered into an agreement with the respective
26 department that includes a practical corrective action plan anchor
27 institution or partner business. The authority may also contract with
28 an independent third party to perform a background check on an
29 anchor institution and any partner business.

30 d. In order to facilitate the creation of new partnerships with
31 anchor institutions, the authority shall publish on the authority's
32 website a list of names and contact information for each anchor
33 institution that has submitted an application pursuant to this section.
34

35 48. (New section) a. Prior to March 1, 2027, an anchor
36 institution seeking a tax credit pursuant to the program shall submit
37 an application to the authority in a form and manner prescribed in
38 regulations adopted by the authority pursuant to the provisions of the
39 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
40 seq.). The authority shall accept and certify applications for tax
41 credits during the award rounds established pursuant to section 49 of
42 P.L. , c. (C.) (pending before the Legislature as this bill).

43 b. The authority shall not consider an application for a
44 community-anchored project unless the anchor institution submits,
45 with the application, a letter evidencing support for the community-
46 anchored project from the governing body of the municipality in
47 which the community-anchored project is located.

1 c. The authority shall review the project costs for a proposed
2 community-anchored project and evaluate and validate the
3 underlying financial structure proposed by the anchor institution.
4 The authority shall conduct a State fiscal impact analysis to ensure
5 that the overall value of tax credits provided to the community-
6 anchored project is projected to result in net benefits to the State,
7 taking into account the current and deferred returns to the authority.
8 The authority shall assess the cost of these reviews to the applicant.
9 An anchor institution shall pay to the authority the full amount of the
10 direct costs of an analysis concerning the anchor institution's
11 application for tax credits that a third party retained by the authority
12 performs, if the authority deems such retention to be necessary.

13 d. If at any time during the eligibility period the authority
14 determines that an anchor institution made a material
15 misrepresentation on the program application, the anchor institution
16 shall forfeit or repay to the authority the value of tax credits
17 associated with that application.
18

19 49. (New section) a. The authority shall award tax credits
20 under the program through a competitive application process
21 consisting of up to two award rounds each year. The authority shall
22 provide notice to the public of the opening and closing dates for
23 submission of program applications on the authority's Internet
24 website.

25 b. (1) The authority shall review applications for tax credits
26 submitted to the authority by the deadline date of the award round
27 and shall evaluate each application as if it were received on the
28 deadline date, without providing any preference for early
29 submissions. To determine priority for an award of a tax credit, all
30 applications for community-anchored projects that satisfy the criteria
31 set forth in sections 47 and 48 of P.L. , c. (C. and)
32 (pending before the Legislature as this bill) in a given award round
33 shall be ranked on the basis of a scoring system developed by the
34 authority through regulations adopted pursuant to the provisions of
35 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
36 seq.). Prior to the commencement of an award round, the authority
37 shall determine the minimum score for the award round that an
38 anchor institution is required to attain to be eligible for a tax credit.

39 (2) The authority may establish different criteria for community-
40 anchored projects that are located in a New Jersey State opportunity
41 zone and community-anchored projects that are primarily designed
42 to result in the economic expansion of a targeted industry in this
43 State.

44 c. The scoring system developed by the authority pursuant to
45 subsection b. of this section shall assess applications for tax credits
46 based on the following competitive criteria, which shall include, but
47 shall not be limited to:

- 1 (1) the amount of tax credit requested by the anchor institution
- 2 compared to the overall investments required for the completion of
- 3 the community-anchored project, along with the amount of the
- 4 potential return on the authority's investment of tax credits to the
- 5 State by the end of the commitment period, the amount of the tax
- 6 credit, if any, that is unlikely to be realized as a return on investment
- 7 to the State, and the proposed terms and structure for the authority's
- 8 investment in the project, including applicable current and deferred
- 9 returns;
- 10 (2) the financial benefit of the community-anchored project to the
- 11 community in which the community-anchored project will be
- 12 located;
- 13 (3) apprenticeships or workforce programs to be offered because
- 14 of the community-anchored project;
- 15 (4) the ability of the community-anchored project to absorb and
- 16 adapt to changing environmental conditions and deliver its
- 17 objectives;
- 18 (5) how the community-anchored project will advance State,
- 19 regional, and local development and planning strategies;
- 20 (6) the relationship of the community-anchored project to a
- 21 comprehensive local development strategy, including its relation to
- 22 other development and redevelopment projects in the municipality;
- 23 (7) the degree to which the community-anchored project
- 24 enhances and promotes job creation and economic development;
- 25 (8) the extent of economic and related social distress in the
- 26 municipality and the immediate area surrounding the community-
- 27 anchored project;
- 28 (9) the extent to which the community-anchored project provides
- 29 for the development of workforce housing and housing for
- 30 individuals with special needs;
- 31 (10) the extent to which the community-anchored project
- 32 constitutes the expansion of the anchor institution to different areas
- 33 of the State;
- 34 (11) the extent to which the community-anchored project provides
- 35 for infrastructure, parking, retail, green space, or other public
- 36 amenities creating a mixed-use community-anchored project;
- 37 (12) the inclusion of a qualified business accelerator or incubator
- 38 facility as a part of the community-anchored project;
- 39 (13) the length of the commitment period for the community-
- 40 anchored project;
- 41 (14) the quality and number of new full-time jobs that will be
- 42 created by the anchor institution or a partner business at the
- 43 community-anchored project;
- 44 (15) the quality and number of existing full-time jobs that will be
- 45 retained by the anchor institution or a partner business in the State as
- 46 a result of completing the community-anchored project, with the
- 47 criteria specifying, in scoring the application, that the retention of an

1 existing full-time job shall be given not more than one-third the
2 weight of a new full-time job of a similar quality; and

3 (16) if the anchor institution has a board of directors, the extent to
4 which that board of directors is diverse and representative of the
5 community in which the community-anchored project is located.

6 d. Notwithstanding the provisions of subsection c. of this
7 section, the authority may adopt, pursuant to the provisions of the
8 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
9 seq.), rules and regulations adjusting competitive criteria required
10 under the program when necessary to respond to the prevailing
11 economic conditions in the State.

12 e. Prior to the award of a tax credit to an anchor institution, to
13 be converted into an authority investment in a community-anchored
14 project, the Department of Labor and Workforce Development, the
15 Department of Environmental Protection, and the Department of the
16 Treasury shall each report to the chief executive officer of the
17 authority as to whether the anchor institution, along with any partner
18 business identified in a program application, and each contractor and
19 subcontractor performing work at the community-anchored project,
20 is in substantial good standing with the respective department, or has
21 entered into an agreement with the respective department that
22 includes a practical corrective action plan. Provided that all parties
23 are in substantial good standing, or have entered into such an
24 agreement, the authority shall allocate tax credits to community-
25 anchored projects according to the community-anchored project's
26 score and until either the available tax credits are exhausted or all
27 community-anchored projects obtaining the minimum score receive
28 a tax credit, whichever occurs first. If insufficient funding exists to
29 fully fund all eligible community-anchored projects, a community-
30 anchored project may be offered partial funding.

31 f. Applications that do not receive the minimum score
32 established by the authority for that award round shall not receive
33 further consideration for a tax credit by the authority in that award
34 round; however, an anchor institution may revise or complete a new
35 application to be submitted in a subsequent award round.

36 g. If an anchor institution declines a tax credit offered by the
37 authority, the authority shall offer the tax credit to the applicant with
38 the application having the next highest score, and having obtained at
39 least the minimum score in that award round.

40

41 50. (New section) a. Following approval and selection of an
42 application pursuant to sections 48 and 49 of P.L. , c. (C.)
43 (pending before the Legislature as this bill), the authority shall enter
44 into a tax credit agreement with the anchor institution. The chief
45 executive officer of the authority shall negotiate the terms and
46 conditions of the tax credit agreement on behalf of the State.

47 b. (1) A tax credit agreement shall specify the amount of the
48 tax credit that the authority shall award to the anchor institution for

1 conversion into an authority investment and specify the duration of
2 the eligibility period, which shall not exceed 10 years. The tax credit
3 agreement shall provide an estimated date of completion for the
4 community-anchored project and include a requirement for periodic
5 progress reports through completion, including the submittal of
6 executed financing commitments and documents or agreements that
7 evidence site control.

8 (2) If, as a result of a default under the tax credit agreement, the
9 authority rescinds a tax credit in the same calendar year in which the
10 authority approved the tax credit, then the authority may assign the
11 tax credit to another applicant that attained the minimum score
12 determined pursuant to section 49 of P.L. , c. (C.) (pending
13 before the Legislature as this bill).

14 c. The terms of the tax credit agreement shall:

15 (1) provide for a verification of project financing at the time the
16 anchor institution and any partner business provides executed
17 financing commitments to the authority and a verification of the
18 anchor institution's projected cash flow at the time of certification
19 that the project is completed;

20 (2) specify the length of the commitment period for the
21 community-anchored project and the terms by which the anchor
22 institution shall provide to the authority current or deferred returns
23 on investment generated by the community-anchored project and
24 commit to a structure for returns on investment;

25 (3) allow the anchor institution to distribute returns on investment
26 to the authority for the tax credits in the amount specified in the tax
27 credit agreement at any time within the commitment period, but
28 require such distribution to occur if the community-anchored project
29 is sold before the end of the commitment period;

30 (4) specify amounts of returns to be retained by the anchor
31 institution for capital reserves, programming, or other purposes;

32 (5) identify the value of any monetary or financial benefit offered
33 or provided by the anchor institution to any partner business that
34 works with the anchor institution to complete and operate the
35 community-anchored project;

36 (6) identify any benefits created by the anchor institution for a
37 partner business through equity investment in or debt-financing of a
38 community-anchored project and specify the formula by which such
39 benefits are passed through to a partner business;

40 (7) specify that the authority or the State may purchase tax credits
41 offered for sale by an anchor institution for 90 percent of the stated
42 value of the tax credit before considering any further discounting to
43 present value which shall be permitted;

44 (8) at a minimum, require an anchor institution to provide
45 oversight of the community-anchored project through ongoing
46 reporting by a partner business to the anchor institution, and
47 subsequent ongoing reporting by the anchor institution to the
48 authority;

1 (9) specify other measures through which the authority shall
2 ensure oversight of outstanding tax credit investments, and, in the
3 event that an anchor institution fails to meet its obligations under the
4 tax credit agreement or any program requirement, establish the right
5 of the authority to assume direct oversight of any or all projects for
6 which the anchor institution has entered into investment agreements
7 and require the anchor institution to pursue any remedies it may have
8 against a partner business;

9 (10) at a minimum, require that the anchor institution, and any
10 partner businesses, adopt specific nondiscrimination policies for the
11 operation of a community-anchored project; and

12 (11) require that any partner business of an anchor institution
13 consent to the disclosure of tax expenditure information as described
14 in paragraph (8) of subsection b. of section 1 of P.L.2009, c.189
15 (C.52:27B-20a).

16 d. The tax credit agreement shall include a requirement that the
17 chief executive officer of the authority receive annual reports from
18 the anchor institution that are to include separate certifications by the
19 Department of Environmental Protection, the Department of Labor
20 and Workforce Development, and the Department of the Treasury
21 demonstrating that the anchor institution, any partner business, and
22 each contractor and subcontractor performing work at the
23 community-anchored project is in substantial good standing with that
24 department, or have entered into an agreement with that department
25 that includes a corrective action plan, and the tax credit agreement
26 shall include a provision that the anchor institution shall forfeit the
27 tax credit in any year in which an uncured default exists under the tax
28 credit agreement. The tax credit agreement shall, however, allow the
29 authority to extend, in individual cases, the deadline for any annual
30 reporting or certification requirement.

31 e. An anchor institution shall, as required at the discretion of the
32 authority, submit to the authority satisfactory evidence of actual
33 project costs, as certified by a certified public accountant, evidence
34 of a temporary certificate of occupancy, or other event evidencing
35 project completion. The anchor institution, or an authorized agent of
36 the anchor institution, shall certify under the penalty of perjury that
37 the information provided pursuant to this subsection is true.

38
39 51. (New section) a. Up to the limits established in
40 subsection b. of this section and in accordance with a tax credit
41 agreement, beginning upon the receipt of occupancy permits for any
42 portion of the community-anchored project, or upon any other event
43 evidencing project completion as set forth in the tax credit agreement,
44 an anchor institution of an approved community-anchored project
45 shall be awarded a base tax credit of \$5,000,000 for conversion into
46 an authority investment in the community-anchored project.

47 b. An anchor institution may be allowed a tax credit in excess of
48 the base amount, if approved by the authority, provided, however, the

1 total tax credit allowed per community-anchored project shall not
2 exceed \$75,000,000 and the total investment of all State resources in
3 a community-anchored project shall not exceed 40 percent of the total
4 cost of the project.

5
6 52. (New section) a. An anchor institution that is awarded a
7 tax credit under sections 43 through 53 of P.L. , c. (C.)
8 (pending before the Legislature as this bill) shall, commencing in the
9 year in which the tax credit is awarded, and each year thereafter for
10 the remainder of the eligibility period, submit a report indicating
11 whether the anchor institution is aware of any condition, event, or act
12 that would cause the anchor institution not to be in compliance with
13 the tax credit agreement or the provisions of sections 43 through 53
14 of P.L. , c. (C.) (pending before the Legislature as this bill)
15 and any additional reporting requirements contained in the tax credit
16 agreement or tax credit certificate. The anchor institution, or an
17 authorized agent of the anchor institution, shall certify under the
18 penalty of perjury that the information provided pursuant to this
19 subsection is true.

20 b. (1) Upon receipt and review of each report submitted
21 during the eligibility period, the authority shall provide to the anchor
22 institution and the Director of the Division of Taxation in the
23 Department of the Treasury a certificate of compliance indicating the
24 amount of tax credits awarded to the anchor institution for conversion
25 into an authority investment in the community-anchored project, that
26 the anchor institution may:

27 (a) offer for sale through the provision of a tax credit transfer
28 certificate pursuant to section 53 of P.L. , c. (C.) (pending
29 before the Legislature as this bill); or

30 (b) use as collateral or to secure any financial instrument
31 approved by the authority to provide financing for the community-
32 anchored project, if that use is in accordance with rules and
33 regulations adopted by the authority, pursuant to the provisions of the
34 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
35 seq.), to govern the use of program tax credits.

36 (2) Upon receipt by the director of the certificate of compliance,
37 the director shall coordinate with the anchor institution and the
38 authority to provide the anchor institution with a tax credit transfer
39 certificate, as described in section 53 of P.L. , c. (C.) (pending
40 before the Legislature as this bill), or a tax credit certificate for the
41 value awarded by the authority for that year that the anchor institution
42 may use as provided in paragraph (1) of this subsection b. and in
43 accordance with the rules adopted pursuant to subparagraph (b) of
44 paragraph (1) of this subsection.

45
46 53. (New section) a. An anchor institution may apply to the
47 director and the chief executive officer of the authority for a tax credit
48 transfer certificate, covering one or more years. The tax credit

1 transfer certificate, upon receipt thereof by the anchor institution
2 from the director and the chief executive officer of the authority, may
3 be sold or assigned, in full or in part, in the privilege period during
4 which the anchor institution receives the tax credit transfer certificate
5 from the director, to another person, who may apply the credit against
6 a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
7 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),
8 section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5.

9 b. The anchor institution shall not sell or assign, including a
10 collateral assignment, a tax credit transfer certificate allowed under
11 this section for consideration received by the anchor institution of
12 less than 85 percent of the transferred credit amount before
13 considering any further discounting to present value which shall be
14 permitted. The tax credit transfer certificate issued to an anchor
15 institution by the director shall be subject to any limitations and
16 conditions imposed on the application of State tax credits pursuant to
17 sections 43 through 53 of P.L. , c. (C.) (pending before the
18 Legislature as this bill) and any other terms and conditions that the
19 director may prescribe.

20 c. A purchaser or assignee of a tax credit transfer certificate
21 pursuant to this section may make any subsequent transfers,
22 assignments, or sales of a tax credit transfer certificate for an amount
23 to be negotiated with a subsequent purchaser or assignee.

24 d. The authority shall publish on its Internet website the
25 following information concerning each tax credit transfer certificate
26 approved by the authority and the director pursuant to this section:

- 27 (1) the name of the transferor;
28 (2) the name of the transferee;
29 (3) the value of the tax credit transfer certificate;
30 (4) the State tax against which the transferee may apply the tax
31 credit; and
32 (5) the consideration received by the transferor.

33
34 54. (New section) Sections 54 through 67 of P.L. , c. (C.)
35 (pending before the Legislature as this bill) shall be known and may
36 be cited as the "New Jersey Aspire Program Act."

37
38 55. (New section) As used in sections 54 through 67 of P.L. ,
39 c. (C.) (pending before the Legislature as this bill):

40 "Agency" means the New Jersey Housing and Mortgage Finance
41 Agency established pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.).

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

44 "Aviation district" means all areas within the boundaries of the
45 Atlantic City International Airport, established pursuant to section 24
46 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation
47 Administration William J. Hughes Technical Center and the area
48 within a one-mile radius of the outermost boundary of the Atlantic

1 City International Airport and the Federal Aviation Administration
2 William J. Hughes Technical Center.

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

6 "Building services" means any cleaning or routine building
7 maintenance work, including but not limited to sweeping,
8 vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse
9 or trash, window cleaning, securing, patrolling, or other work in
10 connection with the care or securing of an existing building,
11 including services typically provided by a door-attendant or
12 concierge. "Building services" shall not include any skilled
13 maintenance work, professional services, or other public work for
14 which a contractor is required to pay the "prevailing wage" as defined
15 in section 2 of P.L.1963, c.150 (C.34:11-56.26).

16 "Cash flow" means the profit or loss that an investment property
17 earns from rent, deposits, and other fees after financial obligations,
18 such as debt, maintenance, and other expenses, have been paid.

19 "Collaborative workspace" means coworking, accelerator,
20 incubator, or other shared working environments that promote
21 collaboration, interaction, socialization, and coordination among
22 tenants through the clustering of multiple businesses or individuals.
23 For this purpose, the collaborative workspace shall be the greater of:
24 2,500 of dedicated square feet or 10 percent of the total property on
25 which the redevelopment project is situated. The collaborative
26 workspace shall include a community manager, be focused on
27 collaboration among the community members, and include regularly
28 scheduled education events for the community members. The
29 collaborative workspace shall also include a physical open space that
30 supports the engagement of its community members.

31 "Commercial project" means a building, which is predominantly
32 commercial and contains 100,000 or more square feet of office and
33 retail space, industrial space, or film studios, professional stages,
34 television studios, recording studios, screening rooms, or other
35 infrastructure for film production, for purchase or lease and may
36 include a parking component.

37 "Developer" means a person who enters or proposes to enter into
38 an incentive award agreement pursuant to the provisions of section
39 62 of P.L. , c. (C.) (pending before the Legislature as this
40 bill), including, but not limited, to a lender that completes a
41 redevelopment project, operates a redevelopment project, or
42 completes and operates a redevelopment project.

43 "Director" means the Director of the Division of Taxation in the
44 Department of the Treasury.

45 "Distressed municipality" means a municipality that is qualified
46 to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a
47 municipality under the supervision of the Local Finance Board
48 pursuant to the provisions of the "Local Government Supervision Act

1 (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality
2 identified by the Director of the Division of Local Government
3 Services in the Department of Community Affairs to be facing
4 serious fiscal distress, a SDA municipality, or a municipality in
5 which a major rail station is located.

6 "Economic development incentive" means a financial incentive,
7 awarded by the authority, or agreed to between the authority and a
8 business or person, for the purpose of stimulating economic
9 development or redevelopment in New Jersey, including, but not
10 limited to, a bond, grant, loan, loan guarantee, matching fund, tax
11 credit, or other tax expenditure.

12 "Eligibility period" means the period not to exceed 15 years for a
13 commercial or mixed-use project or the period not to exceed 10 years
14 for a residential project specified in an incentive award agreement
15 during which a developer may claim a tax credit under the program.

16 "Food delivery source" means access to nutritious foods, such as
17 fresh fruits and vegetables, through grocery operators, including, but
18 not limited to a full-service supermarket or grocery store, and other
19 healthy food retailers of at least 18,000 square feet, including, but not
20 limited to, a prepared food establishment selling primarily nutritious
21 ready-to-serve meals.

22 "Food desert community" means a physically contiguous area in
23 the State in which residents have limited access to nutritious foods,
24 such as fresh fruits and vegetables, through supermarkets and grocery
25 stores.

26 "Government-restricted municipality" means a municipality in
27 this State with a municipal revitalization index distress score of at
28 least 7, that met the criteria for designation as an urban aid
29 municipality in the 2019 State fiscal year, and that, on the effective
30 date of P.L. , c. (C.) (pending before the Legislature as this
31 bill), is subject to financial restrictions imposed pursuant to the
32 Municipal Stabilization and Recovery Act of 2016, P.L.2016, c.4
33 (52:27BBBB-1), or is restricted in its ability to levy property taxes
34 on property in that municipality as a result of the State of New Jersey
35 owning or controlling property representing at least 25 percent of the
36 total land area of the municipality or as a result of the federal
37 government of the United States owning or controlling at least 50
38 acres of the total land area of the municipality, which is dedicated as
39 a national natural landmark.

40 "Health care or health services center" means an establishment
41 where patients are admitted for examination and treatment by one or
42 more physicians, dentists, psychologists, or other medical
43 practitioners.

44 "Incentive area" means an area designated pursuant to the "State
45 Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning
46 Area 1 (Metropolitan), Planning Area 2 (Suburban), or a Designated
47 Center, , provided an area designated as Planning Area 2 (Suburban)
48 or a Designated Center shall be located within a one-half mile radius

1 of the mid-point, with bicycle and pedestrian connectivity, of a New
2 Jersey Transit Corporation, Port Authority Transit Corporation, or
3 Port Authority Trans-Hudson Corporation rail, bus, or ferry station,
4 including all light rail stations, or a high frequency bus stop as
5 certified by the New Jersey Transit Corporation.

6 "Incentive award" means an award of tax credits to reimburse a
7 developer for all or a portion of the project financing gap of a
8 redevelopment project pursuant to the provisions of sections 54
9 through 67 of P.L. , c. (C.) (pending before the Legislature
10 as this bill).

11 "Incentive award agreement" means the contract executed
12 between a developer and the authority pursuant to section 62 of
13 P.L. , c. (C.) (pending before the Legislature as this bill),
14 which sets forth the terms and conditions under which the developer
15 may receive the incentive awards authorized pursuant to the
16 provisions of sections 54 through 67 of P.L. , c. (C.) (pending
17 before the Legislature as this bill).

18 "Incubator facility" means a commercial property, which contains
19 5,000 or more square feet of office, laboratory, or industrial space,
20 which is located near, and presents opportunities for collaboration
21 with, a research institution, teaching hospital, college, or university,
22 and within which at least 75 percent of the gross leasable area is
23 restricted for use by one or more technology startup companies.

24 "Individuals with special needs" means individuals with mental
25 illness, individuals with physical or developmental disabilities, and
26 individuals in other emerging special needs groups identified by the
27 authority, based on guidelines established for the administration of
28 the Special Needs Housing Trust Fund established pursuant to
29 section 1 of P.L.2005, c.163 (C.34:1B-21.25a) or developed in
30 consultation with other State agencies.

31 "Low-income housing" means housing affordable according to
32 federal Department of Housing and Urban Development or other
33 recognized standards for home ownership and rental costs and
34 occupied or reserved for occupancy by households with a gross
35 household income equal to 50 percent or less of the median gross
36 household income for households of the same size within the housing
37 region in which the housing is located.

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

45 "Moderate-income housing" means housing affordable according
46 to federal Department of Housing and Urban Development or other
47 recognized standards for home ownership and rental costs and
48 occupied or reserved for occupancy by households with a gross

1 household income equal to more than 50 percent, but less than 80
2 percent, of the median gross household income for households of the
3 same size within the housing region in which the housing is located.

4 "Municipal Revitalization Index" means the index by the
5 Department of Community Affairs ranking New Jersey's
6 municipalities according to eight separate indicators that measure
7 diverse aspects of social, economic, physical, and fiscal conditions
8 in each locality.

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

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

14 b. a 15-mile radius of the outermost boundary of each marine
15 terminal facility established, acquired, constructed, rehabilitated, or
16 improved by the South Jersey Port District established pursuant to
17 "The South Jersey Port Corporation Act," P.L.1968, c.60 (C.12:11A-
18 1 et seq.).

19 "Program" means the New Jersey Aspire Program established by
20 section 56 of P.L. , c. (C.) (pending before the Legislature
21 as this bill).

22 "Project cost" means the costs incurred in connection with a
23 redevelopment project by a developer until the issuance of a
24 permanent certificate of occupancy, or until such other time specified
25 by the authority, for a specific investment or improvement, including
26 the costs relating to lands, buildings, improvements, real or personal
27 property, or any interest therein, including leases discounted to
28 present value, including lands under water, riparian rights, space
29 rights, and air rights acquired, owned, developed or redeveloped,
30 constructed, reconstructed, rehabilitated, or improved, any
31 environmental remediation costs, plus costs not directly related to
32 construction, of an amount not to exceed 20 percent of the total costs,
33 capitalized interest paid to third parties, and the cost of infrastructure
34 improvements, including ancillary infrastructure projects. The cost
35 of acquisition of land or fees associated with the application or
36 administration of a grant under sections 54 through 67 of P.L. ,
37 c. (C.) (pending before the Legislature as this bill) shall not
38 constitute a project cost.

39 "Project financing gap" means the part of the total project cost,
40 including reasonable and appropriate return on investment, that
41 remains to be financed after all other sources of capital have been
42 accounted for, including, but not limited to developer contributed
43 capital, which shall not be less than 20 percent of the total project
44 cost, and investor or financial entity capital or loans for which the
45 developer, after making all good faith efforts to raise additional
46 capital, certifies that additional capital cannot be raised from other
47 sources on a non-recourse basis.

1 "Project labor agreement" means a form of pre-hire collective
2 bargaining agreement covering terms and conditions of a specific
3 project that satisfies the requirements set forth in section 5 of
4 P.L.2002, c.44 (C.52:38-5).

5 "Qualified incentive tract" means (i) a population census tract
6 having a poverty rate of 20 percent or more; or (ii) a census tract in
7 which the median family income for the census tract does not exceed
8 80 percent of the greater of the Statewide median family income or
9 the median family income of the metropolitan statistical area in
10 which the census tract is situated.

11 "Quality childcare facility" is a child care center licensed by the
12 Department of Children and Families, operating continuously, which
13 has not been subject to an enforcement action, and which has and
14 maintains a total licensed capacity of at least 60 children age 6 years
15 or younger.

16 "Redevelopment project" means a specific construction project or
17 improvement undertaken by a developer, owner or tenant, or both,
18 and any ancillary infrastructure project. A redevelopment project
19 may involve construction or improvement upon lands, buildings,
20 improvements, or real and personal property, or any interest therein,
21 including lands under water, riparian rights, space rights, and air
22 rights, acquired, owned, developed or redeveloped, constructed,
23 reconstructed, rehabilitated, or improved.

24 "Residential project" means a redevelopment project that is
25 predominantly residential, intended for multi-family residency, and
26 may include a parking component.

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

29 "SDA municipality" means a municipality in which an SDA
30 district is situated.

31 "Total project cost" means the costs incurred in connection with
32 the redevelopment project by the developer until the issuance of a
33 permanent certificate of occupancy, or upon such other event
34 evidencing project completion as set forth in the incentive grant
35 agreement, for a specific investment or improvement.

36 "Tourism destination project" means a non-gaming business
37 facility that will be among the most visited privately owned or
38 operated tourism or recreation sites in the State, and which has been
39 determined by the authority to be in an area appropriate for
40 development and in need of economic development incentive
41 assistance, including a non-gaming business within an established
42 Tourism District with a significant impact on the economic viability
43 of that district.

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

1 "Transit hub municipality" means a Transit Village or a
2 municipality: a. which qualifies for State aid pursuant to P.L.1978,
3 c.14 (C.52:27D-178 et seq.), or which has continued to be a qualified
4 municipality thereunder pursuant to P.L.2007, c.111; and b. in which
5 30 percent or more of the value of real property was exempt from
6 local property taxation during tax year 2006. The percentage of
7 exempt property shall be calculated by dividing the total exempt
8 value by the sum of the net valuation which is taxable and that which
9 is tax exempt.

10 "Transit Village" means a municipality that has been designated
11 as a transit village by the Commissioner of Transportation and the
12 Transit Village Task Force established pursuant to P.L.1985, c.398
13 (C.27:1A-5).

14 "Workforce housing" means housing that is affordable according
15 to federal Department of Housing and Urban Development or other
16 recognized standards for home ownership and rental costs, and
17 occupied or reserved for occupancy by households with a gross
18 household income of more than 80 percent, but less than 120 percent,
19 of the median gross household income for households of the same
20 size within the housing region in which the housing is located.

21
22 56. (New section) a. The New Jersey Aspire Program is hereby
23 established as a program under the jurisdiction of the New Jersey
24 Economic Development Authority. The authority shall administer
25 the program to encourage redevelopment projects through the
26 provision of incentive awards to reimburse developers for certain
27 project financing gap costs. The board may approve the award of an
28 incentive award to a developer upon application to the authority
29 pursuant to sections 58 and 59 of P.L. , c. (C. , C. , and
30 C.) (pending before the Legislature as this bill). The value of
31 all tax credits approved by the authority pursuant to sections 54
32 through 67 of P.L. , c. (C.) (pending before the Legislature
33 as this bill), shall be subject to the limitations set forth in section 98
34 of P.L. , c. (C.) (pending before the Legislature as this bill).

35 b. The chief executive officer of the authority shall designate
36 one staff member per government-restricted municipality in order to
37 keep the municipality informed on activities within the municipality
38 and to coordinate economic development initiatives.

39
40 57. (New section) a. Prior to March 1, 2027, a developer shall be
41 eligible to receive an incentive award for a redevelopment project
42 only if the developer demonstrates to the authority at the time of
43 application that:

44 (1) without the incentive award, the redevelopment project is not
45 economically feasible;

46 (2) a project financing gap exists, or the authority determines that
47 the redevelopment project will generate a below market rate of
48 return;

1 (3) the redevelopment project is located in the incentive area;

2 (4) except for demolition and site remediation activities, the
3 developer has not commenced any construction at the site of the
4 redevelopment project prior to submitting an application, unless the
5 authority determines that the redevelopment project would not be
6 completed otherwise or, in the event the redevelopment project is to
7 be undertaken in phases, the requested incentive award is limited to
8 only phases for which construction has not yet commenced;

9 (5) the redevelopment project shall comply with minimum
10 environmental and sustainability standards;

11 (6) the redevelopment project shall comply with the authority's
12 affirmative action requirements, adopted pursuant to section 4 of
13 P.L.1979, c.203 (C.34:1B-5.4);

14 (7) each worker employed or subcontractor of a developer
15 working at a redevelopment project, 80 percent or more of which is
16 operated by the developer, shall be paid not less than \$15 per hour or
17 120 percent of the minimum wage fixed under subsection a. of
18 section 5 of P.L.1966, c.113 (C.34:11-56a4), whichever is higher;

19 (8) during the eligibility period, each worker employed to
20 perform construction work or building services work at the
21 redevelopment project shall be paid not less than the prevailing wage
22 rate for the worker's craft or trade, as determined by the
23 Commissioner of Labor and Workforce Development pursuant to
24 P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379
25 (C.34:11-56.58 et seq.). In the event a redevelopment project is
26 undertaken by a tenant and the tenant has a leasehold of more than
27 55 percent of space in the building owned or controlled by the
28 developer, the requirement that each worker employed to perform
29 building service work at the building be paid not less than the
30 prevailing wage shall apply to the entire building;

31 (9) the redevelopment project shall be completed, and the
32 developer shall be issued a certificate of occupancy for the
33 redevelopment project facilities by the applicable enforcing agency
34 within four years of executing the incentive award agreement
35 corresponding to the redevelopment project;

36 (10) the developer has complied with all requirements for filing
37 tax and information returns and for paying or remitting required State
38 taxes and fees by submitting, as a part of the application, a tax
39 clearance certificate, as described in section 1 of P.L.2007, c.101
40 (C.54:50-39); and

41 (11) the developer is not more than 24 months in arrears at the
42 time of application.

43 b. In addition to the requirements set forth in subsection a. of
44 this section, for a commercial project to qualify for an incentive
45 award the developer shall demonstrate that:

46 (1) the incremental increase of State revenues realized from the
47 commercial project upon its completion shall be in excess of the

- 1 amount necessary to reimburse the developer for its project financing
2 gap; and
- 3 (2) the developer shall have an equity participation of at least 20
4 percent of the total project cost.
- 5 c. In addition to the requirements set forth in subsection a. of
6 this section, for a residential project to qualify for an incentive award,
7 the residential project shall:
- 8 (1) have a total project cost of at least \$17,500,000, if the project
9 is located in a municipality with a population greater than 200,000
10 according to the latest federal decennial census;
- 11 (2) have a total project cost of at least \$10,000,000 if the project
12 is located in a municipality with a population less than 200,000
13 according to the latest federal decennial census; or
- 14 (3) have a total project cost of at least \$5,000,000 if the project is
15 in a qualified incentive tract or government-restricted municipality.
- 16 d. In addition to the requirements set forth in subsections a. and
17 c. of this section, for a residential project consisting of newly-
18 constructed residential units to qualify for an incentive award, the
19 developer shall reserve at least 20 percent, but not more than 50
20 percent, of the residential units constructed for occupancy by low-
21 and moderate-income households with affordability controls as
22 required under the "Fair Housing Act," P.L.1985, c. 222 (C.52:27D-
23 301 et al.), unless: the municipality in which the property is located
24 has received substantive certification from the council and such a
25 reservation is not required under the approved affordable housing
26 plan; the municipality has been given a judgment of repose or a
27 judgment of compliance by the court, and such a reservation is not
28 required under the approved affordable housing plan. The extent to
29 which the proposed project would attract or retain a skilled
30 employment base that is important to the State's competitive position
31 generally or to capture economic development opportunities within
32 targeted industries, this 20 percent for low-income housing and
33 moderate-income housing may be used for workforce housing, or
34 housing for individuals with special needs to the extent consistent
35 with the Fair Housing Act, P.L.1985, c. 222 (C.52:27D-301 et al.).
36 This 20 percent shall be constructed within the same housing
37 development.
- 38 e. Prior to the board considering an application submitted by a
39 developer, the Department of Labor and Workforce Development,
40 the Department of Environmental Protection, and the Department of
41 the Treasury shall each report to the chief executive officer of the
42 authority whether the developer is in substantial good standing with
43 the respective department, or has entered into an agreement with the
44 respective department that includes a practical corrective action plan
45 for the developer. The authority may also contract with an
46 independent third party to perform a background check on the
47 developer.

1 58. (New section) a. Prior to March 1, 2027, a developer that
2 meets the eligibility criteria in section 57 of P.L. , c. (C.)
3 (pending before the Legislature as this bill) and is seeking an
4 incentive award for a redevelopment project shall submit an
5 application to the authority and, in the case of a residential project,
6 shall submit an application to the authority and the agency, in a form
7 and manner prescribed in regulations adopted by the authority, in
8 consultation with the agency, pursuant to the provisions of the
9 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
10 seq.). The authority shall accept applications for incentive awards
11 during the grant periods established pursuant to section 59 of P.L. ,
12 c. (C.) (pending before the Legislature as this bill).

13 b. The authority shall not consider an application for a
14 commercial project unless the developer submits a letter evidencing
15 support for the commercial project from the governing body of the
16 municipality in which the commercial project is located with the
17 application.

18 c. The authority shall review the project cost, evaluate and
19 validate the project financing gap estimated by the developer, and
20 conduct a State fiscal impact analysis to ensure that the overall public
21 assistance provided to the project will result in a net positive benefit
22 to the State, provided that the net benefit analysis shall not apply to
23 capital investment for a food delivery source, or a health care or
24 health services center with a minimum of 10,000 square feet of space
25 devoted to residential projects, health care or health services that is
26 located in a municipality with a Municipal Revitalization Index
27 distress score of at least 50 lacking adequate access, as determined
28 by the Commissioner of Health, to health care or health services. In
29 determining whether a project will result in a net positive benefit to
30 the State, the authority shall not consider the value of any taxes
31 exempted, abated, rebated, or retained under the "Five-Year
32 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et
33 seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431
34 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act,"
35 P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the
36 effect of lowering or eliminating the developer’s State or local tax
37 liability. The determination made pursuant to this subsection shall
38 be based on the potential tax liability of the developer without regard
39 for potential tax losses if the developer were to locate in another state.
40 The authority shall assess the cost of these reviews to the applicant.
41 A developer shall pay to the authority the full amount of the direct
42 costs of an analysis concerning the developer’s application for a tax
43 credit that a third party retained by the authority performs, if the
44 authority deems such retention to be necessary. The authority shall
45 evaluate the net economic benefits on a present value basis under
46 which the requested tax credit allocation amount is discounted to
47 present value at the same discount rate as the projected benefits from

1 the implementation of the proposed redevelopment project for which
2 an award of tax credits is being sought.

3 d. For a redevelopment project subject to the requirement of
4 subsection c. of this section to be eligible for any tax credits under
5 the program, a developer shall demonstrate to the authority that the
6 award of tax credits will yield a net positive benefit to the State
7 equaling an amount determined by the authority through regulation
8 that exceeds the requested tax credit amount. The developer shall
9 certify, under the penalty of perjury, that all documents submitted,
10 and factual assertions made, to the authority to demonstrate that the
11 award of tax credits will yield a net positive benefit to the State in
12 accordance with this subsection are true and accurate at the time of
13 submission. A redevelopment project located in a government-
14 restricted municipality shall yield a net positive benefit to the State
15 that exceeds the requested tax credit amount, but the net benefit
16 requirement set by the authority for such redevelopment projects may
17 be up to 35 percentage points lower than the net benefit requirement
18 set by the authority for all other eligible redevelopment projects.

19 e. If at any time during the eligibility period the authority
20 determines that the developer made a material misrepresentation on
21 the developer's application, the developer shall forfeit the incentive
22 award.

23 f. If circumstances require a developer to amend its application
24 to the authority, then the developer, or an authorized agent of the
25 developer, shall certify to the authority that the information provided
26 in its amended application is true under the penalty of perjury.

27
28 59. (New section) a. Prior to March 1, 2027, for
29 redevelopment projects eligible pursuant to section 57 of P.L. ,
30 c. (C.) (pending before the Legislature as this bill), the
31 authority shall award incentive awards through an application
32 process consisting of up to two biannual award rounds. The authority
33 shall provide notice to the public of the opening and closing dates for
34 submission of grant applications on its Internet website. The
35 authority shall award incentive awards based on the order in which
36 complete, qualifying applications were received by the authority.

37 b. Prior to allocating an incentive award to a redevelopment
38 project, the Department of Labor and Workforce Development, the
39 Department of Environmental Protection, and the Department of the
40 Treasury shall each report to the chief executive officer of the
41 authority whether the developer and each contractor and
42 subcontractor performing work at the redevelopment project is in
43 substantial good standing with the respective department, or has
44 entered into an agreement with the respective department that
45 includes a practical corrective action plan. The authority may also
46 contract with an independent third party to perform a background
47 check on the developer. Provided that the developer and all
48 contractors and subcontractors are in substantial good standing, or

1 have entered into such agreements, the authority shall allocate
2 incentive awards to redevelopment projects according to the
3 redevelopment project's score and until either the available incentive
4 awards are exhausted or all redevelopment projects obtaining the
5 minimum score receive an incentive award, whichever occurs first.
6 If insufficient funding exists to fully fund all eligible projects, a
7 project may be offered partial funding.

8
9 60. (New section) a. Following approval and selection of an
10 application pursuant to sections 58 and 59 of P.L. , c. (C. and
11 C.) (pending before the Legislature as this bill), the authority
12 shall enter into an incentive award agreement with the developer.
13 The chief executive officer of the authority shall negotiate the terms
14 and conditions of the incentive award agreement on behalf of the
15 State. The incentive award agreement shall require that the developer
16 consent to the disclosure of tax expenditure information as described
17 in paragraph (8) of subsection b. of section 1 of P.L.2009, c.189
18 (C.52:27B-20a).

19 b. An incentive award agreement shall specify the amount of the
20 incentive award the authority shall award to the developer and the
21 duration of the eligibility period, which shall not exceed 15 years for
22 a commercial or mixed-use project and shall not exceed 10 years for
23 a residential project. The incentive award agreement shall provide
24 an estimated date of completion and include a requirement for
25 periodic progress reports, including the submittal of executed
26 financing commitments and documents that evidence site control. If
27 the authority does not receive periodic progress reports, or if the
28 progress reports demonstrate unsatisfactory progress, then the
29 authority may rescind the incentive award. If the authority rescinds
30 an incentive award in the same calendar year in which the authority
31 approved the incentive award, then the authority may assign the
32 incentive award to another applicant. The incentive award agreement
33 may also provide for a verification of the financing gap at the time
34 the developer provides executed financing commitments to the
35 authority and a verification of the developer's projected cash flow at
36 the time of certification that the project is completed.

37 c. To ensure the protection of taxpayer money, if the authority
38 determines that the project financing gap is smaller than determined
39 at board approval, the authority shall reduce the amount of the tax
40 credit on a pro rata basis. If there is no project financing gap, then
41 the developer shall forfeit the incentive award. This test shall be
42 conducted at the end of the third year of the eligibility period
43 whereupon the authority shall evaluate the developer's cash flow and
44 compare that cash flow to the projected cash flow at the time of board
45 approval. For a commercial project, if the actual cash flow exceeds
46 the projected cash flow at the time of board approval by more than
47 15 percent, the authority shall require the developer to pay up to 15
48 percent of the amount of the excess. To the extent applicable, in the

1 case of a residential project, the developer's return on investment
2 shall be subject to the provisions of section 7 of P.L.1983, c.530
3 (C.55:14K-7).

4 d. The incentive award agreement shall include a requirement
5 that the chief executive officer of the authority receive annual reports
6 from the Department of Environmental Protection, the Department of
7 Labor and Workforce Development, and the Department of the
8 Treasury demonstrating that the developer and each contractor and
9 subcontractor performing work at the redevelopment project is in
10 substantial good standing with the respective department, or has
11 entered into an agreement with the respective department that
12 includes a practical corrective action. The incentive award
13 agreement shall also include a provision that the developer shall
14 forfeit the incentive award in any year in which any such report is not
15 received. The incentive award agreement shall also require a
16 developer to engage in on-site consultations with the Division of
17 Workplace Safety and Health in the Department of Health.

18 e. (1) Except as provided in paragraph (2) of this subsection,
19 the authority shall not enter into an incentive award agreement for a
20 redevelopment project that includes at least one retail establishment
21 which will have more than 10 employees, at least one distribution
22 center which will have more than 20 employees, or at least one
23 hospitality establishment which will have more than 10 employees,
24 unless the incentive award agreement includes a precondition that
25 any business that serves as the owner or operator of the retail
26 establishment or distribution center enters into a labor harmony
27 agreement with a labor organization or cooperating labor
28 organizations which represent retail or distribution center employees
29 in the State.

30 (2) A labor harmony agreement shall be required only if the State
31 has a proprietary interest in the redevelopment project and shall
32 remain in effect for as long as the State acts as a market participant
33 in the redevelopment project. The authority may enter into an
34 incentive award agreement with a developer without the labor
35 harmony agreement required under paragraph (1) of this subsection
36 if the authority determines that the redevelopment project would not
37 be able to go forward if a labor harmony agreement is required. The
38 authority shall support the determination by a written finding, which
39 provides the specific basis for the determination.

40 (3) As used in this subsection:

41 "Hospitality establishment" means a hotel, motel, or any business,
42 however organized, that sells food, beverages, or both for
43 consumption by patrons on the premises.

44 "Labor harmony agreement" means an agreement between a
45 business that serves as the owner or operator of a retail establishment
46 or distribution center and one or more labor organizations, which
47 requires, for the duration of the agreement: that any participating
48 labor organization and its members agree to refrain from picketing,

1 work stoppages, boycotts, or other economic interference against the
2 business; and that the business agrees to maintain a neutral posture
3 with respect to efforts of any participating labor organization to
4 represent employees at an establishment or other unit in the retail
5 establishment or distribution center, agrees to permit the labor
6 organization to have access to the employees, and agrees to guarantee
7 to the labor organization the right to obtain recognition as the
8 exclusive collective bargaining representatives of the employees in
9 an establishment or unit at the retail establishment or distribution
10 center by demonstrating to the New Jersey State Board of Mediation,
11 Division of Private Employment Dispute Settlement, or a mutually
12 agreed-upon, neutral, third-party, that a majority of workers in the
13 unit have shown their preference for the labor organization to be their
14 representative by signing authorization cards indicating that
15 preference. The labor organization or organizations shall be from a
16 list of labor organizations which have requested to be on the list and
17 which the Commissioner of Labor and Workforce Development has
18 determined represent substantial numbers of retail or distribution
19 center employees in the State.

20 f. (1) In addition to the incentive award agreement, a
21 developer shall enter into a community benefits agreement with the
22 authority and the county or municipality in which the redevelopment
23 project is located. The agreement may include, but shall not be
24 limited to, requirements for training, employment, and youth
25 development and free services to underserved communities in and
26 around the community in which the redevelopment project is located.
27 Prior to entering a community benefits agreement, the governing
28 body of the county or municipality in which the redevelopment
29 project is located shall hold at least one public hearing at which the
30 governing body shall hear testimony from residents, community
31 groups, and other stakeholders on the needs of the community that
32 the agreement should address.

33 (2) The community benefits agreement shall provide for the
34 creation of a community advisory committee to oversee the
35 implementation of the agreement, monitor successes, ensure
36 compliance with the terms of the agreement, and produce an annual
37 public report. The community advisory committee created pursuant
38 to this paragraph shall be comprised of representatives of diverse
39 community groups and residents of the county or municipality in
40 which the redevelopment project is located.

41 (3) At the time the developer submits the annual report required
42 pursuant to section 62 of P.L. , c. (C.) (pending before the
43 Legislature as this bill) to the authority, the developer shall certify,
44 under the penalty of perjury, that it is in compliance with the terms
45 of the community benefits agreement. If the developer fails to
46 provide the certification required pursuant to this paragraph or the
47 authority determines that the developer is not in compliance with the
48 terms of the community benefits agreement based on the reports

1 submitted by the community advisory committee pursuant to
2 paragraph (2) of this subsection, then the authority may rescind an
3 award or recapture all or part of any tax credits awarded.

4 g. A developer shall submit, prior to the first disbursement of tax
5 credits under the incentive award agreement, but no later than six
6 months following project completion, satisfactory evidence of actual
7 project costs, as certified by a certified public accountant, evidence
8 of a temporary certificate of occupancy, or other event evidencing
9 project completion that begins the eligibility period indicated in the
10 incentive award agreement. The developer, or an authorized agent of
11 the developer, shall certify that the information provided pursuant to
12 this subsection is true under the penalty of perjury. Claims, records,
13 or statements submitted by a developer to the authority in order to
14 receive tax credits shall not be considered claims, records, or
15 statements made in connection with State tax laws.

16 h. The incentive award agreement shall include a provision
17 allowing the authority to extend, in individual cases, the deadline for
18 any annual reporting or certification requirement.

19
20 61. (New section) a. Up to the limits established in
21 subsection b. of this section and in accordance with an incentive
22 award agreement, beginning upon the receipt of occupancy permits
23 for any portion of the redevelopment project, or upon any other event
24 evidencing project completion as set forth in the incentive award
25 agreement, a developer shall be allowed a total tax credit that shall
26 not exceed 45 percent of the total project cost of the redevelopment
27 project, except for a commercial project that is located in a
28 government-restricted municipality, in which case the total tax credit
29 allowed shall not exceed 50 percent of the total project cost of the
30 commercial project.

31 b. The value of all tax credits approved by the authority under
32 the program for a redevelopment project shall not exceed
33 \$50,000,000 per redevelopment project if located in a qualified
34 incentive tract, government-restricted municipality, or municipality
35 with a Municipal Revitalization Index distress score of at least 50, or
36 \$32,000,000 for any other redevelopment project.

37
38 62. (New section) a. A developer approved for an incentive
39 award pursuant to sections 58 and 59 of P.L. , c. (C. and
40 C.) (pending before the Legislature as this bill) and that enters
41 an incentive award agreement pursuant to section 60 of P.L. ,
42 c. (C.) (pending before the Legislature as this bill) shall submit
43 annually, commencing in the year in which the incentive award is
44 issued and for the remainder of the eligibility period, a report
45 indicating whether the developer is aware of any condition, event, or
46 act that would cause the developer not to be in compliance with the
47 incentive award agreement or the provisions of sections 54 through
48 67 of P.L. , c. (C.) (pending before the Legislature as this

1 bill) and any additional reporting requirements contained in the
2 incentive award agreement or tax credit certificate. The developer,
3 or an authorized agent of the developer, shall certify that the
4 information provided pursuant to this subsection is true under the
5 penalty of perjury.

6 b. (1) Upon receipt and review of each report submitted
7 during the eligibility period, the authority shall provide to the
8 developer and the director a certificate of compliance indicating the
9 amount of tax credits that the developer may apply against the
10 developer's tax liability.

11 (2) Upon receipt by the director of the certificate of compliance,
12 the director shall allow the developer a credit against the tax imposed
13 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). A developer
14 shall apply the credit awarded against the developer's liability under
15 section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of
16 P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of
17 P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 for the privilege
18 period during which the director allows the developer a tax credit
19 pursuant to this subsection. A developer shall not carry forward an
20 unused credit unless the developer was unable to use the credit
21 because the developer's redevelopment project was directly impacted
22 due to a natural disaster, state emergency, national emergency, or a
23 situation that was out of the developer's control that impacted the
24 developer's use of the credit that year, in which case the developer is
25 permitted to carry forward an unused credit for up to two years upon
26 submitting evidence of the developer's redevelopment project being
27 directly impacted by such a circumstance and receiving approval
28 from the authority. Credits granted to a partnership shall be passed
29 through to the partners, members, or owners, respectively, pro-rata,
30 or pursuant to an executed agreement among the partners, members,
31 or owners documenting an alternate distribution method provided to
32 the director accompanied by any additional information as the
33 director may prescribe.

34 (3) The director shall prescribe the order of priority of the
35 application of the credit allowed under this section and any other
36 credits allowed by law against the tax imposed under section 5 of
37 P.L.1945, c.162 (C.54:10A-5). The amount of the credit applied
38 under this section against the tax imposed pursuant to section 5 of
39 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with
40 any other credits allowed by law, shall not reduce the tax liability to
41 an amount less than the statutory minimum provided in subsection
42 (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

43 c. The authority may, pursuant to an amendment to the incentive
44 award agreement, provide short-term stabilization loans to a
45 developer eligible for an incentive award pursuant to subparagraph
46 (b) of paragraph (3) of subsection a. of section 57 or of P.L. ,
47 c. (C.) (pending before the Legislature as this bill). The
48 authority may finance the loans authorized pursuant to this

1 subsection through a sale of tax credits to which the developer would
2 be entitled at a future date pursuant to the incentive award agreement
3 and as authorized under this act or through appropriations made
4 available by the Legislature. A developer shall utilize a loan made
5 available pursuant to this subsection exclusively for project costs or
6 to mitigate a project financing gap. The loans shall bear interest at
7 rates and terms deemed appropriate by the authority but shall bear an
8 interest rate of zero percent per year for the first five years of the loan
9 term.

10
11 63. (New section) a. A developer may apply to the director
12 and the chief executive officer of the authority for a tax credit transfer
13 certificate, covering one or more years, in lieu of the developer being
14 allowed any amount of the credit against the tax liability of the
15 developer. The tax credit transfer certificate, upon receipt thereof by
16 the developer from the director and the chief executive officer of the
17 authority, may be sold or assigned, in full or in part in an amount not
18 less than \$25,000, in the privilege period during which the developer
19 receives the tax credit transfer certificate from the director, to another
20 person, who may apply the credit against a tax liability pursuant to
21 section 5 of P.L.1945, c.162 (C.54:10A-5) , sections 2 and 3 of
22 P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of
23 P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The certificate
24 provided to the developer shall include a statement waiving the
25 developer's right to claim the amount of the credit that the developer
26 has elected to sell or assign against the developer's tax liability.

27 b. The developer shall not sell or assign, including a collateral
28 assignment, a tax credit transfer certificate allowed under this section
29 for consideration received by the developer of less than 85 percent of
30 the transferred credit amount before considering any further
31 discounting to present value which shall be permitted, except a
32 developer of a residential project consisting of newly-constructed
33 residential units may assign a tax credit transfer certificate for
34 consideration of less than 85 percent subject to the submission of a
35 plan to the authority and the agency to use the proceeds derived from
36 the assignment of tax credits to complete the residential project,
37 except a developer of a residential project consisting of newly-
38 constructed residential units that has received federal low income
39 housing tax credits under 26 U.S.C. s.42(b)(2)(B)(i) may assign a tax
40 credit transfer certificate for consideration of no less than 75 percent
41 subject to the submission of a plan to the authority and the New
42 Jersey Housing and Mortgage Finance Agency to use the proceeds
43 derived from the assignment of tax credits to complete the residential
44 project. The tax credit transfer certificate issued to a developer by
45 the director shall be subject to any limitations and conditions
46 imposed on the application of State tax credits pursuant to sections
47 54 through 67 of P.L. , c. (C.) (pending before the Legislature

1 as this bill) and any other terms and conditions that the director may
2 prescribe.

3 c. A purchaser or assignee of a tax credit transfer certificate
4 pursuant to this section shall not make any subsequent transfers,
5 assignments, or sales of the tax credit transfer certificate. d.

6 The authority shall publish on its Internet website the following
7 information concerning each tax credit transfer certificate approved
8 by the authority and the director pursuant to this section:

9 (1) the name of the transferrer;

10 (2) the name of the transferee;

11 (3) the value of the tax credit transfer certificate; and

12 (4) the consideration received by the transferrer.
13

14 64. (New section) a. A developer who has entered into an
15 incentive award agreement pursuant to section 62 of P.L. ,

16 c. (C.) (pending before the Legislature as this bill) may, upon
17 notice to and written consent of the authority and State Treasurer,
18 pledge, assign, transfer, or sell any or all of its right, title, and interest
19 in and to the incentive award agreement and in the incentive awards
20 payable under the incentive award agreement, and the right to receive
21 the incentive awards, along with the rights and remedies provided to
22 the developer under the incentive award agreement. Any assignment
23 shall be an absolute assignment for all purposes, including the federal
24 bankruptcy code.

25 b. Any pledge of an incentive award made by the developer shall
26 be valid and binding from the time the pledge is made and filed in
27 the records of the authority. The incentive award pledged and
28 thereafter received by the developer shall immediately be subject to
29 the lien of the pledge without any physical delivery thereof or further
30 act, and the lien of any pledge shall be valid and binding against all
31 parties having claims of any kind in tort, contract, or otherwise
32 against the developer irrespective of whether the parties have notice
33 thereof. As a condition of any incentive grant, the grantee, assignee,
34 pledgee or subsequent holder of the incentive grant shall immediately
35 file notice of the same with the clerk of the county in which the
36 project is located.

37 c. The authority shall publish on its Internet website the
38 following information concerning each pledge, assignment, transfer,
39 or sale approved by the authority pursuant to this section:

40 (1) the name of the person or entity offering the pledge,
41 assignment, transfer, or sale of a right, title, or interest in an incentive
42 grant agreement or tax credit agreement;

43 (2) the name of the person or entity receiving the pledge,
44 assignment, transfer, or sale of a right, title, or interest in the
45 incentive grant agreement or tax credit agreement;

46 (3) the value of the right, title, or interest in the incentive grant
47 agreement or tax credit agreement; and

1 (4) the consideration received by the person or entity offering the
2 pledge, assignment, transfer, or sale of the right, title, or interest in
3 the incentive grant agreement or tax credit agreement.
4

5 65. (New section) a. As used in this section, "transformative
6 project" means a redevelopment project that has a project financing
7 gap, that has a total project cost of at least \$100,000,000, and that
8 includes 500,000 or more square feet of new or substantially
9 renovated industrial, commercial, or residential space or that includes
10 250,000 or more square feet of film studios, professional stages,
11 television studios, recording studios, screening rooms, or other
12 infrastructure for film production and which is of special economic
13 importance as measured by the level of new jobs, new capital
14 investment, opportunities to leverage leadership in a high-priority
15 targeted industry, or other state priorities as determined by the
16 authority pursuant to rules and regulations promulgated to implement
17 this section. The criteria developed by the authority shall include,
18 but shall not be limited to:

19 (1) the extent to which the proposed transformative project would
20 create modern facilities that enhance the State's competitiveness in
21 attracting targeted industries;

22 (2) for a residential or mixed-use project, the construction of
23 1,000 or more new residential units, 20 percent of which shall be
24 constructed for occupancy by low- and moderate-income households
25 with affordability controls as required under the under the "Fair
26 Housing Act," P.L.1985, c. 222 (C.52:27D-301 et al.), which 20
27 percent shall include, to the extent to which the proposed
28 transformative project would attract or retain a skilled employment
29 base that is important to the State's competitive position generally or
30 to capture economic development opportunities within targeted
31 industries, low-income housing, moderate-income housing,
32 workforce housing, or housing for individuals with special needs, and
33 which 20 percent shall be constructed within the same housing
34 development;

35 (3) the extent to which the proposed project would leverage the
36 competitive economic development advantages of the State's mass
37 transit assets, higher education assets, and other economic
38 development assets in attracting or retaining both employers and
39 skilled workers generally or in targeted industries;

40 A "transformative project" shall not include a redevelopment
41 project at which more than 50 percent of the premises is occupied by
42 one or more businesses engaged in final point of sale retail.

43 b. The authority may award an incentive award to no more than
44 seven transformative projects in accordance with the provisions of
45 sections 59 through 67 of P.L. , c. (C.); provided, however,
46 a transformative project shall not be subject to the competitive
47 application procedure set forth in section 59 of P.L. , c. (C.)
48 (pending before the Legislature as this bill). A transformative project

1 receiving an incentive award pursuant to this section, other than a
2 project that includes 250,000 or more square feet of film studios,
3 professional stages, television studios, recording studios, screening
4 rooms or other infrastructure for film production, shall be located in
5 a distressed municipality, a government-restricted municipality, or
6 an urban transit hub municipality. No more than two transformative
7 project receiving an incentive award pursuant to this section shall be
8 located in the same municipality. The authority shall not consider an
9 application for a transformative project unless the applicant submits
10 with its application a letter evidencing support for the transformative
11 project from the governing body of the municipality in which the
12 transformative project is located.

13 c. The authority shall review the transformative project cost,
14 evaluate and validate the project financing gap estimated by the
15 developer, and conduct a State fiscal impact analysis to ensure that
16 the overall public assistance provided to the transformative project
17 will result in a net positive benefit to the State. In determining
18 whether a transformative project will result in a net positive benefit
19 to the State, the authority shall not consider the value of any taxes
20 exempted, abated, rebated, or retained under the "Five-Year
21 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et
22 seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431
23 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act,"
24 P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the
25 effect of lowering or eliminating the developer's State or local tax
26 liability. The determination made pursuant to this subsection shall
27 be based on the potential tax liability of the developer without regard
28 for potential tax losses if the developer were to locate in another state.
29 The authority shall assess the cost of these reviews to the applicant.
30 A developer shall pay to the authority the full amount of the direct
31 costs of an analysis concerning the developer's application for an
32 incentive award that a third party retained by the authority performs,
33 if the authority deems such retention to be necessary. The authority
34 shall evaluate the net economic benefits on a present value basis
35 under which the requested tax credit allocation amount is discounted
36 to present value at the same discount rate as the projected benefits
37 from the implementation of the proposed transformative project for
38 which an award of tax credits is being sought. Projects that are
39 predominantly residential shall be excluded from the calculation of
40 the net benefit test required pursuant to this subsection.

41 d. In determining net benefits for any business or person
42 considering locating in a transformative project and applying to
43 receive from the authority any other economic development incentive
44 subsequent to the award of transformative project tax credits pursuant
45 to section 65 of P.L. , c. (C.) (pending before the Legislature
46 as this bill), the authority shall not credit the business or person with
47 any benefit that was previously credited to the transformative project

1 pursuant to section 65 of P.L. , c. (C.) (pending before the
2 Legislature as this bill).

3 e. The authority shall administer the credits awarded pursuant to
4 this section in accordance with the provisions of sections 62 and 63
5 of P.L. , c. (C. and C.) (pending before the Legislature
6 as this bill).

7 f. Prior to allocating an incentive award to a developer, the
8 Department of Labor and Workforce Development, the Department
9 of Environmental Protection, and the Department of the Treasury
10 shall each report to the chief executive officer of the authority
11 whether the developer and each contractor and subcontractor
12 performing work at the transformative project is in substantial good
13 standing with the respective department, or has entered into an
14 agreement with the respective department that includes a practical
15 corrective action plan. The authority may also contract with an
16 independent third party to perform a background check on the
17 applicant.

18 g. Notwithstanding the limitation on incentive awards set forth
19 in subsection b. of section 61 and section 98 of P.L. , c. (C.)
20 (pending before the Legislature as this bill) to the contrary, the
21 authority may allow a developer of a transformative project a tax
22 credit, as reimbursement for certain project financing gap costs, in an
23 amount not to exceed 30 percent of the total project cost, the total
24 value of the project financing gap, or \$250,000,000 whichever is less.
25

26 66. (New section) Beginning the year next following the year in
27 which P.L. , c. (C.) (pending before the Legislature as this
28 bill) takes effect and every two years thereafter, a State college or
29 university established pursuant to chapter 64 of Title 18A of the New
30 Jersey Statutes shall, pursuant to an agreement executed between the
31 State college or university and the authority, prepare a report on the
32 implementation of the program, and submit the report to the
33 authority, the Governor, and, pursuant to section 2 of P.L.1991, c.164
34 (C.52:14-19.1), to the Legislature. Each biennial report required
35 under this section shall include a description of each redevelopment
36 project receiving a tax credit under the program, a detailed analysis
37 of the consideration given in each project to the factors set forth in
38 sections 58 and 59 of P.L. , c. (C. , C. , and C.)
39 (pending before the Legislature as this bill), in the case of a
40 commercial project, the return on investment for incentive awards
41 provided and the commercial project's impact on the State's
42 economy, and any other metrics the State college or university
43 determines are relevant based upon national best practices. The
44 authority shall prepare a written response to the report, which the
45 authority shall submit to the Governor and, pursuant to section 2 of
46 P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

1 67. (New section) Notwithstanding the provisions of the
2 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
3 seq.), to the contrary, the chief executive officer of the authority may
4 adopt, immediately, upon filing with the Office of Administrative
5 Law, regulations that the chief executive officer deems necessary to
6 implement the provisions of sections 54 through 67 of P.L. ,
7 c. (C.) (pending before the Legislature as this bill), which
8 regulations shall be effective for a period not to exceed 180 days from
9 the date of the filing. The chief executive officer shall thereafter
10 amend, adopt, or readopt the regulations in accordance with the
11 requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).
12

13 68. (New section) Sections 68 through 81 of P.L. , c. (C.)
14 (pending before the Legislature as this bill) shall be known and may
15 be cited as the "Emerge Program Act."
16

17 69. (New section) As used in sections 68 through 81 of P.L. ,
18 c. (C.) (pending before the Legislature as this bill):

19 "Affiliate" means an entity that directly or indirectly controls, is
20 under common control with, or is controlled by the business. Control
21 exists in all cases in which the entity is a member of a controlled
22 group of corporations, as defined pursuant to section 1563 of the
23 Internal Revenue Code of 1986 (26 U.S.C. s.1563), or the entity is an
24 organization in a group of organizations under common control, as
25 defined pursuant to subsection (c) of section 414 of the Internal
26 Revenue Code of 1986 (26 U.S.C. s.414). A taxpayer may establish
27 by clear and convincing evidence, as determined by the Director of
28 the Division of Taxation in the Department of the Treasury, that
29 control exists in situations involving lesser percentages of ownership
30 than required by sections 1563 and 414 of the Internal Revenue Code
31 of 1986 (26 U.S.C. ss.1563 and 414).

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

34 "Aviation district" means all areas within the boundaries of the
35 Atlantic City International Airport, established pursuant to section 24
36 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation
37 Administration William J. Hughes Technical Center and the area
38 within a one-mile radius of the outermost boundary of the Atlantic
39 City International Airport and the Federal Aviation Administration
40 William J. Hughes Technical Center.

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

44 "Building services" means any cleaning or routine building
45 maintenance work, including but not limited to sweeping,
46 vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse
47 or trash, window cleaning, securing, patrolling, or other work in
48 connection with the care or securing of an existing building,

1 including services typically provided by a door-attendant or
2 concierge. "Building services" shall not include any skilled
3 maintenance work, professional services, or other public work for
4 which a contractor is required to pay the "prevailing wage" as defined
5 in section 2 of P.L.1963, c.150 (C.34:11-56.26).

6 "Business" means an applicant proposing to own or lease premises
7 in a qualified business facility that is: a corporation that is subject to
8 the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-
9 5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-
10 3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5, or
11 is a partnership, S corporation, limited liability company, or non-
12 profit corporation. A business shall include an affiliate of the
13 business if that business applies for a credit based upon any capital
14 investment made by or full-time employees of an affiliate. If the
15 business or tenant is a cooperative or part of a cooperative, then the
16 cooperative may qualify for credits by counting the full-time
17 employees and capital investments of its member organizations, and
18 the cooperative may distribute credits to its member organizations.
19 If the business or tenant is a cooperative that leases to its member
20 organizations, the lease shall be treated as a lease to an affiliate or
21 affiliates. A business shall include an affiliate of the business if that
22 business applies for a credit based upon any capital investment made
23 by full-time employees of an affiliate.

24 "Capital investment" means expenses that a business or an affiliate
25 of the business incurs following its submission of an application to
26 the authority pursuant to section 72 of P.L. , c. (C.) (pending
27 before the Legislature as this bill), but prior to the project completion
28 date, as shall be defined in the project agreement, for: a. site
29 preparation and construction, repair, renovation, improvement,
30 equipping, or furnishing on real property or of a building, structure,
31 facility, or improvement to real property; b. obtaining and installing
32 furnishings and machinery, apparatus, or equipment, including but
33 not limited to material goods subject to bonus depreciation under
34 sections 168 and 179 of the federal Internal Revenue Code (26 U.S.C.
35 ss.168 and 179), for the operation of a business on real property or in
36 a building, structure, facility, or improvement to real property; or any
37 combination of the foregoing.

38 "College or university" means a county college, an independent
39 institution of higher education, a public research university, or a State
40 college.

41 "Commitment period" means a period that is 1.5 times the
42 eligibility period specified in the project agreement entered into
43 pursuant to section 73 of P.L. , c. (C.) (pending before the
44 Legislature as this bill), rounded up, for each applicable phase
45 agreement.

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

1 "Director" means the Director of the Division of Taxation in the
2 Department of the Treasury.

3 "Distressed municipality" means a municipality that is qualified
4 to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a
5 municipality under the supervision of the Local Finance Board
6 pursuant to the provisions of the "Local Government Supervision Act
7 (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality
8 identified by the Director of the Division of Local Government
9 Services in the Department of Community Affairs to be facing
10 serious fiscal distress, a SDA municipality, or a municipality in
11 which a major rail station is located.

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

16 "Eligibility period" means the period in which an eligible business
17 may claim a tax credit under the program for a given project phase,
18 beginning with the tax period in which the authority accepts
19 certification of the eligible business that it has met the capital
20 investment and employment requirements of the program for the
21 respective project phase, and extending thereafter for a term of not
22 more than seven years, with the term to be determined at the
23 discretion of the applicant, provided that the term of the eligibility
24 period may consist of nonconsecutive tax years if the applicant elects
25 at any time after the end of the first tax period of the eligibility period
26 to defer the continuation of the eligibility period to a subsequent tax
27 period. The authority may extend the eligibility period one additional
28 tax period to accommodate a prorated payment pursuant to paragraph
29 (2) of subsection a. of section 77 of P.L. , c. (C.) (pending
30 before the Legislature as this bill).

31 "Eligible business" means any business that satisfies the criteria
32 set forth in section 71 of P.L. , c. (C.) (pending before the
33 Legislature as this bill) at the time of application for tax credits under
34 the program.

35 "Eligible position" or "full-time job" means a full-time position in
36 a business in this State which the business has filled with a full-time
37 employee. An eligible position shall not include an independent
38 contractor or a consultant.

39 "Employment and Investment Corridor" means the portions of the
40 qualified incentive area that are not located within a distressed
41 municipality and which:

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

1 b. intersect with portions of: a port district, a qualified incentive
2 tract, or federally-owned land approved for closure under a federal
3 Commission on Base Realignment and Closure action;

4 c. are the proposed site of a qualified incubator facility, a
5 tourism destination project, or transit oriented development; or

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

12 "Full-time employee" means a person:

13 a. who is employed by a business for consideration for at least
14 35 hours a week, or who renders any other standard of service
15 generally accepted by custom or practice as full-time employment,
16 and whose wages are subject to withholding as provided in the "New
17 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.;

18 b. who is employed by a professional employer organization
19 pursuant to an employee leasing agreement between the business and
20 the professional employer organization, pursuant to P.L.2001, c.260
21 (C.34:8-67 et seq.) for at least 35 hours a week, or who renders any
22 other standard of service generally accepted by custom or practice as
23 full-time employment, and whose wages are subject to withholding
24 as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-
25 1 et seq.; or

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

35 A "full time employee" further means a person who, except for
36 purposes of the Statewide workforce, is provided, by the business,
37 with employee health benefits under a health benefits plan authorized
38 pursuant to State or federal law and who is paid no less than \$15 per
39 hour or 120 percent of the minimum wage fixed under subsection a.
40 of section 5 of P.L.1966, c.113 (C.34:11-56a4), whichever is higher.

41 With respect to a logistics, manufacturing, energy, defense,
42 aviation, or maritime business, excluding primarily warehouse or
43 distribution operations, located in a port district having a container
44 terminal, the requirement that employee health benefits are to be
45 provided shall be deemed to be satisfied if the benefits are provided
46 in accordance with industry practice by a third party obligated to
47 provide such benefits pursuant to a collective bargaining agreement;

1 A "full-time employee" shall include, but shall not be limited to,
2 an employee that has been hired by way of a labor union hiring hall
3 or its equivalent. 35 hours of employment per week qualified
4 business facility shall constitute one "full-time employee," regardless
5 of whether or not the hours of work were performed by one or more
6 persons.

7 "Full-time employee" shall not include any person who works as
8 an independent contractor or on a consulting basis for the business or
9 a contract worker whose income is subject to withholding as provided
10 in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.,
11 except that any person working as an independent contractor or
12 contract worker whose income is subject to withholding as provided
13 in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.,
14 for the business shall be deemed a full-time employee if the business
15 demonstrates to the authority that: (a) the person working as an
16 independent contractor for the business works at least 35 hours per
17 week or renders any other standard service generally accepted by
18 custom or practice as full- time employment, and the person is
19 provided with employee health benefits under a health benefits plan
20 authorized pursuant to State or federal law; and (b) the business
21 provides documentation to the authority to permit the authority to
22 verify the compensation paid to, and the time worked by, the person
23 working as an independent contractor. The business shall provide to
24 the authority an annual report that identifies the number of persons
25 working as independent contractors for the business and their
26 contractual or partnering relationship with the business as provided
27 pursuant to subsection i. of section 3 of P.L.2011, c.149 (C.34:1B-
28 244).

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

36 "Government-restricted municipality" means a municipality in
37 this State with a municipal revitalization index distress score of at
38 least 75, that met the criteria for designation as an urban aid
39 municipality in the 2019 State fiscal year, and that, on the effective
40 date of P.L. , c. (C.) (pending before the Legislature as this
41 bill), is subject to financial restrictions imposed pursuant to the
42 Municipal Stabilization and Recovery Act of 2016, P.L.2016, c.4
43 (52:27BBBB-1), or is restricted in its ability to levy property taxes
44 on property in that municipality as a result of the State of New Jersey
45 owning or controlling property representing at least 25 percent of the
46 total land area of the municipality or as a result of the federal
47 government of the United States owning or controlling at least 50

1 acres of the total land area of the municipality, which is dedicated as
2 a national natural landmark.

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

7 "Hospitality establishment" means a hotel, motel, or any business,
8 however organized, that sells food, beverages, or both for
9 consumption by patrons on the premises.

10 "Incentive area" means:

11 a. an aviation district;

12 b. a port district;

13 c. a distressed municipality or transit hub municipality;

14 d. an area designated pursuant to the "State Planning Act,"
15 P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1
16 (Metropolitan), Planning Area 2 (Suburban), Planning Area 3 (Fringe
17 Planning Area); or a Designated Center under the State Development
18 and Redevelopment Plan, provided an area designated as Planning
19 Area 2 (Suburban) or Planning Area 3 (Fringe Planning Area) or a
20 Designated Center shall be located within a one-half mile radius of
21 the mid-point, with bicycle and pedestrian connectivity, of a New
22 Jersey Transit Corporation, Port Authority Transit Corporation, or
23 Port Authority Trans-Hudson Corporation rail, bus, or ferry station,
24 including all light rail stations, or a high frequency bus stop as
25 certified by the New Jersey Transit Corporation.

26 e. an area located within a smart growth area and planning area
27 designated in a master plan adopted by the New Jersey Meadowlands
28 Commission pursuant to subsection (i) of section 6 of P.L.1968,
29 c.404 (C.13:17-6) or subject to a redevelopment plan adopted by the
30 New Jersey Meadowlands Commission pursuant to section 20 of
31 P.L.1968, c.404 (C.13:17-21);

32 f. an area located within any land owned by the New Jersey
33 Sports and Exposition Authority, established pursuant to P.L.1971,
34 c.137 (C.5:10-1 et seq.), within the boundaries of the Hackensack
35 Meadowlands District as delineated in section 4 of P.L.1968, c.404
36 (C.13:17-4);

37 g. an area located within a regional growth area, rural
38 development area zoned for industrial use as of the effective date of
39 P.L.2016, c.75, or town, village, or a military and federal installation
40 area designated in the comprehensive management plan prepared and
41 adopted by the Pinelands Commission pursuant to the "Pinelands
42 Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.);

43 h. an area located within a government-restricted municipality;

44 i. an area located within land approved for closure under any
45 federal Commission on Base Realignment and Closure action;

46 j. an area located within an area designated pursuant to the
47 "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as
48 Planning Area 4A (Rural Planning Area), Planning Area 4B

1 (Rural/Environmentally Sensitive), or Planning Area 5
2 (Environmentally Sensitive), so long as that area designated as
3 Planning Area 4A (Rural Planning Area), Planning Area 4B
4 (Rural/Environmentally Sensitive), or Planning Area 5
5 (Environmentally Sensitive) is located within: (1) a designated center
6 under the State Development and Redevelopment Plan; (2) a
7 designated growth center in an endorsed plan until the State Planning
8 Commission revises and readopts New Jersey's State Strategic Plan
9 and adopts regulations to revise this definition as it pertains to
10 Statewide planning areas; (3) any area determined to be in need of
11 redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79
12 (C.40A:12A-5 and C.40A:12A-6) or in need of rehabilitation
13 pursuant to section 14 of P.L.1992, c.79 (C.40A:12A-14); (4) any
14 area on which a structure exists or previously existed including any
15 desired expansion of the footprint of the existing or previously
16 existing structure provided the expansion otherwise complies with all
17 applicable federal, State, county, and local permits and approvals; or
18 (5) any area on which an existing tourism destination project is
19 located; or

20 k. an area located in a qualified opportunity zone.

21 "Incentive phase agreement" means a sub-agreement of the
22 incentive agreement that governs the timing, capital investment,
23 employment levels, and other applicable details of the respective
24 phase.

25 "Independent institution of higher education" means a college or
26 university incorporated and located in New Jersey, which by virtue
27 of law, character, or license is a nonprofit educational institution
28 authorized to grant academic degrees and which provides a level of
29 education that is equivalent to the education provided by the State's
30 public institutions of higher education, as attested by the receipt of
31 and continuation of regional accreditation by the Middle States
32 Association of Colleges and Schools, and which is eligible to receive
33 State aid under the provisions of the Constitution of the United States
34 and the Constitution of the State of New Jersey, but does not include
35 any educational institution dedicated primarily to the education or
36 training of ministers, priests, rabbis, or other professional persons in
37 the field of religion.

38 "Industrial premises" or "industrial space" means premises or
39 space in which at least 51 percent of the square footage will be or has
40 been used for the assembling, processing, manufacturing, or any
41 combination thereof, of finished or partially finished products from
42 materials or fabricated parts, including, but not limited to, factories
43 or as a warehouse if the business uses the warehouse as part of the
44 chain of distribution for products assembled, processed,
45 manufactured, or any combination thereof, by the business at the
46 qualified business facility; for the breaking or demolishing of
47 finished or partially finished products; or for the production of oil or
48 gas or the generation or transformation of electricity.

1 "Industrial use" means assembling, processing, manufacturing, or
2 any combination thereof, of finished or partially finished products
3 from materials or fabricated parts; the breaking or demolishing of
4 finished or partially finished products; or the production of oil or gas
5 or the generation or transformation of electricity. "Industrial use"
6 includes farming purposes as that term is defined under IRC section
7 6420(c)(3)(A), undertaken in an industrial space.

8 "Infrastructure Fund" means the Recovery Infrastructure Fund
9 established pursuant to section 79 of P.L. , c. (C.) (pending
10 before the Legislature as this bill) to fund local infrastructure
11 improvements.

12 "Labor harmony agreement" means an agreement between a
13 business that serves as the owner or operator of a retail establishment
14 or distribution center and one or more labor organizations, which
15 requires, for the duration of the agreement: that any participating
16 labor organization and its members agree to refrain from picketing,
17 work stoppages, boycotts, or other economic interference against the
18 business; and that the business agrees to maintain a neutral posture
19 with respect to efforts of any participating labor organization to
20 represent employees at an establishment or other unit in the retail
21 establishment or distribution center, agrees to permit the labor
22 organization to have access to the employees, and agrees to guarantee
23 to the labor organization the right to obtain recognition as the
24 exclusive collective bargaining representatives of the employees in
25 an establishment or unit at the retail establishment or distribution
26 center by demonstrating to the New Jersey State Board of Mediation,
27 Division of Private Employment Dispute Settlement, or a mutually
28 agreed-upon, neutral, third-party, that a majority of workers in the
29 unit have shown their preference for the labor organization to be their
30 representative by signing authorization cards indicating that
31 preference. The labor organization or organizations shall be from a
32 list of labor organizations which have requested to be on the list and
33 which the Commissioner of Labor and Workforce Development has
34 determined represent substantial numbers of retail or distribution
35 center employees in the State.

36 "Major rail station" means a railroad station that is located within
37 a qualified incentive area and that provides to the public access to a
38 minimum of six rail passenger service lines operated by the New
39 Jersey Transit Corporation.

40 "Mega project" means a project of special economic importance,
41 as determined pursuant to regulations adopted by the chief executive
42 officer of the authority, as measured by the level of new jobs, new
43 capital investment, and opportunities to leverage leadership in a high-
44 priority targeted industry, as determined by the authority pursuant to
45 rules and regulations promulgated to implement P.L. , c. (C.)
46 (pending before the Legislature as this bill).

47 "Minimum environmental and sustainability standards" means
48 standards established by the authority in accordance with the green

1 building manual prepared by the Commissioner of Community
2 Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6),
3 regarding the use of renewable energy, energy-efficient technology,
4 and non-renewable resources to reduce environmental degradation
5 and encourage long-term cost reduction.

6 "Municipal Revitalization Index" means the index by the
7 Department of Community Affairs ranking New Jersey's
8 municipalities according to eight separate indicators that measure
9 diverse aspects of social, economic, physical, and fiscal conditions
10 in each locality.

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

16 "Other eligible area" means the portions of the incentive area that
17 are not located within a distressed municipality, or the employment
18 and investment corridor.

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

21 "Port district" means the portions of an incentive area that are
22 located within the "Port of New York District" of the Port Authority
23 of New York and New Jersey, as defined in Article II of the Compact
24 Between the States of New York and New Jersey of 1921; or a 15-
25 mile radius of the outermost boundary of each marine terminal
26 facility established, acquired, constructed, rehabilitated, or improved
27 by the South Jersey Port District established pursuant to "The South
28 Jersey Port Corporation Act," P.L.1968, c.60 (C.12:11A-1 et seq.).

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

32 "Program" means the Emerge Program established by section 70
33 of P.L. , c. (C.) (pending before the Legislature as this bill).

34 "Project" means the capital investment and the employment
35 commitment at a qualified business facility pursuant to the project
36 agreement.

37 "Project agreement" means the contract executed between an
38 eligible business and the authority pursuant to section 75 of P.L. ,
39 c. (C.) (pending before the Legislature as this bill), which sets
40 forth the terms and conditions under which the eligible business may
41 receive the incentives authorized pursuant to the program.

42 "Project labor agreement" means a form of pre-hire collective
43 bargaining agreement covering terms and conditions of a specific
44 project that satisfies the requirements set forth in section 5 of
45 P.L.2002, c.44 (C.52:38-5).

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

1 "Qualified business facility" means any building, complex of
2 buildings, or structural components of buildings, and all machinery
3 and equipment located therein, used in connection with the operation
4 of a business that is not engaged in final point of sale retail business
5 at that location, unless the building, complex of buildings or
6 structural components of buildings, and all machinery and equipment
7 therein, are used in connection with the operation of a tourism
8 destination project located in the Atlantic City Tourism District as
9 established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219).

10 "Qualified incentive tract" means: (i) a population census tract
11 having a poverty rate of 20 percent or more; or (ii) a census tract in
12 which the median family income for the census tract does not exceed
13 80 percent of the greater of the Statewide median family income or
14 the median family income of the metropolitan statistical area in
15 which the census tract is situated.

16 "Qualified incubator facility" means a commercial building
17 located within an incentive area: that contains 5,000 or more square
18 feet of office, laboratory, or industrial space; that is located near, and
19 presents opportunities for collaboration with, a research institution,
20 teaching hospital, college, or university; and within which at least 50
21 percent of the gross leasable area is restricted for use by one or more
22 technology startup companies during the commitment period.

23 "Qualified opportunity zone" means a federal population census
24 tract in this State that was eligible to be designated as a qualified
25 opportunity zone pursuant to 26 U.S.C. s.1400Z-1.

26 "Quality child care facility" is a child care center licensed by the
27 Department of Children and Families, operating continuously, which
28 has not been subject to an enforcement action, and which has and
29 maintains a total licensed capacity of at least 60 children age 6 years
30 or younger.

31 "Retained full-time job" means an eligible position that currently
32 exists in New Jersey and is filled by a full-time employee, but which,
33 because of a potential relocation by the business, is at risk of being
34 lost to another state or country or of being eliminated. For the
35 purposes of determining the number of retained full-time jobs, the
36 eligible positions of an affiliate shall be considered eligible positions
37 of the business.

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

40 "SDA municipality" means a municipality in which an SDA
41 district is situated.

42 "Small business" means a business engaged primarily in a targeted
43 industry with fewer than 100 employees, as determined at the time of
44 application.

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

47 "Targeted industry" means any industry identified from time to
48 time by the authority which shall initially include advanced

1 transportation and logistics, advanced manufacturing, aviation,
2 autonomous vehicle and zero-emission vehicle research or
3 development, clean energy, life sciences, hemp processing,
4 information and high technology, finance and insurance, professional
5 services, film and digital media, and non-retail food and beverage
6 businesses, including food innovation and other innovative industries
7 that disrupt current technologies or business models.

8 "Tourism destination project" means a qualified non-gaming
9 business facility that will be among the most visited privately owned
10 or operated tourism or recreation sites in the State, and which is
11 located within the incentive area and has been determined by the
12 authority to be in an area appropriate for development and in need of
13 economic development incentive assistance, including a non-gaming
14 business within an established tourism district with a significant
15 impact on the economic viability of that tourism district.

16 "Transit oriented development" means a qualified business facility
17 located within a 1/2-mile radius, or one-mile radius for projects
18 located in a Government-restricted municipality, surrounding the
19 mid-point of a New Jersey Transit Corporation, Port Authority
20 Transit Corporation, or Port Authority Trans-Hudson Corporation
21 rail, bus, or ferry station platform area, including all light rail
22 stations.

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

27 "Transit hub municipality" means a Transit Village or a
28 municipality: a. which qualifies for State aid pursuant to P.L.1978,
29 c.14 (C.52:27D-178 et seq.), or which has continued to be a qualified
30 municipality thereunder pursuant to P.L.2007, c.111; and b. in which
31 30 percent or more of the value of real property was exempt from
32 local property taxation during tax year 2006. The percentage of
33 exempt property shall be calculated by dividing the total exempt
34 value by the sum of the net valuation which is taxable and that which
35 is tax exempt.

36 "Transit Village" means a municipality that has been designated
37 as a transit village by the Commissioner of Transportation and the
38 Transit Village Task Force established pursuant to P.L.1985, c.398
39 (C.27:1A-5).

40

41 70. (New section) a. The Emerge Program is hereby
42 established as a program under the jurisdiction of the New Jersey
43 Economic Development Authority. The authority shall administer
44 the program to encourage economic development, job creation, and
45 the retention of significant numbers of jobs in imminent danger of
46 leaving the State. The board may approve the award of tax credits to
47 an eligible business upon application of the chief executive officer of
48 the eligible business and following the execution of a letter of intent

1 and the payment of fees, subject to the limitations set forth in
2 subsection b. of this section:

3 b. value of all tax credits approved by the authority for
4 businesses eligible pursuant to section 71 of P.L. , c. (C.)
5 shall be subject to the limitations set forth in section 98 of P.L. ,
6 c. (C.) (pending before the Legislature as this bill).

7
8 71. (New section) a. Beginning on the effective date of P.L. ,
9 c. (C.) (pending before the Legislature as this bill), but prior
10 to March 1, 2027, to be eligible for tax credits under the program, a
11 business's chief executive officer, or equivalent officer, shall
12 demonstrate to the authority at the time of application that:

13 (1) the business will make, acquire, or lease a capital investment
14 at the qualified business facility equal to or greater than the
15 applicable amount set forth in subsection b. of this section;

16 (2) the business will create or retain new and retained full-time
17 jobs at the qualified business facility in an amount equal to or greater
18 than the applicable number set forth in subsection c. of this section;

19 (3) the qualified business facility is located in a qualified
20 incentive area;

21 (4) the award of tax credits will be a material factor in the
22 business's decision to create or retain the number of new and retained
23 full-time jobs set forth in its application;

24 (5) the award of tax credits, the capital investment resultant from
25 the award of tax credits, and the resultant creation and retention of
26 new and retained full-time jobs will yield a net positive benefit to the
27 State equaling at least 400 percent of the requested tax credit
28 allocation amount, or for a phased project the requested tax credit
29 allocation amount for the initial phase, and on a cumulative basis
30 each phase thereafter, which determination shall be calculated prior
31 to considering the value of the requested tax credit under the program
32 and shall be based on the benefits generated during the period of time
33 from approval through the end of the commitment period, or through
34 the end of the longer period of extended commitment that the
35 business may elect for purposes of receiving credit for benefits
36 projected to occur after the expiration of the commitment period,
37 except that:

38 (a) an award of tax credits to a business for a qualified business
39 facility located in a distressed municipality or transit hub
40 municipality shall yield a net positive benefit to the State, based on
41 the benefits generated during the period of time from approval
42 through the end of the commitment period, that equals at least 300
43 percent of the requested tax credit amount;

44 (b) an award of tax credits to a business for a qualified business
45 facility located in a government-restricted municipality, or for a
46 mega project, shall yield a net positive benefit to the State, based on
47 the benefits generated during the period of time from approval

1 through the end of the commitment period, that equals at least 200
2 percent of the requested tax credit amount;

3 (c) the net economic benefits shall be evaluated on a present value
4 basis with the requested tax credit allocation amount discounted to
5 present value at the same discount rate as the benefits from capital
6 investment resultant from the award of tax credits and the resultant
7 retention and creation of full-time jobs as provided in subparagraph
8 (d) of this paragraph; and

9 (d) the net economic benefits shall be discounted to reflect the
10 uncertainty of the business's location after the commitment period
11 expires, provided that a business may elect a period of extended
12 commitment for which time the economic benefits shall be creditable
13 to the determination of the net economic benefit of the project, and a
14 business electing a period of extended commitment and failing to
15 maintain the project through the expiration of that extended
16 commitment period shall be obligated to repay a proportion of the
17 incremental benefits received on account of having extended the
18 commitment period, taking into consideration the number of years of
19 extended commitment during which the business maintained the
20 project;

21 (e) in making the determination required pursuant to this
22 paragraph, the authority shall not consider the value of any taxes
23 exempted, abated, rebated, or retained under the "Five-Year
24 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et
25 seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431
26 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act,"
27 P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the
28 effect of lowering or eliminating the business's State or local tax
29 liability, and the business's chief executive officer or equivalent
30 officer shall certify, under the penalty of perjury, that all documents
31 submitted, and factual assertions made, to the authority to
32 demonstrate that the award of tax credits will yield a net positive
33 benefit to the State in accordance with this paragraph are true and
34 accurate at the time of submission;

35 (6) the qualified business facility shall be in compliance with
36 minimum environmental and sustainability standards;

37 (7) the project shall comply with the authority's affirmative
38 action requirements, adopted pursuant to section 4 of P.L.1979, c.203
39 (C.34:1B-5.4); and

40 (8) (a) each worker employed to perform construction work or
41 building services work at the qualified business facility shall be paid
42 not less than the prevailing wage rate for the worker's craft or trade,
43 as determined by the Commissioner of Labor and Workforce
44 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and
45 P.L.2005, c.379 (C.34:11-56.58 et seq.), unless:

46 (i) the work performed under the contract is performed at a
47 qualified business facility owned by a landlord that is not a business
48 receiving authority assistance;

1 (ii) the landlord is a party to the construction contract; and
2 (iii) the qualified business facility constitutes a lease of less than
3 35 percent of the qualified business facility at the time of contract
4 and under any agreement to subsequently lease the qualified business
5 facility.

6 (b) In accordance with section 1 of P.L.1979, c.303 (C.34:1B-
7 5.1), nothing in this paragraph shall be construed as requiring the
8 payment of prevailing wage for construction commencing more than
9 two years after a business has executed with the authority a
10 commitment letter regarding authority financial assistance and the
11 first payment or other provision of the assistance is received.

12 b. (1) The minimum capital investment required to be
13 eligible under the program shall be as follows:

14 (a) for the rehabilitation, improvement, fit-out, or retrofit of an
15 existing industrial, warehousing, logistics, or research and
16 development portion of the premises for continued similar use by the
17 business, a minimum investment of \$20 per square foot of gross
18 leasable area;

19 (b) for the new construction of an industrial, warehousing,
20 logistics, or research and development portion of the premises for use
21 by the business, a minimum investment of \$60 per square foot of
22 gross leasable area;

23 (c) for the rehabilitation, improvement, fit-out, or retrofit of
24 existing portion of the premises that does not qualify pursuant to
25 subparagraph (a) or (b) of this paragraph, a minimum investment of
26 \$40 per square foot of gross leasable area;

27 (d) for the new construction of a portion of the premises that does
28 not qualify pursuant to subparagraph (a) or (b) of this paragraph, a
29 minimum investment of \$120 per square foot of gross leasable area;
30 and

31 (e) for a small business, no new minimum capital investment
32 shall be required, provided the applicant has demonstrated evidence
33 satisfactory to the authority of its intent to remain in the State for the
34 commitment period.

35 (2) In the event the business invests less than that amount set forth
36 in paragraph (1) of this subsection in the qualified business facility,
37 the business shall donate the uninvested balance to the infrastructure
38 fund established pursuant to section 79 of P.L. , c. (C.)
39 (pending before the Legislature as this bill). (3)

40 Notwithstanding the provisions of paragraphs (1) and (2) of this
41 subsection, the authority may adopt, pursuant to the provisions of the
42 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
43 seq.), rules and regulations adjusting the minimum capital investment
44 amounts required under the program when necessary to respond to
45 the prevailing economic conditions in the State.

46 c. (1) The minimum number of new or retained full-time jobs
47 required to be eligible under the program shall be as follows:

1 (a) for a small business, 25 percent growth of its workforce with
2 new full-time jobs within the eligibility period in accordance with
3 subsection e. of section 76 of P.L. , c. (C.) (pending before
4 the Legislature as this bill);

5 (b) for a business engaged primarily in a targeted industry which
6 does not qualify as a small business, 25 new full-time jobs;

7 (c) for any other business, a minimum of 35 new full-time jobs;

8 (d) for a business located in qualified incentive tract or
9 government-restricted municipality that will retain 500 or more
10 retained full-time jobs, a minimum of the business's retained full-
11 time jobs at the time of application and new construction or
12 rehabilitation, improvement, fit-out, or retrofit of an existing portion
13 of the premises equal in size to the space occupied by the business's
14 retained full-time jobs at the time of application;

15 (e) for a business located in the State that will retain 1,000 or more
16 retained full-time jobs, a minimum of the business's retained full-
17 time jobs at the time of application and new construction or
18 rehabilitation, improvement, fit-out, or retrofit of an existing portion
19 of the premises equal in size to the space occupied by the business's
20 retained full-time jobs at the time of application.

21 (2) Notwithstanding the provisions of paragraph (1) of this
22 subsection, the authority may adopt, pursuant to the provisions of the
23 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
24 seq.), rules and regulations adjusting the minimum number of new or
25 retained full-time jobs required under the program when necessary to
26 respond to the prevailing economic conditions in the State.

27 d. A business shall provide and adhere to a plan that
28 demonstrates that the qualified business facility is capable of
29 accommodating more than half of the business's new or retained full-
30 time employees as approved and shall certify, under the penalty of
31 perjury, that not less than 80 percent or more of the new or retained
32 full-time jobs are held by employees whose earnings are subject to
33 withholding under the "New Jersey Gross Income Tax Act,"
34 N.J.S.54A:1-1 et seq. On the effective date of P.L. , c. (C.)
35 (pending before the Legislature as this bill) this requirement shall
36 apply to projects approved under P.L.2011, c.149 (C.34:1B-242 et
37 seq.), P.L.2007, c.346 (C.34:1B-207 et seq.), and P.L.1996, c.26
38 (C.34:1B-124 et al.). The requirements set forth in this subsection
39 may be modified by the authority to respond to an emergency,
40 disaster, or other factors that result in employees of an eligible
41 business having to work from a location other than the qualified
42 business facility.

43 e. The owner of the business, or an authorized agent of the
44 owner, shall certify that all factual representations made by the
45 business to the authority pursuant to subsection a. of this section are
46 true under the penalty of perjury.

47 f. A business eligible pursuant to this section may submit an
48 application to the authority in accordance with the provisions of

1 section 72 of P.L. , c. (C.) (pending before the Legislature
2 as this bill) on or after the effective date of P.L. ,
3 c. (C. or) (pending before the Legislature as this bill) but
4 prior to March 1, 2027.

5
6 72. (New section) a. A business that meets the eligibility criteria
7 in section 71 of P.L. , c. (C. or) (pending before the
8 Legislature as this bill) and is seeking a grant of tax credits for a
9 project under the program shall submit an application for approval of
10 the project to the authority in a form and manner prescribed in
11 regulations adopted by the authority pursuant to the provisions of the
12 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
13 seq.).

14 b. (1) Before the board may consider an eligible business's
15 application for tax credits, the Department of Labor and Workforce
16 Development, the Department of Environmental Protection, and the
17 Department of the Treasury shall each report to the chief executive
18 officer of the authority whether the eligible business is in compliance
19 with the respective department, or, if necessary, has entered into an
20 agreement with the respective department that includes a practical
21 corrective action plan for the eligible business. The authority may
22 also contract with an independent third party to perform a
23 background check on the eligible business. Provided that the eligible
24 business is in substantial good standing, or has entered into such an
25 agreement, before the board may approve an eligible business's
26 application for tax credits, the eligible business shall execute a non-
27 binding letter of intent with the chief executive officer of the
28 authority, specifying the amount and terms and conditions of tax
29 credits that the authority is prepared to propose for board approval
30 and that are intended to be a material factor in the decision by the
31 eligible business to create or retain the proposed number of new and
32 retained full-time jobs, and in which the eligible business certifies
33 such tax credits are a material factor in its decision.

34 (2) To assist the authority in determining whether the award of
35 tax credits is a material factor in the eligible business's decision to
36 create or retain the minimum number of new and retained full-time
37 jobs for eligibility under the program, the chief executive officer of
38 the authority shall require the eligible business to submit, as part of
39 its application, a full economic analysis of all locations under
40 consideration by the eligible business; all lease agreements,
41 ownership documents, or substantially similar documentation for the
42 eligible business's current in-State locations; and all lease
43 agreements, ownership documents, or substantially similar
44 documentation for potential out-of-State location alternatives, to the
45 extent they exist. The chief executive officer of the authority may
46 further consider the costs associated with opening and maintaining a
47 business in New Jersey, competitive proposals that the eligible
48 business has received from other states, the prevailing economic

1 conditions, and any other factors that the chief executive officer of
2 the authority deems relevant to assist the authority in determining
3 whether an award of tax credits is a material factor in the eligible
4 business's decision. Based on this information, the authority shall
5 independently verify and confirm the eligible business's assertion
6 that the award of tax credits under the program is a material factor in
7 the eligible business's decision to create or retain the minimum
8 number of new and retained full-time jobs for eligibility under the
9 program and, in the case of retained full-time jobs, the jobs are
10 actually at risk of leaving the State, before the authority may award
11 the eligible business any tax credits under the " Emerge Program
12 Act," sections 70 through 81 of P.L. , c. (C.) (pending before
13 the Legislature as this bill). The owner of the eligible business, or an
14 authorized agent of the owner, shall certify that all factual
15 representations made by the business to the authority pursuant to this
16 paragraph are true under the penalty of perjury.

17 c. An eligible business shall pay to the authority the full amount
18 of the direct costs of an analysis concerning the eligible business's
19 application for a tax credit, which a third party retained by the
20 authority performs, if the authority deems such retention to be
21 necessary. The authority shall have the discretion to waive all or a
22 portion of the costs of application for a small business.

23 d. If at any time during the eligibility period the authority
24 determines that the eligible business made a material
25 misrepresentation on the eligible business's application, the eligible
26 business shall forfeit all tax credits awarded under the program,
27 which shall be in addition to any other criminal or civil penalties to
28 which the business and the officer may be subject.

29 e. If circumstances require an eligible business to amend its
30 application to the authority, then the owner of the eligible business,
31 or an authorized agent of the owner, shall certify to the authority that
32 the information provided in its amended application is true under the
33 penalty of perjury.

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

37

38 73. (New section) a. Following approval by the board, but
39 before the issuance of tax credits, the authority shall require an
40 eligible business to enter into a project agreement. The terms of the
41 project agreement shall be consistent with the eligibility
42 requirements of section 71 of P.L. , c. (C.) (pending before
43 the Legislature as this bill), as applicable, and shall include, but shall
44 not be limited to, the following:

45 (1) (i) a detailed description of the proposed project which will
46 result in job creation or retention, and the number of new and retained
47 full-time jobs that are approved for tax credits;

1 (ii) for a phased project, an incentive phase agreement for which
2 each phase identifies a description of the phase, the expected capital
3 investment and number of new full-time jobs, and the time following
4 acceptance of the incentive agreement when each phase is to begin
5 and be completed, with the awarding of tax credits under the
6 incentive agreement to be predicated on the number of full-time jobs
7 created through the fulfillment of each incentive phase agreement;

8 (2) the eligibility period of the tax credits or, for a phased project,
9 the eligibility period of the tax credits for each phase;

10 (3) personnel information that will enable the authority to
11 administer the program;

12 (4) a requirement that the eligible business maintain the project
13 at a location in New Jersey for the commitment period, with at least
14 the minimum number of full-time jobs as required by this program,
15 and a provision to permit the authority to recapture all or part of any
16 tax credits awarded, at its discretion, if the eligible business does not
17 remain in compliance with this provision for the required term or
18 significantly reduces the number of full-time employees, or the
19 salaries thereof, to which the eligible business certified at the
20 commencement of the eligibility period;

21 (5) a method for the eligible business to certify that it has met the
22 capital investment and employment requirements of the program set
23 forth in subsections b. and c. of section 71 of P.L. , c. (C.)
24 (pending before the Legislature as this bill) and to report annually to
25 the authority the number of new and retained full-time employees,
26 and the salaries thereof, for which the tax credits are to be allowed;

27 (6) representations that the eligible business is in substantial good
28 standing or meets the agreement requirements described in paragraph
29 (1) of subsection b. of section 71 of P.L. , c. (C.) (pending
30 before the Legislature as this bill), the project complies with all
31 applicable laws, and specifically, that the project does not violate any
32 environmental law;

33 (7) a provision permitting an audit of the payroll records of the
34 business from time to time, as the authority deems necessary;

35 (8) a provision that the chief executive officer of the authority
36 receives annual reports from the Department of Environmental
37 Protection, the Department of Labor and Workforce Development,
38 and the Department of the Treasury demonstrating that the eligible
39 business and each contractor and subcontractor performing work at
40 the qualified business facility is in compliance with the respective
41 department, or has entered into an agreement with the respective
42 department that includes a practical corrective action plan, and a
43 provision providing that if the eligible business is not in compliance
44 with its legal obligations of rules administered by these departments
45 and has been given formal notice thereof, then the authority may
46 suspend the issuance of tax credits pending resolution of the dispute;

1 (9) a requirement for the eligible business to engage in on-site
2 consultations with the Division of Workplace Safety and Health in
3 the Department of Health;

4 (10) a provision permitting the authority to amend the agreement;
5 and

6 (11) a provision establishing the conditions under which the
7 authority, the eligible business, or both, may terminate the
8 agreement.

9 b. (1) In addition to the project agreement, an eligible
10 business shall enter into a community benefits agreement with the
11 authority and the county or municipality in which the qualified
12 business facility is located. The agreement may include, but shall not
13 be limited to, requirements for training, employment, and youth
14 development and free services to underserved communities in and
15 around the community in which the qualified business facility is
16 located. Prior to entering a community benefits agreement, the
17 governing body of the county or municipality in which the qualified
18 business facility is located shall hold at least one public hearing at
19 which the governing body shall hear testimony from residents,
20 community groups, and other stakeholders on the needs of the
21 community that the agreement should address.

22 (2) The community benefits agreement shall provide for the
23 creation of a community advisory committee to oversee the
24 implementation of the agreement, monitor successes, ensure
25 compliance with the terms of the agreement, and produce an annual
26 public report. The community advisory committee created pursuant
27 to this paragraph shall be comprised of representatives from
28 community groups and residents of the county or municipality in
29 which the qualified business facility is located.

30 (3) At the time the eligible business submits the annual report
31 required pursuant to section 77 of P.L. , c. (C.) (pending
32 before the Legislature as this bill) to the authority, the eligible
33 business shall certify, under the penalty of perjury, that it is in
34 compliance with the terms of the community benefits agreement. If
35 the eligible business fails to provide the certification required
36 pursuant to this paragraph or the authority determines that the eligible
37 business is not in compliance with the terms of the community
38 benefits agreement based on the reports submitted by the community
39 advisory committee pursuant to paragraph (2) of this subsection, then
40 the authority may rescind the award or recapture all or part of any tax
41 credits awarded.

42
43 74. (New section) a. Commencing with the date six months
44 following the date the authority and an eligible business execute a
45 project agreement, the eligible business shall demonstrate that it has
46 obtained site plan approval and has committed financing for, and site
47 control of, the qualified business facility. If the eligible business
48 obtained site control of the qualified business facility prior to the

1 execution of the letter of intent pursuant to section 72 of P.L. ,
2 c. (C.) (pending before the Legislature as this bill), then the
3 authority may rescind approval of the award of tax credits, unless the
4 eligible business disclosed the fact that the eligible business had
5 obtained the site prior to executing the letter of intent and the
6 authority determines that the award of tax credits was still a material
7 factor in the eligible business's decision to create or retain the
8 minimum number of new and retained full-time jobs for eligibility
9 under the program. The eligible business shall provide an estimated
10 date of completion and shall submit periodic progress reports. The
11 authority may rescind an award of tax credits if an eligible business
12 fails to provide the information required under this section within the
13 period indicated in the approval of the tax credits by the board. The
14 authority may rescind an award of tax credits under the program if a
15 project fails to advance in accordance with the project agreement.

16 b. Upon completion of the capital investment and employment
17 requirements of the program, an eligible business shall submit to the
18 authority certifications evidencing that the eligible business has
19 satisfied the conditions relating to the capital investment and
20 employment requirements of the project agreement with supporting
21 evidence satisfactory to the authority. Absent extenuating
22 circumstances and the written approval of the authority, the eligible
23 business shall submit the certification within three years following
24 the date of approval of the application. The authority may grant two
25 six-month extensions of the deadline; provided that the date of
26 completion shall not occur later than four years following the date of
27 approval of the application by the authority; provided further that the
28 authority may grant one additional extension not to exceed one year
29 upon a finding by the authority that: (1) the project is delayed due to
30 unforeseeable acts related to the project beyond the eligible
31 business's control and without its fault or negligence; (2) the eligible
32 business is using best efforts, with all due diligence, to proceed with
33 the completion of the project and the submission of the certification;
34 and (3) the eligible business has made, and continues to make, all
35 reasonable efforts to prevent, avoid, mitigate, and overcome the
36 delay. To qualify for the one-year extension, the eligible business
37 shall provide timely notice to the authority of the delay within 30
38 days after the eligible business has actual or constructive knowledge
39 of the delay, and shall provide periodic reports, not less than every
40 30 days, of the status of the delay and the steps the eligible business
41 is taking to mitigate or overcome the delay.

42 c. If the Governor declares an emergency, then the chief
43 executive officer of the authority shall have the discretion to grant an
44 extension for the duration of the emergency and the board of the
45 authority, upon recommendation of the chief executive officer, may
46 grant two additional six-month extensions; provided, however, that:
47 (i) the extensions are due to the economic disruption caused by the
48 emergency; (ii) the project is delayed due to unforeseeable acts

1 related to the project beyond the eligible business's control and
2 without its fault or negligence; (iii) the eligible business is using best
3 efforts, with all due diligence, to proceed with the completion of the
4 project and the submission of the certification; and (iv) the eligible
5 business has made, and continues to make, all reasonable efforts to
6 prevent, avoid, mitigate, and overcome the delay.

7 d. The owner of the eligible business, or an authorized agent of
8 the owner, shall certify that the information provided pursuant to this
9 section is true under the penalty of perjury.

10
11 75. (New section) a. The total amount of the tax credit for an
12 eligible business for each new or retained full-time job shall be as set
13 forth in subsections b. through g. of this section. The total tax credit
14 amount shall be calculated and credited to the business annually for
15 each year of the eligibility period, notwithstanding any other
16 provisions of P.L. , c. (C.) (pending before the Legislature
17 as this bill) to the contrary.

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

20 (1) for an eligible business facility located within a government-
21 restricted municipality, or which is a mega project, \$4,000 per year;

22 (2) for a qualified business facility located within a distressed
23 municipality, \$3,500 per year;

24 (3) for a qualified business facility located within a transit hub
25 municipality but not qualifying under paragraph (1) of this
26 subsection, 3,000 per year;

27 (4) for a project in a qualified opportunity zone or an employment
28 and investment corridor, \$2,500 per year; and

29 (5) for a project in other eligible areas, \$500 per year.

30 c. (1) In addition to the base amount of the tax credit, the
31 amount of the tax credit to be awarded for each new or retained full-
32 time job shall be increased with the following bonuses:

33 (a) for an eligible business with a qualified business facility
34 located in a municipality with a Municipal Revitalization Index score
35 greater than 50, an increase of \$1,000 per year;

36 (b) for an eligible business with a qualified business facility at
37 which the capital investment in industrial or research and
38 development premises for industrial or research and development use
39 by the business is in excess of the minimum capital investment
40 required for eligibility pursuant to subsection b. of section 71 of
41 P.L. , c. (C.) (pending before the Legislature as this bill), an
42 increase of \$1,000 per year for each additional amount of investment
43 that exceeds the minimum amount required for eligibility by 40
44 percent, with a maximum increase of \$3,000 per year, unless the
45 project qualifies as a mega project or the qualified business facility
46 is located in a government-restricted municipality, in which case the
47 maximum increase is \$5,000 per year;

- 1 (c) for an eligible business with large numbers of new full-time
2 jobs during the commitment period, the increases shall be in
3 accordance with the following schedule:
- 4 (i) if the number of new full-time jobs is between 251 and 400,
5 \$500 per year;
- 6 (ii) if the number of new full-time jobs is between 401 and 600,
7 \$750 per year;
- 8 (iii) if the number of new full-time jobs is between 601 and 800,
9 \$1000 per year;
- 10 (iv) if the number of new full-time jobs is between 801 and 1,000,
11 \$1,250 per year;
- 12 (v) if the number of new full-time jobs is in excess of 1,000,
13 \$1,500 per year;
- 14 (d) for an eligible business that annually funds an industry-
15 specific training program, which has the capacity to enroll 10 percent
16 or more of the eligible business's full-time workforce, or pays a State
17 educational institution to provide to the public an industry-specific
18 training program, an increase of \$500 per year; provided, however,
19 that if the training program is provided by a State educational
20 institution that is within 10 miles of the qualified business facility,
21 then the increase shall be \$1,000 per year;
- 22 (e) for an eligible business that qualifies as a small business, an
23 increase of \$500 per year;
- 24 (f) (i) for an eligible business with new full-time jobs and
25 retained full-time jobs at the qualified business facility with a median
26 salary in excess of the existing median salary for the county in which
27 the project is located, or, in the case of a project in a government-
28 restricted municipality, a business that employees full-time positions
29 at the project with a median salary in excess of the median salary for
30 the government-restricted municipality, an increase of \$250 per year
31 during the eligibility period for each 35 percent by which the
32 project's median salary levels exceeds the county or government-
33 restricted municipality median salary, with a maximum increase of
34 \$1,500 per year;
- 35 (g) for an eligible business with a qualified business facility
36 located in a qualified incentive tract, an increase of \$500 per year;
- 37 (h) for an eligible business engaged primarily in a targeted
38 industry, an increase of \$500 per year;
- 39 (i) for an eligible business with a qualified business facility
40 located in a qualified incubator facility, an increase of \$500 per year;
- 41 (j) for an eligible business that enters into a labor harmony
42 agreement in accordance with subsection c. of section 73 of P.L. ,
43 c. (C.) (pending before the Legislature as this bill), an increase
44 of \$2,000 per year for the portion of the project subject to that labor
45 harmony agreement;
- 46 (k) for an eligible business that provides its employees access to
47 child care either through an on-site quality child care facility free of
48 charge to its employees or through reimbursements paid by the

1 eligible business to its employees for the cost of child care in
2 accordance with standards adopted by the authority, an increase of
3 \$1,000 per year;

4 (l) for an eligible business that enters into a partnership with a
5 prisoner re-entry program for the purpose of identifying and
6 promoting employment opportunities at the eligible business for
7 former inmates and current inmates leaving the corrections system,
8 and that hires at least one active participant in the re-entry program,
9 an increase of \$500 per year.

10 (m) for an eligible business with a qualified business facility that
11 exceeds the Leadership in Energy and Environmental Design's
12 "Silver" rating standards but does not exceed "Gold" rating standards
13 or completes substantial environmental remediation, an additional
14 increase of \$250 per year, or for an eligible business with a qualified
15 business facility that exceeds the Leadership in Energy and
16 Environmental Design's "Gold" rating standards, an additional
17 increase of \$500 per year;

18 (n) for an eligible business in a targeted industry with a qualified
19 business facility that is used by the eligible business to conduct a full
20 time collaborative relationship with a college or university,
21 including, but not limited to, a doctoral university, an increase of
22 \$1,000 per year;

23 (o) for an eligible business with a project that generates solar
24 energy on site for use within the qualified business facility of an
25 amount that equals at least 50 percent of the qualified business
26 facility electric supply service needs, an increase of \$500 per year;

27 (p) for an eligible business with a marine terminal project in a
28 municipality located outside a government-restricted municipality,
29 but within the geographical boundaries of the South Jersey Port
30 District, an increase of \$1,500 per year; and

31 (q) for an eligible business with a qualified business facility
32 located in a qualified opportunity zone, an increase of \$1,000 per
33 year.

34 (2) The authority shall not award a bonus to an eligible business
35 with full-time jobs at the qualified business facility that pay less than
36 \$15 per hour or 120 percent of the minimum wage fixed under
37 subsection a. of section 5 of P.L.1966, c.113 (C.34:11-56a4),
38 whichever is higher.

39 (3) The authority may adopt, pursuant to the provisions of the
40 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
41 seq.), criteria in addition to, or in place of, the criteria set forth in
42 paragraph (1) of this subsection in response to the prevailing
43 economic conditions in the State.

44 d. The gross amount of the tax credit available to an eligible
45 business for each new or retained full-time job shall be the sum of
46 the base amount set forth in subsection b. of this section and the
47 various additional bonus amounts for which the business is eligible

1 pursuant to subsection c. of this section, subject to the following
2 limitations:

3 (1) for a mega project or a project in a government-restricted
4 municipality, the gross amount for each new or retained full-time job
5 shall not exceed \$8,000 per year;

6 (2) for a qualified business facility located within a distressed
7 municipality or qualified opportunity zone, the gross amount for each
8 new or retained full-time job shall not exceed \$6,000 per year;

9 (3) for a qualified business facility in a transit hub municipality,
10 the gross amount for each new or retained full-time job shall not
11 exceed \$5,000 per year;

12 (4) for a qualified business facility in an employment and
13 investment corridor, the gross amount for each new or retained full-
14 time job shall not exceed \$4,000 per year; and

15 (5) for a qualified business facility in other eligible areas, the
16 gross amount for each new or retained full-time job shall not exceed
17 \$3,000 per year.

18 e. The authority shall reduce the gross amount of tax credits per
19 full-time job if the median salary of new full-time jobs and retained
20 full-time jobs at the qualified business facility is less than the existing
21 median salary for the county in which the qualified business facility
22 is located. The authority shall reduce the gross amount of tax credits
23 per full-time job by an amount, in percentage points, equal to the
24 percentage the median salary of new full-time jobs and retained full-
25 time jobs at the qualified business facility is below the existing
26 median salary for the county in which the qualified business facility
27 is located. The authority shall not award a tax credit to an eligible
28 business if the median salary of new full-time jobs and retained full-
29 time jobs at the qualified business facility is 30 percent or more
30 below the existing median salary for the county in which the qualified
31 business facility is located.

32 f. After the determination by the authority of the gross amount
33 of tax credits for which an eligible business is eligible pursuant to
34 subsection d. of this section, the final total tax credit amount shall be
35 calculated as follows: (1) for each new full-time job, the eligible
36 business shall be allowed tax credits equaling the lesser of 100
37 percent of the gross amount of tax credits for each new full-time job;
38 and (2) for each retained full-time job, the eligible business shall be
39 allowed tax credits equaling 50 percent of the gross amount of tax
40 credits for each retained full-time job.

41 g. Notwithstanding the provisions of subsections a. through f. of
42 this section to the contrary, for each application approved by the
43 board, the amount of tax credits available to be applied by the
44 business annually shall not exceed an amount determined by the
45 authority to be necessary to induce the project to be sited in New
46 Jersey as determined by the board. The authority shall determine the
47 amount necessary to complete the project through staff analysis of all
48 locations under consideration by the eligible business and all lease

1 agreements, ownership documents, or substantially similar
2 documentation for the eligible business's current in-State locations
3 and potential out-of-State location alternatives, competitive
4 proposals from other states, the prevailing economic conditions, and
5 any other information that the authority deems relevant.
6

7 76. (New section) a. (1) If, in any tax period, an eligible
8 business reduces the total number of full-time employees in its
9 Statewide workforce by more than 20 percent from the number of
10 full-time employees in its Statewide workforce in the last tax period
11 prior to the credit amount approval under the program, then the
12 eligible business shall forfeit its credit amount for that tax period and
13 each subsequent tax period, until the first tax period for which
14 documentation demonstrating the restoration of the eligible
15 business's Statewide workforce to the threshold levels required by
16 this subsection has been reviewed and approved by the authority, for
17 which tax period and each subsequent tax period the full amount of
18 the credit shall be allowed.

19 (2) If the annual report filed by an eligible business pursuant to
20 section 77 of P.L. , c. (C.) (pending before the Legislature
21 as this bill) provides that the number of new full-time employees
22 employed by the eligible business at the qualified business facility,
23 or the salaries thereof, was reduced by more than 10 percent of the
24 number of new full-time employees, or salaries thereof, in the annual
25 report of the prior year, or the project agreement if the annual report
26 is the first such report filed, then the authority may reevaluate the net
27 positive economic benefit of the project and reduce the size of the
28 award accordingly. This reduction shall not affect any recapture
29 under subsection f. of this section.

30 b. If, in any tax period, the number of full-time employees
31 employed by the eligible business at the qualified business facility,
32 or the salaries thereof, drops below 80 percent of the number of new
33 and retained full-time jobs, and the salaries thereof, specified in the
34 project agreement or the incentive phase agreement, then the eligible
35 business shall forfeit its tax credit amount for that tax period and each
36 subsequent tax period, until the first tax period for which
37 documentation demonstrating the restoration of the number of full-
38 time employees employed by the eligible business at the qualified
39 business facility to 80 percent of the number of jobs specified in the
40 project agreement or incentive phase agreement or the restoration of
41 80 percent of the salaries specified in the project agreement is
42 reviewed and approved by the authority.

43 c. Except for an eligible business engaged primarily in a targeted
44 industry with less than 50 employees at application:

45 (1) If the qualified business facility is sold in whole or in part
46 during the eligibility period, the new owner shall not acquire the
47 capital investment of the seller, provided, however, that any tax
48 credits of tenants shall remain unaffected. The seller shall forfeit all

1 tax credits for the tax period in which the sale occurs and all
2 subsequent tax periods, provided, however, that an eligible business
3 may change the location of the qualified business facility if:

4 (a) the new facility:

5 (i) meets all applicable location qualifying criteria and has gross
6 leasable area not less than the gross leasable area of the qualified
7 business facility initially approved by the authority and the alternate
8 qualified business facility meets the minimum capital investment and
9 sustainability requirements of the program; or

10 (ii) does not meet all applicable location qualifying criteria or has
11 less gross leasable area than the gross leasable area of the qualified
12 business facility initially approved by the authority, if the alternate
13 qualified business facility meets the minimum capital investment and
14 sustainability requirements of the program, provided that the
15 authority shall require a new cost benefit analysis illustrating the
16 economics of the project which reflect occupancy at the alternate
17 proposed qualified business facility location for the remaining
18 duration of the commitment period and shall re-calculate the net
19 economic benefit of the project to reflect the economics of occupancy
20 at the alternate proposed location for the remaining duration of the
21 net benefit test period in lieu of the economics of continuing
22 occupancy at the qualified business facility proposed to be vacated,
23 and provided further that the award of tax credits shall be reduced
24 consistent with the variations in qualifying criteria for the alternate
25 qualified business facility location as well as in a manner consistent
26 with the revised net economic benefit calculation.

27 (b) in the event that the modified project economics materially
28 deviate from the economics of the initial approval in a manner that
29 undermines the recommendation of approval made by the staff of the
30 authority at the time of the initial approval, then the business
31 requesting to re-locate a qualified business facility shall be required
32 to obtain the approval of the members of the authority.

33 (2) If a tenant subleases its tenancy in whole or in part during the
34 eligibility period, the new tenant shall not acquire the tax credits of
35 the sublessor, and the sublessor shall forfeit all tax credits for any tax
36 period of its sublease in which the sublessor, in continued occupation
37 of a portion of the qualified business facility, fails to maintain the
38 number of jobs required for the sublessor to earn tax credits for the
39 tax period or fails to independently satisfy the minimum capital
40 investment or sustainability requirements for the program as set forth
41 in section 71 of P.L. , c. (C. or C.) (pending before the
42 Legislature as this bill). Provided, however, if the capital investment
43 of the sublessor in the occupied portion of the qualified business
44 facility is below the project minimum capital investment as set forth
45 in section 71 of P.L. , c. (C.) (pending before the Legislature
46 as this bill), the sublessor may include capital investment made by or
47 on behalf of the new tenant in the subleased portion of the qualified
48 business facility, so long as that capital investment is not the subject

1 of an independent application under an incentive program with the
2 authority.

3 d. A small business may move its qualified business facility
4 provided that the business remains in New Jersey during the
5 commitment period.

6 e. The authority may require a small business to submit a growth
7 plan, which specifies the number of new full-time employees at the
8 qualified business facility that the eligible business will hire each
9 year of the eligibility period; provided that by the end of the
10 eligibility period, the eligible business shall have a minimum of 25
11 percent growth of its workforce with new full-time jobs. If the
12 eligible business meets the number of new full-time employees
13 specified in the growth plan each year of the eligibility period, then
14 the eligible business shall be entitled to an increased credit amount
15 for that tax period, and each subsequent tax period, for each
16 additional full-time employee added above the number of full-time
17 employees certified, until the full-time employees number the
18 maximum number projected for the final year of the eligibility
19 period. Failure to meet the projections in any year shall not constitute
20 a default but shall cause the authority to reduce the award in
21 accordance with a schedule attached to the project agreement.

22 f. (1) The authority may recapture all or part of a tax credit
23 awarded if an eligible business does not remain in compliance with
24 the requirements of a project agreement for the duration of the
25 commitment period. A recapture pursuant to this subsection may
26 include interest on the recapture amount, at a rate equal to the
27 statutory rate for corporate business or insurance premiums tax
28 deficiencies, plus any statutory penalties, and all costs incurred by
29 the authority and the Division of Taxation in the Department of the
30 Treasury in connection with the pursuit of the recapture, including,
31 but not limited to, counsel fees, court costs, and other costs of
32 collection. Failure of the eligible business to meet any program
33 criteria shall constitute a default and shall result in the recapture of
34 all or part of the tax credit awarded.

35 (2) If all or part of a tax credit sold or assigned pursuant to section
36 78 of P.L. , c. (C.) (pending before the Legislature as this
37 bill) is subject to recapture, then the authority shall pursue recapture
38 from the eligible business and not from the purchaser or assignee of
39 the tax credit transfer certificate. The purchaser or assignee of a tax
40 credit transfer certificate shall be subject to any limitations and
41 conditions that apply to the use of the tax credits by the eligible
42 business.

43 (3) Any funds recaptured pursuant to this subsection, including
44 penalties and interest, shall be deposited into the General Fund of the
45 State.

46 g. A business may include an affiliate for any period, provided
47 that the business provides a valid tax clearance certificate for the
48 affiliate and a verification of the nature of the affiliate relationship

1 during the relevant period, and provided further that the affiliate
2 provides acceptable responses to the authority's legal disclosures
3 inquiries, as determined by the authority. A formal modification of
4 the authority's approval of the incentive agreement shall not be
5 necessary to add or remove an affiliate after approval or execution of
6 the incentive agreement.

7 h. A business may change its name filed with the authority by
8 providing a copy of the filed amendment to the certificate of
9 incorporation or formation, as the case may be, of the business and a
10 valid tax clearance certificate with the business's new name. A
11 formal modification of the authority's approval shall not be necessary
12 to change a business's name after approval or execution of the
13 incentive agreement.

14
15 77. (New section) a. (1) An eligible business which is
16 awarded tax credits under the program shall submit annually, no later
17 than the date indicated in the project agreement, commencing in the
18 year in which the grant of tax credits is issued and for the remainder
19 of the commitment period, a report that indicates that the eligible
20 business continues to maintain the number of new and retained full-
21 time jobs, and the salaries thereof, specified in the project agreement.
22 As part of the annual report required pursuant to this subsection, an
23 eligible business shall provide to the authority a copy of its applicable
24 New Jersey tax return showing business income and withholdings as
25 a condition of its continuation in the program, and the quarterly wage
26 report required under R.S.43:21-14 submitted to the Department of
27 Labor and Workforce Development together with an annual payroll
28 report showing: (a) the new full-time jobs which were created in
29 accordance with the project agreement, and (b) the new full-time jobs
30 created during each subsequent year of the commitment period. The
31 failure of an eligible business to submit to the authority a copy of its
32 annual payroll report or submit the quarterly wage report in
33 accordance with the provisions of this subsection during the
34 eligibility period shall result in the forfeiture of the award for that
35 year. An eligible business shall explain, in the reports required by
36 this subsection, the reason for any discrepancies between the annual
37 payroll report submitted by the eligible business and the quarterly
38 wage report. The owner of the eligible business, or an authorized
39 agent of the owner, shall certify that the information provided
40 pursuant to this paragraph is true under the penalty of perjury.
41 Claims, records, or statements submitted by an eligible business to
42 the authority in order to receive tax credits shall not be considered
43 claims, records, or statements made in connection with State tax
44 laws.

45 (2) Upon receipt and review of each report submitted during the
46 eligibility period, the authority shall provide to the eligible business
47 and the director a certificate of compliance indicating the amount of
48 tax credits that the eligible business may apply against its tax

1 liability. The authority shall pro rate the tax credit for the first and
2 last years of the eligibility period based on the number of full months
3 the project was certified in the year the eligible business first
4 certifies.

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

8 (2) An eligible business shall forfeit the credit amount for any tax
9 period for which the eligible business's documentation remains
10 uncertified as of the date for certification indicated in the project
11 agreement, although credit amounts for the remainder of the years of
12 the eligibility period shall remain available to the eligible business.

13 c. Full-time employment for an accounting or privilege period
14 shall be determined as the average of the monthly full-time
15 employment for the period.

16 d. (1) Upon receipt by the director of the certificate of
17 compliance, the director shall allow the eligible business a tax credit.
18 The eligible business may apply the credit allowed by the director
19 against the eligible business's tax liability for the tax period in which
20 the director allowed the tax credit or may carry forward the credit for
21 use by the eligible business in any of the next seven successive tax
22 periods, which credit shall expire thereafter.

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

28 (b) Credits granted to a partnership shall be passed through to the
29 partners, members, or owners, respectively, pro-rata, or pursuant to
30 an executed agreement among the partners, members, or owners
31 documenting an alternate distribution method provided to the director
32 accompanied by any additional information as the director may
33 prescribe. With respect to credits passed through to a person subject
34 to tax liability due pursuant to sections 2 or 3 of P.L.1945, c.132
35 (C.54:18A-2 and C.54:18A-3), the person shall be allowed to apply
36 credits against the person's tax liability without the provision of a tax
37 credit certificate to the Division of Taxation in the Department of the
38 Treasury for the tax period accompanying the person's tax return and
39 the person shall be considered the tax certificate holder and be subject
40 to subparagraph (c) of this paragraph. The authority may recapture
41 all or part of any tax credits claimed by a person pursuant to
42 subparagraph (b) of this paragraph with penalties and interest from
43 the person or the business in the event the Division of Taxation in the
44 Department of the Treasury does not issue a tax credit certificate in
45 an amount at least equal to the tax credit amount claimed on the
46 person's tax return for the applicable tax period.

47 (3) The director shall prescribe the order of priority of the
48 application of the credit allowed under this section and any other

1 credits allowed by law against the tax imposed under section 5 of
2 P.L.1945, c.162 (C.54:10A-5). The amount of a credit applied under
3 this section against the tax imposed pursuant to section 5 of P.L.1945,
4 c.162 (C.54:10A-5) for a privilege period, together with any other
5 credits allowed by law, shall not reduce the tax liability to an amount
6 less than the statutory minimum provided in subsection (e) of section
7 5 of P.L.1945, c.162 (C.54:10A-5).

8 (4) In lieu of applying any credit certificate or credit transfer
9 certificate against tax liability otherwise due pursuant to section 5 of
10 P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132
11 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231
12 (C.17:32-15), or N.J.S.17B:23-5, the credit certificate or credit
13 transfer certificate may be surrendered to the Division of Taxation in
14 the Department of the Treasury for a cash payment equal to 90
15 percent of the amount of tax credits evidenced by the certificate,
16 provided that the issuance date of the credit certificate or credit
17 transfer certificate to the taxpayer surrendering such certificate
18 occurred at least two years prior to the date of surrender.

19
20 78. (New section) a. An eligible business may apply to the
21 director and the chief executive officer of the authority for a tax credit
22 transfer certificate, within three years of the tax period in which the
23 director allows the eligible business a tax credit, in lieu of any amount
24 of the tax credit against the eligible business's State tax liability. The
25 tax credit transfer certificate, upon receipt thereof by the eligible
26 business from the director and the chief executive officer of the
27 authority, may be sold or assigned, in an amount not less than
28 \$25,000, within three years of the tax period in which the eligible
29 business receives the tax credit transfer certificate from the director,
30 to another person that may have a tax liability pursuant to section 5
31 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132
32 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-
33 15), or N.J.S.17B:23-5. A purchaser or assignee of a tax credit
34 transfer certificate pursuant to this section shall apply the transferred
35 credit against the same tax for which the eligible business was
36 approved a tax credit under the program. The tax credit transfer
37 certificate provided to the eligible business shall include a statement
38 waiving the eligible business's right to claim the credit that the
39 eligible business has elected to sell or assign.

40 b. (1) The eligible business shall not sell or assign a tax credit
41 transfer certificate allowed under this section for consideration
42 received by the eligible business of less than 85 percent of the
43 transferred credit amount before considering any further discounting
44 to present value which shall be permitted. The tax credit transfer
45 certificate issued to the eligible business by the director shall be
46 subject to any limitations and conditions imposed on the application
47 of State tax credits pursuant to sections 70 through 81 of P.L. ,

1 c. (C.) (pending before the Legislature as this bill) and any
2 other terms and conditions that the director may prescribe.

3 (2) With respect to credits to be sold or assigned, in full or in part,
4 pursuant to an application to the authority for a tax credit transfer
5 certificate by a business to a person subject to tax liability due
6 pursuant to sections 2 or 3 of P.L.1945, c.132 (C.54:18A-2 or
7 C.54:18A-3), the person shall be allowed to apply the credits against
8 the person's tax liability without the provision of a tax credit
9 certificate to the Division of Taxation in the Department of the
10 Treasury for the tax period accompanying its tax return, and the
11 person be considered a tax credit transferee and be subject to
12 paragraph (3) of this subsection.

13 (3) The authority may recapture all or part of any tax credits
14 claimed by a person pursuant to paragraph (2) of this subsection with
15 penalties and interest from the person or the business in the event the
16 authority does not issue a tax credit certificate in an amount at least
17 equal to the tax credit amount claimed on the person's tax return for
18 the applicable tax period.

19 c. A purchaser or assignee of a tax credit transfer certificate
20 pursuant to this section shall not make any subsequent transfers,
21 assignments, or sales of the tax credit transfer certificate.

22 d. The authority shall publish on its Internet website the
23 following information concerning each tax credit transfer certificate
24 approved by the authority and the director pursuant to this section:

- 25 (1) the name of the transferrer;
26 (2) the name of the transferee;
27 (3) the value of the tax credit transfer certificate;
28 (4) the State tax against which the transferee may apply the tax
29 credit; and
30 (5) the consideration received by the transferrer.

31
32 79. (New section) a. The authority shall establish a dedicated
33 fund to be known as the "Recovery Infrastructure Fund." Money in
34 the fund shall be dedicated to the purpose of funding local
35 infrastructure, which shall include:

- 36 (1) buildings and structures, such as schools, fire houses, police
37 stations, recreation centers, public works garages, and water and
38 sewer treatment and pumping facilities;
39 (2) sidewalks, streets, roads, ramps, and jug handles;
40 (3) open space with improvements such as athletic fields,
41 playgrounds, and planned parks;
42 (4) open space without improvements;
43 (5) public transportation facilities such as train stations and
44 public parking facilities; and
45 (6) the purchase of equipment considered vital to public safety.

46 b. The fund shall be credited with money remitted by eligible
47 businesses pursuant to paragraph (2) of subsection b. of section 71 of
48 P.L. , c. (C.) (pending before the Legislature as this bill).

1 c. Money remitted to the fund by an eligible business pursuant
2 to paragraph (2) of subsection b. of section 71 of P.L. , c. (C.)
3 (pending before the Legislature as this bill) shall be earmarked for
4 use on local infrastructure projects in the municipality in which the
5 eligible business's project is located.

6 d. A municipality shall apply to the authority, in a form and
7 manner prescribed by the authority, for disbursements from the
8 Recovery Infrastructure Fund. The authority, in consultation with
9 the Department of Community Affairs, shall review and approve
10 applications for disbursements of money from the fund pursuant to
11 the provisions of this section and the rules and regulation
12 promulgated by the authority pursuant to paragraph (1) of subsection
13 f. of this section.

14 e. The Department of Community Affairs shall coordinate with
15 the authority and other boards, commissions, institutions,
16 departments, agencies, State officers, and employees to carry out the
17 local infrastructure projects funded through the Recovery
18 Infrastructure Fund.

19 f. (1) The authority shall adopt rules and regulations pursuant to
20 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
21 seq.), to effectuate the purposes of subsections a. through d. of this
22 section.

23 (2) The Department of Community Affairs shall adopt rules and
24 regulations pursuant to the "Administrative Procedure Act,"
25 P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of
26 subsection e. of this section.

27
28 80. (New section) Beginning the year next following the year in
29 which P.L. , c. (C.) (pending before the Legislature as this
30 bill) takes effect and every two years thereafter, a State college or
31 university shall, pursuant to an agreement executed between the State
32 college or university and the authority, prepare a report on the
33 implementation of the program, and submit the report to the
34 authority, the Governor, and, pursuant to section 2 of P.L.1991, c.164
35 (C.52:14-19.1), to the Legislature. Each biennial report required
36 under this section shall include a description of each eligible business
37 receiving a tax credit under the program, a detailed analysis of the
38 consideration given to each applicant, an analysis of whether the
39 incentives awarded influenced the eligible business's decisions to
40 locate a qualified business facility in the State, the return on
41 investment for incentives awarded, the eligible business's impact on
42 the State's economy, and any other metrics the State college
43 determines are relevant based upon national best practices. The
44 authority shall prepare a written response to the report, which the
45 authority shall submit to the Governor and, pursuant to section 2 of
46 P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

1 81. (New section) Notwithstanding the provisions of the
2 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
3 seq.), to the contrary, the chief executive officer of the authority may
4 adopt, immediately, upon filing with the Office of Administrative
5 Law, regulations that the chief executive officer deems necessary to
6 implement the provisions of sections 70 through 81 of P.L. ,
7 c. (C.) (C.) (pending before the Legislature as this bill),
8 including but not limited to examples of and the determination of
9 capital investment and the determination of the limits, if any, on the
10 expense or type of furnishings that may constitute capital
11 improvements, which regulations shall be effective for a period not
12 to exceed 180 days from the date of the filing. The chief executive
13 officer shall thereafter amend, adopt, or readopt the regulations in
14 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et
15 seq.).

16
17 82 (New section) Sections 82 through 88 of P.L. , c. (C.)
18 (pending before the Legislature as this bill) shall be known and may
19 be cited as the "Main Street Recovery Finance Program Act."

20
21 83. (New section) As used in sections 82 through 88 of P.L. ,
22 c. (C.) (pending before the Legislature as this bill):

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

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

28 "Eligible microbusiness" means a business enterprise located in
29 the State that produces goods or provides services and has fewer than
30 10 full-time equivalent employees and annual gross revenue of less
31 than \$1,000,000 at the time of application for a loan under the
32 program.

33 "Eligible small business" means any business that satisfies the
34 criteria set forth in subsection b. of section 85 of P.L. , c. (C.)
35 (pending before the Legislature as this bill) at the time of application
36 for a grant under the program.

37 "Program" means the Main Street Recovery Finance Program
38 established pursuant to section 84 of P.L. , c. (C.) (pending
39 before the Legislature as this bill).

40 "Small business" means a business engaged in the conduct of a
41 trade or business in this State that qualifies as a "small business
42 concern" within the meaning of the federal "Small Business Act,"
43 Pub.L.85-536 (15 U.S.C. § 631 et seq.) for the purpose of the small
44 business's eligibility assistance from the United States Small
45 Business Administration.

46
47 84. (New section) The Main Street Recovery Finance Program is
48 hereby established as a program under the jurisdiction of the New

1 Jersey Economic Development Authority. The authority shall
2 administer the program for the purpose of providing grants, loans,
3 and loan guarantees to eligible small businesses in accordance with
4 the provisions of sections 82 through 88 of P.L. , c. (C.)
5 (pending before the Legislature as this bill). A business seeking a
6 grant, loan, or loan guarantee under the program shall submit an
7 application to the authority. The authority shall adopt eligibility
8 criteria for the program and may consider a business's benefit to the
9 community in which it is situated and the degree to which the
10 business enhances and promotes job creation and economic
11 development in communities that have been severely impacted by the
12 COVID-19 pandemic when making awards under the program.

13

14 85. (New section) a. As part of the Main Street Recovery
15 Finance Program, the authority shall provide grants to eligible small
16 businesses from the Main Street Recovery Fund, subject to
17 appropriation or the availability of federal funds provided that not
18 less than 40 percent of such funds shall be made available to eligible
19 microbusinesses certified by the State as a "minority business" or a
20 "women's business" pursuant to P.L.1986, c.195 (C.52:27H-21.17 et
21 seq.). Grants awarded pursuant to the program may be used by an
22 eligible small business for capital improvements or to cover
23 operating expenses. The authority may dedicate up to 10 percent of
24 any amount appropriated for the purposes of this section to provide
25 technical assistance grants to eligible microbusinesses.

26 b. (1) A small business shall be eligible to receive a grant
27 pursuant to this section if the small business demonstrates to the
28 authority that:

29 (a) the small business has complied with all requirements for
30 filing tax and information returns and for paying or remitting
31 required State taxes and fees by submitting, as a part of the
32 application, a tax clearance certificate, as described in section 1 of
33 P.L.2007, c.101 (C.54:50-39); and

34 (b) each worker employed by the small business shall be paid not
35 less than \$15 per hour or 120 percent of the minimum wage fixed
36 under subsection a. of section 5 of P.L.1966, c.113 (C.34:11-56a4),
37 whichever is higher.

38 (2) In addition to the requirements of paragraph (1) of this
39 subsection, a small business shall be eligible to receive a grant
40 pursuant to this subsection for capital improvements only if the small
41 business demonstrates to the authority at the time of application that:

42 (a) any capital improvement undertaken with grant funds shall
43 comply with standards established by the authority in accordance
44 with the green building manual prepared by the Commissioner of
45 Community Affairs pursuant to section 1 of P.L.2007, c.132
46 (C.52:27D-130.6), regarding the use of renewable energy, energy-
47 efficient technology, and non-renewable resources to reduce

1 environmental degradation and encourage long-term cost reduction;
2 and

3 (b) each worker employed to perform construction work in
4 connection with a capital improvement undertaken with grant funds
5 in excess of \$50,000 shall be paid not less than the prevailing wage
6 rate for the worker's craft or trade, as determined by the
7 Commissioner of Labor and Workforce Development pursuant to
8 P.L.1963, c.150 (C.34:11-56.25 et seq.).

9 c. Prior to March 1, 2025, an eligible small business seeking a
10 grant pursuant to this section shall submit an application for approval
11 to the authority in the form and manner prescribed in regulations
12 adopted by the authority pursuant to the provisions of the
13 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
14 seq.). Before the board may consider an eligible small business's
15 application for grants, the Department of Labor and Workforce
16 Development, the Department of Environmental Protection, and the
17 Department of the Treasury shall each report to the chief executive
18 officer of the authority whether the eligible small business is in
19 substantial good standing with the respective department, or has
20 entered into an agreement with the respective department that
21 includes a practical corrective action plan for the eligible small
22 business. The authority may also contract with an independent third
23 party to perform a background check on the eligible small business.
24 The eligible small business, or an authorized agent thereof, shall
25 certify under the penalty of perjury that any information provided in
26 the application required pursuant to this subsection is true.

27 d. Following approval by the board, but before the disbursement
28 of grant funds, the authority shall require an eligible small business
29 to enter into a grant agreement. The grant agreement shall specify
30 the amount of the grant to be awarded the eligible small business and
31 the frequency of payments. If the authority determines that an
32 eligible small business made a material misrepresentation on the
33 eligible small business's grant application or the eligible small
34 business has failed to comply with any requirement set forth in
35 paragraphs (1) through (4) of subsection b. of this section, then the
36 small business shall return to the authority any grant awarded
37 pursuant to this section.

38

39 86. (New section) a. As part of the Main Street Recovery
40 Finance Program, the authority shall make available from the Main
41 Street Recovery Fund, subject to annual appropriation and the
42 availability of funds, to eligible community development finance
43 institutions pursuant to subsection b. of this section and to eligible
44 microbusinesses pursuant to subsection c. of this section, provided
45 that not less than 40 percent of such funds shall be made available to
46 eligible microbusinesses certified by the State as a "minority
47 business" or a "women's business" pursuant to P.L.1986, c.195
48 (C.52:27H-21.17 et seq.). The authority may dedicate up to 10

1 percent of any amount appropriated for the purposes of this section
2 to provide technical assistance grants to eligible microbusinesses.

3 b. The authority shall provide loans and grants to eligible
4 community development finance institutions in accordance with this
5 subsection. Loans and grants made available to eligible community
6 development finance institutions pursuant to this paragraph shall be
7 used to strengthen capital structures, leverage additional debt capital,
8 and increase lending and investing in economically disadvantaged
9 communities. The authority shall require an eligible community
10 development finance institutions that receives a grant or loan
11 pursuant to this subsection to enter into an agreement with the
12 authority.

13 c. The authority shall provide loans to eligible microbusinesses
14 in accordance with this subsection. Loans made available to eligible
15 microbusinesses pursuant to this subsection may be used for capital
16 improvements, employee training, salaries for new positions, and to
17 pay for day-to-day operating expenditures, including payroll, rent,
18 utilities, insurance, and purchases of goods and services. The
19 authority shall require an eligible microbusiness to enter into a loan
20 agreement. Loans made pursuant to this subsection shall have a term
21 and an interest rate determined by the authority based on conditions
22 currently prevailing in the market. The authority may forgive loans
23 provided to eligible microbusinesses pursuant to this subsection at
24 the authority's discretion. The authority may, through the terms of
25 the loan agreement, establish terms governing the incidence of
26 default by an eligible microbusiness.

27 d. Prior to March 1, 2025, an eligible community development
28 finance institution seeking a loan or a grant pursuant to subsection b.
29 of this section or an eligible microbusiness seeking a loan pursuant
30 to subsection c. of this section shall submit an application for
31 approval to the authority in the form and manner prescribed in
32 regulations adopted by the authority pursuant to the provisions of the
33 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
34 seq.). Before the authority may consider an application, the
35 Department of Labor and Workforce Development, the Department
36 of Environmental Protection, and the Department of the Treasury
37 shall each report to the chief executive officer of the authority
38 whether the applicant is in substantial good standing with the
39 respective department, or has entered into an agreement with the
40 respective department that includes a practical corrective action plan
41 for the applicant. The authority may also contract with an
42 independent third party to perform a background check on the
43 applicant. The applicant, or an authorized agent thereof, shall certify
44 under the penalty of perjury that any information provided in the
45 application required pursuant to this subsection is true.

46

47 87. (New section) a. To aid in the economic recovery of
48 those communities most impacted by the COVID-19 pandemic and

1 to better ensure their long-term economic growth, there is created the
2 "Main Street Recovery Fund" to be held by the State Treasurer. All
3 moneys deposited in the fund shall be held and disbursed in the
4 amounts necessary to fulfill the purposes of providing grants and
5 loans pursuant to sections 85 and 86 of P.L. , c. (C.) (pending
6 before the Legislature as this bill) and the purposes enumerated in
7 subsection b. of this section, and for reasonable administrative costs
8 of implementing sections 82 through 88 of P.L. , c. (C.)
9 (pending before the Legislature as this bill). The fund may be
10 credited with pay backs; bonuses; entitlements; money received from
11 the federal government; transfers; grants; gifts; bequests; moneys
12 appropriated by the Legislature; or any other money made available
13 from any source. The State Treasurer, in consultation with the
14 authority, may invest and reinvest any moneys in the fund in the State
15 Treasurer's discretion. Any income from, interest on, or increment
16 to moneys so invested or reinvested shall be included in the fund.

17 b. Upon application to the State Treasurer, and in consultation
18 with the Chief Executive Officer of the New Jersey Economic
19 Development Authority, the State Treasurer shall make loan
20 guarantees from the fund to leverage private and public lending to
21 help finance small businesses, real estate developments, and
22 manufacturers that are creditworthy but not receiving the financing
23 needed to expand and create jobs. In making loan guarantees under
24 this section, the State Treasurer shall give due consideration to small
25 businesses and real estate developments in underserved communities
26 throughout the State that have been deeply impacted by the COVID-
27 19 pandemic.

28 c. (1) The State Treasurer shall monitor the activities of the
29 beneficiaries of the loan guarantees issued pursuant to this section on
30 an annual basis to ensure compliance with the terms and conditions
31 imposed on the recipient by the chief executive officer.

32 (2) An entity receiving a loan guarantee and the beneficiaries of
33 such loan guarantee under this section shall provide the State
34 Treasurer with an annual accounting of how the benefit it received
35 from the fund was applied.

36 (3) The annual accounting required under this section shall
37 include certifications by the Department of Labor and Workforce
38 Development, the Department of Environmental Protection, and the
39 Department of the Treasury that the entity and the beneficiaries are
40 in substantial good standing with the respective departments, or have
41 entered into an agreement with the respective department that
42 includes a practical corrective action plan.

43 (4) The entity and beneficiary, or an authorized agent thereof,
44 shall certify under the penalty of perjury that the information
45 provided pursuant to this subsection is true.

46

47 88. (New section) Notwithstanding the provisions of the
48 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et

1 seq.), to the contrary, the chief executive officer of the authority may
2 adopt, immediately, upon filing with the Office of Administrative
3 Law, regulations that the chief executive officer deems necessary to
4 implement the provisions of sections 82 through 88 of P.L. ,
5 c. (C.) (pending before the Legislature as this bill), which
6 regulations shall be effective for a period not to exceed 180 days from
7 the date of the filing. The chief executive officer shall thereafter
8 amend, adopt, or readopt the regulations in accordance with the
9 requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

10
11 89. (New section) a. The Director of the Division of
12 Taxation in the Department of the Treasury may purchase unused tax
13 credits awarded under a program listed in subsection b. of this
14 section, including tax credit transfer certificates issued by the
15 director in lieu of a tax credit allowed under such programs. The
16 director shall not pay consideration in excess of 75 percent of the
17 credit amount to be purchased, except for a credit awarded under the
18 " Emerge Program Act," sections 68 through 81 of P.L. ,
19 c. (C.) (pending before the Legislature as this bill), which
20 shall be subject to the provisions of paragraph (4) of subsection d. of
21 section 77 of P.L. , c. (C.) (pending before the Legislature as
22 this bill).

23 b. The Director of the Division of Taxation in the Department of
24 the Treasury may purchase tax credits awarded under the following:

25 (1) the "Historic Property Reinvestment Act," sections 1 through
26 8 of P.L. , c. (C.) (pending before the Legislature as this
27 bill);

28 (2) the "Brownfield Redevelopment Incentive Program Act,"
29 sections 9 through 19 of P.L. , c. (C.) (pending before the
30 Legislature as this bill);

31 (3) the "New Jersey Innovation Evergreen Act," sections 20
32 through 34 of P.L. , c. (C.) (pending before the Legislature
33 as this bill);

34 (4) the "Food Desert Relief Act," sections 35 through 42 of
35 P.L. , c. (C.) (pending before the Legislature as this bill);

36 (5) the "New Jersey Community-Anchored Development Act,"
37 sections 43 through 53 of P.L. , c. (C.) (pending before the
38 Legislature as this bill);

39 (6) the "New Jersey Aspire Program Act," sections 54 through 67
40 of P.L. , c. (C.) (pending before the Legislature as this bill);

41 (7) the " Emerge Program Act," sections 68 through 81 of P.L. ,
42 c. (C.) (pending before the Legislature as this bill);

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

45 (9) section 6 of P.L.2010, c.57 (C.34:1B-209.4);

46 (10) the State Economic Redevelopment and Growth Grant
47 program established pursuant to section 5 of P.L.2009, c.90
48 (C.52:27D-489e);

1 (11) section 1 of P.L.2018, c.56 (C.54:10A-5.39b); and
2 (12) section 2 of P.L.2018, c.56 (C.54A:4-12b).

3
4 90. (New section) a. There is established in the New Jersey
5 Economic Development Authority a Working Group on Entrepreneur
6 Zones for the purpose of making recommendations for the
7 establishment of entrepreneur zones throughout the State. The
8 working group shall consider whether the establishment of
9 entrepreneur zones in which the State provides the tax incentives,
10 regulation relief, and financial support to local entrepreneurs is the
11 most effective way to create jobs in the State. The working group
12 shall identify census tracts within the State that are suitable for
13 designation as an entrepreneur zone.

14 b. The working group shall consist of seven members appointed
15 by the chief executive officer of the New Jersey Economic
16 Development Authority.

17 c. Appointments to the working group shall be made within 30
18 days after the effective date of this act. Vacancies in the membership
19 of the working group shall be filled in the same manner as the original
20 appointments were made.

21
22 91. (New section) a. As used in this section:

23 "Personal protective equipment" means coveralls, face shields,
24 gloves, gowns, masks, respirators, and other equipment designed to
25 protect the wearer from the spread of infection or illness.

26 "State agency" means any principal department in the Executive
27 Branch of State government, and any division, board, bureau, office,
28 commission or other instrumentality within or created by such
29 department, and any independent State authority, commission,
30 instrumentality or agency, other than in the Legislative or Judicial
31 Branches of State government, which is authorized by law to award
32 public contracts.

33 b. Notwithstanding the provisions of any other law to the
34 contrary, whenever the Director of the Division of Purchase and
35 Property, or the head of any State agency shall consider bids on any
36 contract for the purchase of personal protective equipment that is
37 publicly advertised for bids, the director or the head of a State agency
38 shall list the bidders in order based upon which bid, conforming to
39 the invitation for bids, would be most advantageous to the State,
40 price, and other factors considered. If the first bidder on the list has
41 its principal place of business in this State it shall be awarded the
42 contract. If no bidder having its principal place of business in this
43 State has submitted a bid that is within five percent of the bid
44 submitted by the bidder at the top of the list that has its principal
45 place of business outside of this State, the contract shall be awarded
46 to the bidder at the top of the list. If the first bidder on the list has its
47 principal place of business outside of this State and a bidder that has
48 its principal place of business in this State is on the list and has

1 submitted a bid that is within five percent of the bid submitted by the
2 bidder at the top of the list that has its principal place of business
3 outside of this State, the contract shall be awarded to the highest
4 listed in-State bidder.

5 Any specifications for the provision or personal protective
6 equipment under this act shall be drafted in a manner to encourage
7 free, open, and competitive bidding.

8 Any specification which knowingly excludes prospective bidders
9 by reason of the impossibility of performance, bidding, or
10 qualifications by any but one bidder shall be null and void and of no
11 effect.

12 c. The State Treasurer shall adopt such rules and regulations as
13 may be necessary to implement the provisions of this section
14 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
15 (C.52:14B-1 et seq.).

16

17 92. (New section) Sections 92 through 97 of P.L. , c. (C.)
18 (pending before the Legislature as this bill) shall be known and may
19 be cited as the "New Jersey Ignite Act."

20

21 93. (New section) As used in sections 92 through 97 of P.L. ,
22 c. (C.) (pending before the Legislature as this bill):

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

26 "Authority commitment period" means the period for which the
27 authority commits to provide a start-up rent grant for the payment of
28 rent in a collaborative workspace

29 "Collaborative workspace" means a business facility certified
30 pursuant to section 95 of P.L. , c. (C.) (pending before the
31 Legislature as this bill), located in this State, developed to provide
32 flexible workspaces for early stage innovation economy businesses,
33 and designed to encourage community and collaboration within an
34 inter-connected environment in which multiple start-up businesses
35 have access to shared community events and shared workplace
36 accommodations including, but not limited to, kitchens and
37 makerspaces.

38 "Collaborative workspace commitment period" means a period of
39 months equal to one-half the number of months of the authority
40 commitment period.

41 "Community event" means an event hosted by a collaborative
42 workspace and accessible to start-up tenant or member businesses,
43 without charge or with nominal charge, organized to support an
44 innovation ecosystem, as defined in section 21 of P.L. ,
45 c. (C.) (pending before the Legislature as this bill), at the
46 collaborative workspace, including, but not limited to, events such as
47 meet-ups, speaker series, and office hours for lawyers, accountants,
48 consultants, or investors.

1 "Early stage innovation economy business" means a business that
2 operates within a targeted industry with at least one full-time
3 employee, who is assigned to the collaborative workspace, and fewer
4 than 10 employees overall and with less than \$1,000,000 in gross
5 sales over the 12-month period immediately prior to submitting an
6 application for tenancy at a collaborative workspace. To be
7 considered an "early stage innovation economy business" the earliest
8 date of formation for the business must have been not more than three
9 years prior to utilizing or renting space in, or access to, the
10 collaborative workspace under the program, and the business shall
11 not have previously utilized or rented space in, or access to, another
12 collaborative workspace in the State.

13 "Full time employee" means a person who is: employed by the
14 start-up tenant or member business for at least 35 hours a week;
15 working as an independent contractor providing critical capabilities
16 to the start-up tenant or member business for at least 35 hours a week;
17 or an owner or partner of the start-up tenant or member business who
18 works for at start-up tenant or member business for at least 35 hours
19 a week.

20 "Grant agreement" means an agreement between the authority and
21 the owner and operator of a collaborative workspace which
22 memorializes the terms and conditions of the collaborative
23 workspace's participation in the program.

24 "Program" means the New Jersey Ignite Program established
25 pursuant to section 94 of P.L. , c. (C.) (pending before the
26 Legislature as this bill).

27 "Targeted industry" means any industry identified from time to
28 time by the authority which shall initially include advanced
29 transportation and logistics, advanced manufacturing, aviation,
30 autonomous vehicle and zero-emission vehicle research or
31 development, clean energy, life sciences, hemp processing,
32 information and high technology, finance and insurance, professional
33 services, film and digital media, and non-retail food and beverage
34 businesses, including food innovation and other innovative industries
35 that disrupt current technologies or business models.

36 "Start-up rent grant" means a grant provided by the authority to a
37 collaborative workspace for the rent that would otherwise be due to
38 the collaborative workspace from a start-up tenant or member
39 business for the period of the authority commitment period.

40 "Start-up tenant or member business" means an early stage
41 innovation economy business that is registered to do business in New
42 Jersey, rents space in, or access to, a collaborative workspace under
43 the program, and enters into an agreement with the owner and
44 operator of the collaborative workspace to rent space in, or access to,
45 the collaborative workspace for an agreed upon period, which shall
46 include the authority commitment period, collaborative workspace
47 commitment period, and start-up tenant or member business
48 commitment period.

1 "Start-up tenant or member business commitment period" means
2 a period of months equal to the sum of the authority commitment
3 period and the collaborative workspace commitment period.
4

5 94. (New section) The New Jersey Ignite Program is hereby
6 established as a program under the jurisdiction of the authority. The
7 purpose of the program shall be to foster early stage innovation
8 economy businesses and to help those businesses overcome barriers
9 to commercial success. The authority shall structure the program as
10 a public-private partnership through which the authority provides
11 start-up rent grants to collaborative workspaces, certified pursuant to
12 section 95 of P.L. , c. (C.) (pending before the Legislature
13 as this bill), to support the early months of an early stage innovation
14 economy business's rent at the collaborative workspace.
15

16 95. (New section) a. The owner and operator of a business
17 facility located in the State may apply to the authority to have the
18 business facility certified as a collaborative workspace under the
19 program. A business facility shall be eligible for certification as a
20 collaborative workspace if:

21 (1) the business facility is developed to provide flexible
22 workspaces for early stage innovation economy businesses;

23 (2) the business facility is designed to encourage community and
24 collaboration within an inter-connected environment in which
25 multiple start-up businesses have access to shared workplace
26 accommodations;

27 (3) the owner and operator of the business facility commits to
28 hosting at least eight community events at the business facility each
29 year;

30 (4) the owner and operator of the business facility possesses a tax
31 clearance certificate issued by the Division of Taxation in the
32 Department of the Treasury;

33 (5) the owner and operator of the business facility possesses a
34 business registration certificate issued by the Division of Revenue in
35 the Department of the Treasury;

36 (6) at least five unique tenant or member businesses, in which the
37 owner and operator of the business facility does not have a direct
38 financial interest, have paid rent for space in, or access to, the
39 business facility over the two years immediately preceding the
40 submission of the application for certification as a collaborative
41 workspace pursuant to this section or, if the business facility has been
42 open for less than 90 days, the owner and operator of the business
43 facility provides to the authority at least three letters of intent from
44 prospective tenant or member businesses;

45 (7) the business facility is subject to ongoing operating costs,
46 such as rent, mortgage payments, or internal corporate charge-backs,
47 at the time of application for certification pursuant to this section;

1 (8) the owner and operator of the business facility offers at least
2 one type of workspace at the business facility for rent by an early
3 stage innovation economy business;

4 (9) the owner and operator of the business facility charges rent to
5 tenants or members; and

6 (10) the owner and operator of the business facility certifies that
7 any rent charged to a start-up tenant or member business is to be
8 market-rate.

9 b. In addition to the requirements set forth in subsection a. of
10 this section, for a business facility to qualify for certification as a
11 collaborative workspace, the authority may, in its discretion and
12 subject to available funds, require the owner and operator of the
13 business facility shall commit to paying one month's rent for a start-
14 up tenant or member business at the business facility for every two
15 months of rent to be paid by the authority as a start-up rent grant
16 under the program.

17 c. (1) The owner and operator of a business facility eligible
18 for certification as a collaborative workspace pursuant to subsections
19 a. and b. of this section shall submit an application for certification
20 and participation in the program in such form as required by the
21 authority. The application shall include any information the
22 authority determines is necessary to administer the program.

23 (2) In evaluating applications for certification as a collaborative
24 workspace, the authority may conduct site visits or perform any other
25 investigation necessary to confirm any statement made in the
26 application submitted by the owner and operator of the business
27 facility. If the authority later finds that any statement made in the
28 application for certification is inaccurate, then the authority may
29 rescind its certification of the collaborative workspace.

30 d. Following approval of an application for certification, to
31 participate in the program the authority and the owner and operator
32 of a collaborative workspace shall enter into a grant agreement
33 governing the terms, conditions, and timing under which the
34 authority shall pay the start-up rent grant to the owner and operator
35 of the collaborative workspace. The grant agreement shall require a
36 collaborative workspace to share data concerning its participation in
37 the program and on collaborative workspace utilization for the
38 purpose of better program planning and the development of new
39 programs to further support the State's economy.

40

41 96. (New section) a. Up to the limits established in this
42 subsection and in accordance with the grant agreement, the authority
43 shall provide start-up rent grants to the owner and operator of a
44 collaborative workspace through a series of scheduled payments as
45 set forth in the grant agreement. The owner and operator of the
46 collaborative workspace shall utilize the grant funding to provide
47 rent-free space to a start-up tenant or member business that agrees to
48 continue renting space in, or access to, the collaborative workspace

1 for the start-up tenant or member business commitment period. The
2 maximum start-up rent grant that the authority may provide to a
3 collaborative workspace for the tenancy of a single start-up tenant or
4 member business shall not exceed \$25,000.

5 b. The authority may provide a start-up rent grant for the
6 payment of rent for space in, or access to, a collaborative workspace
7 for up to six months; provided, however, if a collaborative workspace
8 or start-up tenant or member business satisfies any of the bonuses set
9 forth in paragraphs (1) through (5) of this subsection, then the
10 authority may provide an additional month of rent for each bonus
11 satisfied by the collaborative workspace or start-up tenant or member
12 business. The authority shall award a bonus to the owner and
13 operator of a collaborative workspace if:

14 (1) the collaborative workspace is located in a qualified
15 opportunity zone designated pursuant to 26 U.S.C. s.1400Z-1;

16 (2) the collaborative workspace is affiliated with a hospital
17 system or a New Jersey university;

18 (3) the collaborative workspace has been open less than 90 days
19 from the date on which the owner and operator of the collaborative
20 workspace applied to the authority to participate in the program and
21 the collaborative workspace is not in the same location as an existing
22 facility;

23 (4) the start-up tenant or member business for which the start-up
24 rent grant is paid is certified by the State as a "minority business" or
25 a "women's business" pursuant to P.L.1986, c.195 (C.52:27H-21.17
26 et seq.); or

27 (5) the start-up tenant or member business for which the start-up
28 rent grant is paid is the first presence of a foreign company entering
29 into the United States.

30 c. (1) The owner and operator of a collaborative workspace
31 shall annually certify to the authority, under the penalty of perjury,
32 that it is in compliance with the grant agreement.

33 (2) In addition to the certification required pursuant to paragraph
34 (1) of this subsection, the authority shall conduct an annual
35 inspection and review of the collaborative workspace and may
36 request documentation evidencing that the collaborative workspace
37 utilized the start-up rent grant it received from the authority in
38 accordance with the requirements of the program and the grant
39 agreement.

40 d. (1) If a start-up tenant or member business stops
41 occupying or accessing a collaborative workspace before the end of
42 the start-up tenant or member business commitment period, then the
43 collaborative workspace shall refund to the authority that portion of
44 the start-up rent grant covering any period in which the start-up
45 tenant or member business did not have space in, or access to, the
46 collaborative workspace.

47 (2) If the authority determines that a collaborative workspace is
48 not in compliance with the requirements of the program or of the

1 grant agreement, then the authority shall rescind the business
2 facility's certification as a collaborative workspace and bar the
3 business facility from further participation in the program.

4
5 97. (New section) The authority shall promulgate rules and
6 regulations necessary for the effective implementation of sections 92
7 through 97 of P.L. , c. (C.) (pending before the Legislature
8 as this bill). Notwithstanding any provision of the "Administrative
9 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary,
10 the authority may adopt, immediately upon filing with the Office of
11 Administrative Law, such regulations as are necessary to implement
12 the provisions of sections 92 through 97 of P.L. , c. (C.)
13 (pending before the Legislature as this bill), which shall be effective
14 for a period not to exceed 12 months following enactment, and shall
15 thereafter be amended, adopted, or readopted by the authority in
16 accordance with the requirements of the "Administrative Procedure
17 Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

18
19 98. (New section) a. The combined value of all tax credits
20 awarded under the "Historic Property Reinvestment Act," sections 1
21 through 8 of P.L. , c. (C.) (pending before the Legislature as
22 this bill), the "Brownfield Redevelopment Incentive Program Act,"
23 sections 9 through 19 of P.L. , c. (C.) (pending before the
24 Legislature as this bill), the "New Jersey Innovation Evergreen Act,"
25 sections 20 through 34 of P.L. , c. (C.) (pending before the
26 Legislature as this bill), the "Food Desert Relief Act," sections 35
27 through 42 of P.L. , c. (C.) (pending before the Legislature
28 as this bill), the "New Jersey Community-Anchored Development
29 Act," sections 43 through 53 of P.L. , c. (C.) (pending before
30 the Legislature as this bill); the "New Jersey Aspire Program Act,"
31 sections 54 through 67 of P.L. , c. (C.) (pending before the
32 Legislature as this bill); and the "Emerge Program Act," sections 68
33 through 81 of P.L. , c. (C.) (pending before the Legislature
34 as this bill) shall not exceed an overall cap of \$11.5 billion over a
35 six-year period, subject to the conditions and limitations set forth in
36 this section. Of this \$11.5 billion, \$2.5 billion shall be reserved for
37 transformative projects approved under the Aspire Program or the
38 Emerge Program.

39 b. (1) The total value of tax credits awarded under any
40 constituent program of the "New Jersey Economic Recovery Act of
41 2020," P.L. , c. (C.) (pending before the Legislature as this
42 bill) shall be subject to the following annual limitations, except as
43 otherwise provided in subsection c. of this section:

44 (a) for tax credits awarded under the "Historic Property
45 Reinvestment Act," sections 1 through 8 of P.L. , c. (C.)
46 (pending before the Legislature as this bill), the total value of tax
47 credits annually awarded during the six-year period shall not exceed
48 \$50 million;

1 (b) for tax credits awarded under the "Brownfield Redevelopment
2 Incentive Program Act," sections 9 through 19 of P.L. ,
3 c. (C.) (pending before the Legislature as this bill), the total
4 value of tax credits annually awarded during the six-year period shall
5 not exceed \$50 million;

6 (c) for tax credits awarded under the "New Jersey Innovation
7 Evergreen Act," sections 20 through 34 of P.L. , c. (C.)
8 (pending before the Legislature as this bill), the total value of tax
9 credits annually awarded during the six-year period shall not exceed
10 \$60 million;

11 (d) for tax credits awarded under the "Food Desert Relief Act,"
12 sections 35 through 42 of P.L. , c. (C.) (pending before the
13 Legislature as this bill), the total value of tax credits annually
14 awarded during the six-year period shall not exceed \$40 million;

15 (e) for tax credits awarded under the "New Jersey Community-
16 Anchored Development Act," sections 43 through 53 of P.L. ,
17 c. (C.) (pending before the Legislature as this bill), the total
18 value of tax credits annually awarded during the six-year period shall
19 not exceed \$200 million, except that during each of the first three
20 years of the six-year period, the authority shall annually award tax
21 credits valuing no greater than \$130 million for projects located in
22 the 13 northern counties of the State, and the authority shall annually
23 award tax credits valuing no greater than \$70 million for projects
24 located in the eight southern counties of the State. If during any of
25 the first three years of the six-year period, the authority awards tax
26 credits in an amount less than the annual limitation for projects
27 located in northern counties or southern counties, as applicable, the
28 uncommitted portion of the annual limitation shall be available to be
29 deployed by the authority in the subsequent year, provided that the
30 uncommitted portion of tax credits shall be awarded for projects
31 located in the applicable geographic area. During each of the final
32 three years of the six-year period, the authority may annually award
33 available tax credits, including the uncommitted portion of the annual
34 limitation for any previous year, without consideration to the county
35 in which the project is located;

36 (f) for tax credits awarded under the "New Jersey Aspire Program
37 Act," sections 54 through 67 of P.L. , c. (C.) (pending before
38 the Legislature as this bill), and the "Emerge Program Act," sections
39 68 through 81 of P.L. , c. (C.) (pending before the Legislature
40 as this bill), not including tax credits awarded for transformative
41 projects, the total value of tax credits annually awarded during the
42 six-year period shall not exceed \$1.1 billion, except that during each
43 of the first three years of the six-year period, the authority shall
44 annually award tax credits valuing no greater than \$715 million for
45 projects located in the northern counties of the State, and the
46 authority shall annually award tax credits valuing no greater than
47 \$385 million for projects located in the southern counties of the State.
48 If during any of the first three years of the six-year period, the

1 authority awards tax credits in an amount less than the annual
2 limitation for projects located in northern counties or southern
3 counties, as applicable, the uncommitted portion of the annual
4 limitation shall be available to be deployed by the authority in the
5 subsequent year, provided that the uncommitted portion of tax credits
6 shall be awarded for projects located in the applicable geographic
7 area. During each of the final three years of the six-year period, the
8 authority may annually award available tax credits, including the
9 uncommitted portion of the annual limitation for any previous year,
10 without consideration to the county in which the project is located;
11 and

12 (g) for tax credits awarded for transformative projects under the
13 "New Jersey Aspire Program Act," sections 54 through 67 of P.L. ,
14 c. (C.) (pending before the Legislature as this bill), and the
15 "Emerge Program Act," sections 68 through 81 of P.L. ,
16 c. (C.) (pending before the Legislature as this bill), the total
17 value of tax credits awarded during the six-year period shall not
18 exceed \$2.5 billion. The total value of tax credits awarded for
19 transformative projects in a given year shall not be subject to an
20 annual limitation, except that no more than 10 transformative
21 projects shall be awarded tax credits during the six-year period, and
22 the total value of tax credits awarded to any transformative project
23 shall not exceed \$250 million.

24 (2) The authority may in any given year determine that it is in the
25 State's interest to approve an amount of tax credits in excess of the
26 annual limitations set forth in paragraph (1) of this subsection, but in
27 no event more than \$200,000,000 in excess of the annual limitation,
28 upon a determination by the authority board that such increase is
29 warranted based on specific criteria that may include:

30 (i) the increased demand for opportunities to create or retain
31 employment and investment the State as indicated by the volume of
32 project applications and the amount of tax credits being sought by
33 those applications;

34 (ii) the need to protect the State's economic position in the event
35 of an economic downturn;

36 (iii) the quality of project applications and the net economic
37 benefit to the State and municipalities associated with those
38 applications;

39 (iv) opportunities for project applications to strengthen or protect
40 the competitiveness of the state under the prevailing market
41 conditions;

42 (v) enhanced access to employment and investment for
43 underserved populations in distressed municipalities and qualified
44 incentives tracts;

45 (vi) increased investment and employment in high-growth
46 technology sectors and in projects that entail collaboration with
47 education institutions in the State;

48 (vii) increased development proximate to mass transit facilities;

1 (viii) any other factor deemed relevant by the authority.

2 c. In the event that the authority in any year approves projects
3 for tax credits in an amount less than the annual limitations set forth
4 in paragraph (1) of subsection b. of this section, then the
5 uncommitted portion of the annual limitation shall be available to be
6 deployed by the authority in future years for projects; provided
7 however, that in no event shall the aggregate amount of tax credits
8 approved be in excess of the overall cap of \$11.5 billion.

9
10 99. (New section) Sections 99 through 105 of P.L. ,
11 c. (C.) (pending before the Legislature as this bill) shall be
12 known and may be cited as the "Economic Development Authority
13 Integrity and Protection Act."

14
15 100. (New section) As used in sections 99 through 105 of P.L. ,
16 c. (C.) (pending before the Legislature as this bill):

17 "Economic development incentive" means a financial incentive,
18 awarded by the authority to a person or entity, or agreed to between
19 the authority and a person or entity, for the purpose of stimulating
20 economic development or redevelopment in New Jersey, including,
21 but not limited to, a bond, grant, loan, loan guarantee, matching fund,
22 tax credit, tax deduction, or other tax expenditure.

23 "Fraud" means a deception or misrepresentation made by any
24 person or entity with the knowledge that the deception or
25 misrepresentation could result in some unauthorized benefit to that
26 person or entity or another person or entity, including any act that
27 constitutes fraud under applicable federal or State law.

28 "Economic development investigation" means an investigation of
29 fraud, abuse, or illegal acts perpetrated within economic development
30 incentive programs by applicants for, or recipients of, economic
31 development incentives.

32 "Office of the Economic Development Inspector General" means
33 the Office of the Economic Development Inspector General created
34 by section 102 of P.L. , c. (C.) (pending before the Legislature
35 as this bill).

36
37 101. (New section) a. The New Jersey Economic Development
38 Authority shall employ a Chief Compliance Officer, who shall be
39 appointed by the Chief Executive Officer of the authority to manage
40 the Division of Portfolio Management and Compliance in the
41 authority.

42 b. The Chief Compliance Officer shall:

43 (1) create, maintain, monitor, and coordinate procedures to
44 ensure that all economic development incentive programs, authority
45 employees, and economic development incentive program applicants
46 and recipients comply fully with the requirements of the
47 corresponding economic development incentive program;

1 (2) conduct, on such periodic basis as determined by the
2 authority, systematic audits of economic development incentive
3 programs for compliance with the laws, regulations, codes, orders,
4 procedures, advisory opinions and rulings concerning those
5 programs;

6 (3) maintain a central database of information concerning the
7 management of all economic development incentive programs and
8 information on economic development incentive program applicants
9 and recipients to provide for the regular and ongoing reporting,
10 verification, and monitoring of the State's economic development
11 incentive programs;

12 (4) prior to the adoption of any rule or regulation by the authority
13 or the board related to the general administration of the programs
14 administered by the authority pursuant to section 6 of P.L. ,
15 c. (C.) (pending before the Legislature as this bill), section 19
16 of P.L. , c. (C.) (pending before the Legislature as this bill),
17 section 29 of P.L. , c. (C.) (pending before the Legislature
18 as this bill), section 34 of P.L. , c. (C.) (pending before the
19 Legislature as this bill), section 41 of P.L. , c. (C.) (pending
20 before the Legislature as this bill), section 67 of P.L. , c. (C.)
21 (pending before the Legislature as this bill), section 79 of P.L. ,
22 c. (C.) (pending before the Legislature as this bill), section 88
23 of P.L. , c. (C.) (pending before the Legislature as this bill),
24 and section 97 of P.L. , c. (C.) (pending before the Legislature
25 as this bill), or any other regulation specifically related to the
26 recapture of economic development incentive award values, review
27 and certify that the provisions of program rules or regulations provide
28 the authority with adequate procedures to pursue the recapture of the
29 value of an economic development incentive in the case of substantial
30 noncompliance, fraud, or abuse by the economic development
31 incentive recipient, and that program rules and regulations are
32 sufficient to ensure against economic development incentive fraud,
33 waste, and abuse; and

34 (5) refer, to the Economic Development Inspector General and to
35 the Attorney General, information on suspected fraud or abuse
36 identified by the Division of Portfolio Management and Compliance.

37 c. The Chief Compliance Officer, in consultation with the
38 Department of Labor and Workforce Development and the
39 Department of the Treasury, shall:

40 Develop, adopt, and implement a corrective action plan, within
41 one year of the effective date of sections 99 through 105 of P.L. ,
42 c. (C.) (pending before the Legislature as this bill) and within
43 six months of receiving notice of any program deficiency issued by
44 the Economic Development Inspector General, that is designed to
45 enable the authority to properly manage the economic development
46 incentive programs administered by the authority, and adopt rules
47 and regulations concerning the administration and enforcement of the
48 Division of Portfolio Management and Compliance's duties in a

1 manner that is most compatible with ensuring against fraud and abuse
2 in the State's economic development incentive programs.

3
4 102. (New section) a. There is established, in the authority, the
5 Office of the Economic Development Inspector General, which shall
6 operate independent of the oversight or management of the Chief
7 Executive Officer of the authority. The Office of the Economic
8 Development Inspector General shall operate under the Economic
9 Development Inspector General, who shall be a retired member of
10 the Judicial Branch of the State, to be appointed by the Governor with
11 the advice and consent of the Senate for a term of four years. The
12 Economic Development Inspector General shall direct the work of
13 the Office of the Economic Development Inspector General and have
14 the following general functions, duties, powers, and responsibilities:

15 (1) to appoint such deputies, directors, assistants, and other
16 officers and employees as may be needed for the Office of the
17 Economic Development Inspector General to meet its
18 responsibilities, and to prescribe their duties and fix their
19 compensation within the amounts appropriated therefor;

20 (2) to conduct and supervise State government activities relating
21 to State economic development incentive integrity, fraud, and abuse;

22 (3) to call upon any department, office, division, or agency of
23 State government to provide such information, resources, or other
24 assistance as the Economic Development Inspector General deems
25 necessary to discharge the duties and functions and to fulfill the
26 responsibilities of the Economic Development Inspector General
27 under sections 99 through 105 of P.L. , c. (C.) (pending
28 before the Legislature as this bill). Each department, office, division,
29 and agency of this State shall cooperate with the Economic
30 Development Inspector General and furnish the Office of the
31 Economic Development Inspector General with the assistance
32 necessary to accomplish the purposes of sections 99 through 105 of
33 P.L. , c. (C.) (pending before the Legislature as this bill);

34 (4) to coordinate activities to prevent, detect, and investigate
35 economic development incentive fraud and abuse among the
36 following: the authority, State and local government officials, and all
37 economic development incentive applicants and recipients;

38 (5) to recommend and implement policies relating to economic
39 development incentive integrity, fraud, and abuse, and monitor the
40 implementation of any recommendations made by the Office of the
41 Economic Development Inspector General to the authority for the
42 administration of economic development incentives;

43 (6) to perform any other functions that are necessary or
44 appropriate in furtherance of the mission of the Office of the
45 Economic Development Inspector General; and

46 (7) to direct an economic development incentive applicant or
47 recipient to cooperate with the Office of the Economic Development
48 Inspector General and provide such information or assistance as shall

1 be reasonably required by the Office of the Economic Development
2 Inspector General.

3 b. As it relates to ensuring compliance with applicable economic
4 development incentive standards and requirements, identifying and
5 reducing fraud and abuse, and improving the efficiency and
6 effectiveness of economic development incentives, the functions,
7 duties, powers, and responsibilities of the Economic Development
8 Inspector General shall include, but not be limited to, the following:

9 (1) to establish, in consultation with the authority and the
10 Attorney General, guidelines under which the withholding of
11 payments or exclusion from economic development incentive
12 programs shall be imposed on an economic development incentive
13 applicant or recipient;

14 (2) to review the utilization of economic development incentives
15 to ensure that economic development incentive funds are
16 appropriately spent to meet the goals and purposes of an individual
17 economic development incentive program;

18 (3) to review and audit contracts, reports, documentation, claims,
19 and all awards of economic development incentives to determine
20 compliance with applicable laws, regulations, guidelines, and
21 standards, and enhance program integrity;

22 (4) to consult with the authority to optimize the economic
23 development incentive management information system in
24 furtherance of the mission of the Office of the Economic
25 Development Inspector General. The authority shall consult with the
26 Economic Development Inspector General on matters that concern
27 the operation, upgrade, and implementation of the economic
28 development incentive management information system;

29 (5) to coordinate the implementation of information technology
30 relating to economic development incentive integrity, fraud, and
31 abuse;

32 (6) to conduct educational programs for economic development
33 incentive State and local government officials and economic
34 development incentive recipients designed to limit economic
35 development incentive fraud and abuse; and

36 (7) to provide notice to the Chief Compliance Officer, appointed
37 pursuant to section 101 of P.L. , c. (C.) (pending before the
38 Legislature as this bill) if the Economic Development Inspector
39 General determines that a program deficiency exists in an economic
40 development incentive program administered by the authority and to
41 provide notice to the Chief Executive Officer of the Authority of
42 pending investigations if the Economic Development Inspector
43 General determines that such disclosure is consistent with the public
44 interest in maintaining the integrity of an economic development
45 incentive program administered by the authority or to abate the
46 continuation of fraud or abuse.

47 c. As it relates to investigating allegations of economic
48 development incentive fraud and abuse and enforcing applicable

1 laws, rules, regulations, and standards, the functions, duties, powers,
2 and responsibilities of the Economic Development Inspector General
3 shall include, but not be limited to, the following:

4 (1) to conduct economic development investigations concerning
5 any acts of misconduct within economic development incentive
6 programs;

7 (2) to provide information concerning the economic development
8 investigations of the Office of the Economic Development Inspector
9 General to the Attorney General, law enforcement authorities, and
10 any prosecutor of competent jurisdiction, and endeavor to develop
11 these economic development investigations in a manner that
12 expedites and facilitates criminal prosecutions and the recovery of
13 improperly expended economic development incentives, including
14 the maintenance of detailed records for cases processed by the
15 Economic Development Inspector General. The records shall
16 include: information on the total number of cases processed and, for
17 each case, the agency and division to which the case is referred for
18 an economic development investigation; the date on which the case
19 is referred; and the nature of the suspected fraud or abuse.

20 (3) to provide information and evidence relating to suspected
21 criminal acts that the Economic Development Inspector General may
22 obtain in carrying out its duties to law enforcement officials when
23 appropriate, and to provide such information to the Attorney General
24 and county prosecutors in order to facilitate criminal economic
25 development investigations and prosecutions;

26 (4) to refer complaints alleging criminal conduct to the Attorney
27 General or other appropriate prosecutorial authority.;

28 The Economic Development Inspector General shall maintain a
29 record of all matters referred to the Attorney General and shall be
30 authorized to disclose information received, as appropriate and as
31 may be necessary to resolve the matter referred, to the extent
32 consistent with the public interest in disclosure, the need for
33 protecting the confidentiality of complainants and informants, and
34 preserving the confidentiality of ongoing criminal economic
35 development investigations. Notwithstanding any referral made
36 pursuant to this subsection, the Economic Development Inspector
37 General may pursue any administrative or civil remedy under the law.
38 A referral by the inspector general to the Attorney General or a
39 prosecutorial authority shall in no way preclude the inspector general
40 from performing its own separate, independent investigation; and

41 (5) in furtherance of an economic development investigation, to
42 compel at a specific time and place, by subpoena, the appearance and
43 sworn testimony of any person whom the Economic Development
44 Inspector General reasonably believes may be able to give
45 information relating to a matter subject to an economic development
46 investigation:

47 (a) for this purpose, the Economic Development Inspector
48 General is empowered to administer oaths and examine witnesses

1 under oath, and compel any person to produce at a specific time and
2 place, by subpoena, any documents, books, records, papers, objects,
3 or other evidence that the Economic Development Inspector General
4 reasonably believes may relate to a matter subject to an economic
5 development investigation; and

6 (b) if any person to whom a subpoena is issued fails to appear or,
7 having appeared, refuses to give testimony, or fails to produce the
8 books, papers, or other documents required, the Economic
9 Development Inspector General may apply to the Superior Court and
10 the court may order the person to appear and give testimony or
11 produce the books, papers, or other documents, as applicable. Any
12 person failing to obey that order may be held by the court in
13 contempt;

14 (6) subject to applicable State law, to have full and unrestricted
15 access to all records, reports, audits, reviews, documents, papers,
16 data, recommendations, or other material available to the authority
17 and other State and local government agencies with respect to which
18 the Office of the Economic Development Inspector General has
19 responsibilities under sections 102 through 105 of P.L. ,

20 c. (C.) (pending before the Legislature as this bill);

21 (7) to solicit, receive, and investigate complaints related to
22 economic development incentive integrity, fraud, and abuse; and

23 (8) to prepare cases, provide expert testimony, and support
24 administrative hearings and other legal proceedings.

25 d. As it relates to recovering improperly obtained economic
26 development incentives, imposing administrative sanctions,
27 damages, or penalties, and negotiating settlements to assure that all
28 governmental resources have been properly expended, the functions,
29 duties, powers, and responsibilities of the Economic Development
30 Inspector General shall include, but not be limited to, the following:

31 (1) to pursue civil and administrative enforcement actions against
32 those who engage in fraud, abuse, or illegal acts perpetrated under
33 economic development incentive programs. These civil and
34 administrative enforcement actions shall include the imposition of
35 administrative sanctions, penalties, suspension of fraudulent or
36 illegal awards, and actions for civil recovery and seizure of property
37 or other assets connected with such economic incentive awards;

38 (2) to initiate civil suits consistent with the provisions of sections
39 99 through 105 of P.L. , c. (C.) (pending before the Legislature
40 as this bill), maintain actions for civil recovery on behalf of the State,
41 and enter into civil settlements;

42 (3) to require that the authority withhold payments to an
43 economic development incentive applicant or recipient if the
44 applicant or recipient unreasonably fails to produce complete and
45 accurate records related to an economic development investigation
46 that is initiated by the Office of the Economic Development Inspector
47 General with reasonable cause; and

(4) to monitor and pursue the recoupment of economic development incentive awards or portions thereof, damages, penalties, and sanctions.

103. (New section) a. The Economic Development Inspector General is authorized to request, and shall be entitled to receive, such information, assistance, and cooperation from any State or local government department, board, bureau, commission, or other agency or unit thereof, as may be necessary to carry out the duties and responsibilities of the Office of the Economic Development Inspector General pursuant to sections 102 through 105 of P.L. , c. (C.) (pending before the Legislature as this bill).

b. Upon the request of a prosecutor of competent jurisdiction, an office, department, or any other State or local government entity, the Economic Development Inspector General shall provide information, data, assistance, staff, and other resources as shall be necessary, appropriate and available to aid and facilitate the economic development investigation and prosecution of economic development incentive fraud.

104. (New section) The Economic Development Inspector General shall report annually to the Governor, to the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), and to the Attorney General, the activities of the Office of the Economic Development Inspector General, as well as recommendations, if any, for legislation to provide for the management of the State's economic development incentive programs.

105. (New section) The Economic Development Inspector General, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations, in consultation with the authority, the Department of Labor and Workforce Development, and the Department of the Treasury, concerning the administration and enforcement of the Office of the Economic Development Inspector General's duties pursuant to sections 102 through 105 of P.L. , c. (C.) (pending before the Legislature as this bill) in a manner that is most compatible with ensuring against fraud and abuse in the State's economic development incentive programs.

106. (New section) a. For privilege periods ending in 2020, 2021, and 2022, a taxpayer, upon approval of an application to the authority, shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in the amount of \$10,000 for each qualifying new hire involved in the manufacture of personal protective equipment in a qualified facility in which the taxpayer made a capital investment during the privilege period.

1 b. The minimum capital investment in a qualified facility
2 required to be eligible for a credit under this section shall be as
3 follows:

4 (1) for the rehabilitation, improvement, fit-out, or retrofit of an
5 existing premises in Atlantic County, Burlington County, Cape May
6 County, Cumberland County, Gloucester County, Ocean County, or
7 Salem County, a minimum investment of \$10 per square foot of gross
8 leasable area;

9 (2) for the rehabilitation, improvement, fit-out, or retrofit of an
10 existing premises in counties in the State not listed in paragraph (1)
11 of this subsection, a minimum investment of \$20 per square foot of
12 gross leasable area;

13 (3) for the new construction of a premises in Atlantic County,
14 Burlington County, Cape May County, Cumberland County,
15 Gloucester County, Ocean County, or Salem County, a minimum
16 investment of \$100 per square foot of gross leasable area; or

17 (4) for the new construction of a premises in counties in the State
18 not listed in paragraph (3) of this subsection, a minimum investment
19 of \$120 per square foot of gross leasable area.

20 c. The minimum number of new or retained qualifying full-time
21 jobs required to be eligible for a credit under this section shall be as
22 follows:

23 (1) for a qualified facility in Atlantic County, Burlington County,
24 Cape May County, Cumberland County, Gloucester County, Ocean
25 County, or Salem County, a minimum of five new or 15 retained
26 qualifying full-time jobs; or

27 (2) for a qualified facility in counties in the State not listed in
28 paragraph (1) of this subsection, a minimum of ten new or 25 retained
29 qualifying full-time jobs.

30 d. In addition to the amount of credit allowed pursuant to
31 subsection a. of this section, a taxpayer shall be allowed the following
32 tax credits for privilege periods ending in 2020, 2021, and 2022:

33 (1) \$1,000 per qualifying full-time job in the privilege period at a
34 qualified facility that is a building vacant for not less than seven years
35 in need of rehabilitation with a minimum of 250,000 square feet;

36 (2) \$1,500 per qualifying full-time job in the privilege period at a
37 qualified facility in which the manufacturing of personal protective
38 equipment is part of a research collaboration between the taxpayer
39 and a college or university located within the State; and

40 (3) \$1,000 per qualifying full-time job in the privilege period at a
41 qualified facility in which the taxpayer has established an
42 apprenticeship program or pre-apprenticeship program with a
43 technical school or county college located within the State.

44 e. The total credit allowed to a taxpayer pursuant to this section
45 during the privilege period shall not exceed \$500,000. A taxpayer
46 shall not be eligible for a tax credit under this section for the same
47 qualifying new hire for which the taxpayer is receiving a tax credit
48 incentive award under the Emerge Program established by sections

1 68 through 81 of P.L. , c. (C.) (pending before the Legislature
2 as this bill).

3 f. Notwithstanding the minimum tax schedule imposed pursuant
4 to subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5), if the
5 amount of the tax credit allowed exceeds the amount of corporation
6 business tax otherwise due pursuant to section 5 of P.L.1945, c.162
7 (C.54:10A-5), the amount of excess shall be treated as a refundable
8 overpayment except that interest shall not be paid pursuant to section
9 7 of P.L.1992, c.175 (C.54:49-15.1) on the amount of overpayment
10 attributable to this credit amount. The director shall determine the
11 order of priority of the application of the credit allowed pursuant to
12 this section and any other credits allowed by law.

13 g. The combined value of all tax credits approved by the
14 authority and the director pursuant to this section and pursuant to
15 section 2 of P.L. , c. (C.)(pending before the Legislature as
16 this bill) shall not exceed \$10,000,000 in any State fiscal year to
17 apply against the tax imposed pursuant to the “New Jersey Gross
18 Income Tax Act,” N.J.S.54A:1-1 et seq., and the tax imposed
19 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).

20 h. An application for the tax credit shall be submitted to the
21 authority in a form and manner prescribed by the chief executive
22 officer of the authority. As a condition of receiving tax credits under
23 this section, an applicant shall be required to commit to employ
24 qualifying new hires for which tax credits are awarded under this
25 section for a period of five years.

26 i. Notwithstanding any provision of the “Administrative
27 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary,
28 the director chief executive officer of the authority is authorized to
29 adopt immediately upon filing with the Office of Administrative Law
30 such rules and regulations shall be effective for a period not to exceed
31 360 days following the date of filing and may thereafter be amended,
32 adopted, or readopted by the chief executive officer of the authority
33 in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
34 et seq.). The chief executive officer of the authority shall consult
35 with the Commissioner of Health related to any specification
36 requirements for what manufactured products are to qualify as
37 personal protective equipment pursuant to this section.

38 j. As used in this section:

39 “Authority” means the New Jersey Economic Development
40 Authority established pursuant to section 4 of P.L.1974, c.80
41 (C.34:1B-4).

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

44 “Personal protective equipment” means coveralls, face shields,
45 gloves, gowns, masks, respirators, safeguard equipment, and other
46 equipment designed to protect the wearer from the spread of infection
47 or illness as may be modified from time to time by the board of the
48 authority.

1 “Qualified facility” means a facility that is:

2 (1) located in a redevelopment area or rehabilitation area as
3 defined in section 3 of P.L.1992, c.79 (C.40A:12A-3);

4 (2) located in a Smart Growth Area as identified by the Office of
5 Planning Advocacy;

6 (3) a facility in which the manufacturing of personal protective
7 equipment is part of a research collaboration between the taxpayer a
8 college or university located within the State;

9 (4) a facility in which the taxpayer has established an
10 apprenticeship program or pre-apprenticeship program with a
11 technical school or community located within the State; or

12 (5) a building vacant for not less than seven years in need of
13 rehabilitation with a minimum of 250,000 square feet.

14 “Qualifying full-time job” means a full-time position in a business
15 in this State which the business has filled with a full-time employee
16 for the manufacturing of personal protective equipment in this State.
17 The employee shall be employed for at least 35 hours a week and
18 shall be paid employee wages at a rate of not less than \$15 per hour,
19 or render any other standard of service generally accepted by custom
20 or practice as full-time employment, whose wages are subject to
21 withholding as provided in the “New Jersey Gross Income Tax Act,”
22 N.J.S.54A:1-1 et seq. and is paid employee wages at a rate of not less
23 than \$15 per hour. “Qualifying new hire” shall not include any
24 person who works as an independent contractor or on a consulting
25 basis for the business. “Qualifying new or retained job” includes
26 only a position for which the taxpayer provides employee health
27 benefits under a health benefits plan authorized pursuant to State or
28 federal law.

29

30 107. a. For taxable years 2020, 2021, and 2022, a taxpayer, upon
31 approval of an application to the authority shall be allowed a credit
32 against the tax imposed pursuant to the “New Jersey Gross Income
33 Tax Act” N.J.S.54A:1-1 et seq. in the amount of \$10,000 for each
34 qualifying new hire involved in the manufacture of personal
35 protective equipment in a qualified facility in which the taxpayer
36 made a capital investment during the taxable year.

37 b. The minimum capital investment in a qualified facility
38 required to be eligible for a credit under this section shall be as
39 follows:

40 (1) for the rehabilitation, improvement, fit-out, or retrofit of an
41 existing premises in Atlantic County, Burlington County, Cape May
42 County, Cumberland County, Gloucester County, Ocean County, or
43 Salem County, a minimum investment of \$10 per square foot of gross
44 leasable area;

45 (2) for the rehabilitation, improvement, fit-out, or retrofit of an
46 existing premises in counties in the State not listed in paragraph (1)
47 of this subsection, a minimum investment of \$20 per square foot of
48 gross leasable area;

(3) for the new construction of a premises in Atlantic County, Burlington County, Cape May County, Cumberland County, Gloucester County, Ocean County, or Salem County, a minimum investment of \$100 per square foot of gross leasable area; or

(4) for the new construction of a premises in counties in the State not listed in paragraph (3) of this subsection, a minimum investment of \$120 per square foot of gross leasable area.

c. The minimum number of new or retained qualifying full-time jobs required to be eligible for a credit under this section shall be as follows:

(1) for a qualified facility in Atlantic County, Burlington County, Cape May County, Cumberland County, Gloucester County, Ocean County, or Salem County, a minimum of five new or 15 retained qualifying full-time jobs; and

(2) for a qualified facility in counties in the State not listed in paragraph (1) of this subsection, a minimum of ten new or 25 retained qualifying full-time jobs.

d. In addition to the amount of credit allowed pursuant to subsection a. of this section, a taxpayer shall be allowed the following tax credits for taxable years 2020, 2021, and 2022:

(1) \$1,000 per qualifying full-time job in a taxable year at a qualified facility that is a building vacant for not less than seven years in need of rehabilitation with a minimum of 250,000 square feet;

(2) \$1,500 per qualifying full-time job in a taxable year at a qualified facility in which the manufacturing of personal protective equipment is part of a research collaboration between the taxpayer and a college or university located within the State; and

(3) \$1,000 per qualifying full-time job in a taxable year at a qualified facility in which the taxpayer has established an apprenticeship program or pre-apprenticeship program with a technical school or county college located within the State.

e. The total credit allowed to a taxpayer pursuant to this section during the taxable year shall not exceed \$500,000. A taxpayer shall not be eligible for a tax credit under this section for the same qualifying new hire for which the taxpayer is receiving a tax credit incentive award under the Emerge Program established by sections 68 through 81 of P.L. , c. (C.) (pending before the Legislature as this bill)

f. If the amount of the credit exceeds the amount of tax otherwise due, that amount of excess shall be an overpayment for the purposes of N.J.S.54A:9-7; provided however, that subsection (f) of N.J.S.54A:9-7 shall not apply. The director shall determine the order of priority of the application of the credit allowed pursuant to this section and any other credits allowed by law.

g. (1) A business entity that is classified as a partnership for federal income tax purposes shall not be allowed a tax credit pursuant to this section directly, but the amount of tax credit of a taxpayer in respect to distributive share of entity income, shall be determined by

1 allocating to the taxpayer that proportion of the tax credit acquired
2 by the entity that is equal to the taxpayer's share, whether or not
3 distributed, of the total distributive income or gain of the entity for
4 its taxable year ending within or with the taxpayer's taxable year.

5 (2) A New Jersey S Corporation shall not be allowed a tax credit
6 pursuant to this section directly, but the amount of the tax credit of a
7 taxpayer in respect of a pro rata share of S Corporation income, shall
8 be determined by allocating to the taxpayer that proportion of the tax
9 credit acquired by the New Jersey S Corporation that is equal to the
10 taxpayer's share, whether or not distributed, of the total pro rata share
11 of S Corporation income of the New Jersey S Corporation for its
12 privilege period ending within or with the taxpayer's taxable year.

13 h. The combined value of all tax credits approved by the
14 authority and the director pursuant to this section and pursuant to
15 section 1 of P.L. , c. (C.)(pending before the Legislature as
16 this bill) shall not exceed \$10,000,000 in any State fiscal year to
17 apply against the tax imposed pursuant to the "New Jersey Gross
18 Income Tax Act," N.J.S.54A:1-1 et seq., and the tax imposed
19 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).

20 i. An application for the tax credit shall be submitted to the
21 authority in a form and manner prescribed by the chief executive
22 officer of the authority. As a condition of receiving tax credits under
23 this section, an applicant shall be required to commit to employ
24 qualifying new hires for which tax credits are awarded under this
25 section for a period of five years.

26 j. Notwithstanding any provision of the "Administrative
27 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary,
28 the chief executive officer of the authority is authorized to adopt
29 immediately upon filing with the Office of Administrative Law such
30 rules and regulations shall be effective for a period not to exceed 360
31 days following the date of filing and may thereafter be amended,
32 adopted, or readopted by the chief executive officer of the authority
33 in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
34 et seq.). The chief executive officer of the authority shall consult
35 with the Commissioner of Health related to any specification
36 requirements for what manufactured products are to qualify as
37 personal protective equipment pursuant to this section.

38 k. As used in this section:

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

42 "Director" means Director of the Division of Taxation in the
43 Department of the Treasury;

44 "Personal protective equipment" means coveralls, face shields,
45 gloves, gowns, masks, respirators, safeguard equipment, and other
46 equipment designed to protect the wearer from the spread of infection
47 or illness as may be modified from time to time by the board of the
48 authority.

1 “Qualified facility” means a facility that is:

2 (1) located in a redevelopment area or rehabilitation area as
3 defined in section 3 of P.L.1992, c.79 (C.40A:12A-3);

4 (2) located in a Smart Growth Area as identified by the Office of
5 Planning Advocacy;

6 (3) a facility in which the manufacturing of personal protective
7 equipment is part of a research collaboration between the taxpayer a
8 college or university located within the State;

9 (4) a facility in which the taxpayer has established an
10 apprenticeship program or pre-apprenticeship program with a
11 technical school or community located within the State; or

12 (5) a building vacant for not less than seven years in need of
13 rehabilitation with a minimum of 250,000 square feet.

14 “Qualifying full-time job” means a full-time employee hired by
15 the taxpayer during the privilege period for the manufacturing of
16 personal protective equipment in this State. The person hired shall
17 be employed for at least 35 hours a week and shall be paid employee
18 wages at a rate of not less than \$15 per hour, or render any other
19 standard of service generally accepted by custom or practice as full-
20 time employment, whose wages are subject to withholding as
21 provided in the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1
22 et seq. and is paid employee wages at a rate of not less than \$15 per
23 hour. “Qualifying new hire” shall not include any person who works
24 as an independent contractor or on a consulting basis for the business.
25 “Qualifying new or retained job” includes only a position for which
26 the taxpayer provides employee health benefits under a health
27 benefits plan authorized pursuant to State or federal law.

28

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

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

42 (2) (Deleted by amendment, P.L.2013, c.161)

43 (3) (Deleted by amendment, P.L.2013, c.161)

44 (4) (Deleted by amendment, P.L.2013, c.161)

45 (5) (Deleted by amendment, P.L.2013, c.161)

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

1 (2) (a) A business shall submit its documentation indicating that it
2 has met the capital investment and employment requirements and all
3 conditions of approvals specified in the incentive agreement for
4 certification of its tax credit amount, to the authority's satisfaction,
5 within three years following the date of approval of its application by
6 the authority. The authority shall have the discretion to grant two
7 six-month extensions of this deadline. If the authority accepts the
8 documentation, the authority shall request that the Division of
9 Taxation in the Department of the Treasury issue a tax credit based
10 on the approved documentation to be used by the business during the
11 eligibility period. Except as provided in subparagraphs (b) and (c) of
12 this paragraph, in no event shall the incentive effective date occur
13 later than four years following the date of approval of an application
14 by the authority.

15 (b) As of the effective date of P.L.2017, c.314, a business which
16 applied for the tax credit prior to July 1, 2014 under P.L.2011, c.149
17 (C.34:1B-242 et al.), shall submit its documentation to the authority
18 no later than July 28, 2019, indicating that it has met the capital
19 investment and employment requirements specified in the incentive
20 agreement for certification of its tax credit amount.

21 (c) If the Governor declares an emergency, then the chief
22 executive officer of the authority shall have the discretion to grant an
23 extension for the duration of the emergency and the board of the
24 authority, upon recommendation of the chief executive officer, may
25 grant two additional six-month extensions; provided that (i) the
26 extensions are due to the economic disruption caused by the
27 emergency; (ii) the project is delayed due to unforeseeable acts
28 related to the project beyond the eligible business's control and
29 without its fault or negligence; (iii) the eligible business is using best
30 efforts, with all due diligence, to proceed with the completion of the
31 project and the submission of the certification; and (iv) the eligible
32 business has made, and continues to make, all reasonable efforts to
33 prevent, avoid, mitigate, and overcome the delay.

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

37 (4) A business seeking a credit for a mega project shall apply for
38 the credit within four years after the effective date of the "New Jersey
39 Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-
40 489p et al.).

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

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

1 The credit amount may be taken by the tax certificate holder for
2 the tax period for which it was issued or may be carried forward for
3 use by the tax certificate holder in any of the next 20 successive tax
4 periods, and shall expire thereafter. The tax certificate holder may
5 transfer the tax credit amount on or after the date of issuance or at
6 any time within three years of the date of issuance for use by the
7 transferee in the tax period for which it was issued or in any of the
8 next 20 successive tax periods. Notwithstanding the foregoing, no
9 more than the amount of tax credits equal to the total credit amount
10 divided by the duration of the eligibility period in years may be taken
11 in any tax period.

12 A business may elect to suspend its obligations for the 2020 tax
13 period and, if the public health emergency or state of emergency
14 declared due to the COVID-19 pandemic extends past March 2021,
15 the 2021 tax period, provided that the business shall make such
16 election in writing to the authority before the date the annual report
17 is due and such suspension shall extend the term of the eligibility
18 period by a corresponding amount of time. The authority shall amend
19 the incentive agreement, and the business shall execute the amended
20 incentive agreement within the time period provided by the authority.
21 The amended incentive agreement shall provide that the failure to
22 submit the annual report due to the suspension shall not be a
23 forfeiture or an uncertified tax period.

24 (2) Credits granted to a partnership shall be passed through to the
25 partners, members, or owners, respectively, pro-rata or pursuant to
26 an executed agreement among the partners, members, or owners
27 documenting an alternate distribution method provided to the
28 Director of the Division of Taxation in the Department of the
29 Treasury accompanied by any additional information as the director
30 may require.

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

36 (4) In order to respond to the profoundly negative impact of the
37 COVID-19 pandemic on the State's economy and finances, the
38 authority may request a tax certificate holder, at the tax certificate
39 holder's discretion, to defer the application of a credit amount
40 allowed pursuant to this section to a later tax period. Upon request,
41 the authority and the tax certificate holder shall negotiate the terms
42 of the deferral, which shall hold the certificate holder harmless,
43 which will be made in the incentive agreement or as an addendum to
44 the incentive agreement.

45 d. (1) If, in any tax period, the business reduces the total number
46 of full-time employees in its Statewide workforce by more than 20
47 percent from the number of full-time employees in its Statewide
48 workforce in the last tax period prior to the credit amount approval

1 under section 3 of P.L.2011, c.149 (C.34:1B-244), then the business
2 shall forfeit its credit amount for that tax period and each subsequent
3 tax period, until the first tax period for which documentation
4 demonstrating the restoration of the business's Statewide workforce
5 to the threshold levels required by the incentive agreement has been
6 reviewed and approved by the authority, for which tax period and
7 each subsequent tax period the full amount of the credit shall be
8 allowed.

9 (2) If, in any tax period, the number of full-time employees
10 employed by the business at the qualified business facility located
11 within a qualified incentive area drops below 80 percent of the
12 number of new and retained full-time jobs specified in the incentive
13 agreement, then the business shall forfeit its credit amount for that
14 tax period and each subsequent tax period, until the first tax period
15 for which documentation demonstrating the restoration of the number
16 of full-time employees employed by the business at the qualified
17 business facility to 80 percent of the number of jobs specified in the
18 incentive agreement.

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

25 (b) In connection with a regional distribution facility of
26 foodstuffs, the business entity or entities which own or lease the
27 facility shall qualify as a business regardless of: (i) the type of the
28 business entity or entities which own or lease the facility; (ii) the
29 ownership or leasing of the facility by more than one business entity;
30 or (iii) the ownership of the business entity or entities which own or
31 lease the facility. The ownership or leasing, whether by members,
32 shareholders, partners, or other owners of the business entity or
33 entities, shall be treated as ownership or leasing by affiliates. The
34 members, shareholders, partners, or other ownership or leasing
35 participants and others that are tenants in the facility shall be treated
36 as affiliates for the purpose of counting the full-time employees and
37 capital investments in the facility. The business entity or entities may
38 distribute credits to members, shareholders, partners, or other
39 ownership or leasing participants in accordance with their respective
40 interests. If the business entity or entities or their members,
41 shareholders, partners, or other ownership or leasing participants
42 lease space in the facility to members, shareholders, partners, or other
43 ownership or leasing participants or others as tenants in the facility,
44 the leases shall be treated as a lease to an affiliate, and the business
45 entity or entities shall not be subject to forfeiture of the credits. For
46 the purposes of this section, leasing shall include subleasing and
47 tenants shall include subtenants.

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

14 (b) For a project located within a Garden State Growth Zone
15 which qualifies under the "Municipal Rehabilitation and Economic
16 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or which
17 contains a Tourism District as established pursuant to section 5 of
18 P.L.2011, c.18 (C.5:12-219) and regulated by the Casino
19 Reinvestment Development Authority, and which qualifies for a tax
20 credit pursuant to subsubparagraph (ii) of subparagraphs (a) through
21 (e) of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149
22 (C.34:1B-246), if, in any tax period the number of full-time
23 employees employed by the business at the qualified business facility
24 located within a qualified incentive area increases above the number
25 of full-time employees specified in the incentive agreement such that
26 the business shall then meet the minimum number of employees
27 required in subparagraph (b), (c), (d), or (e) of paragraph (6) of
28 subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246), then the
29 authority shall recalculate the total tax credit amount per full-time
30 job by using the certified capital investment of the project allowable
31 under the applicable subsubparagraph and the number of full-time
32 jobs certified on the date of the recalculation and applying those
33 numbers to subparagraph (b), (c), (d), or (e) of paragraph (6) of
34 subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246), until the
35 first tax period for which documentation demonstrating a reduction
36 of the number of full-time employees employed by the business at
37 the qualified business facility, at which time the tax credit amount
38 shall be adjusted accordingly pursuant to this section.

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

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

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

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

g. A business that has entered into an incentive agreement may request before December 31, 2022 to terminate the incentive agreement due to the COVID-19 public health emergency; provided that the business shall submit a certification from the business's chief executive officer or equivalent officer stating that the termination is due to the public health emergency and describing the impact of the public health emergency on the business. All credits for the tax period in which the termination occurs and all subsequent tax periods shall be forfeited, provided however that any credits of the business shall remain unaffected.

h. A business that has entered into an incentive agreement may request to reduce the number of new or retained full-time jobs specified in the incentive agreement based on a certification of the business of the eligible positions at the qualified business facility commencing with the 2020 tax period and each subsequent tax period remaining in the eligibility period, provided that the business maintains the minimum number of new or retained full-time jobs required to be eligible pursuant to subsection c. of section 3 of P.L. 2011, c. 149 (C.34:1B-244). The reduction in employment shall first apply to the number of new full-time employees, and then shall apply to the number of retained full-time employees.

The authority shall calculate a new tax credit total amount for the 2020 tax period and the remainder of the eligibility period based on the reduced employment and shall amend the incentive agreement to reflect the recalculated award amount. In no event shall the modification result in an increase in employment or tax credit amount.

(cf: P.L.2020, c.8, s.3)

109. Section 6 of P.L.2010, c.57 (C.34:1B-209.4) is amended to read as follows:

6. a. (1) A business, upon application to and approval from the authority, shall be **【allowed】** awarded a credit of 100 percent of its capital investment, made after the effective date of P.L.2010, c.57 (C.48:3-87.1 et al.) but prior to its submission of documentation

1 pursuant to subsection c. of this section, in a qualified wind energy
2 facility located **【within an eligible wind energy zone】** in the State,
3 pursuant to the restrictions and requirements of this section. The
4 award of a tax credit pursuant to this section shall be structured so
5 that the authority shall make up to four awards, each equaling 25
6 percent of the total value of the tax credit, to a qualified business over
7 four privilege periods or taxable years in which the business meets
8 the requirements for the minimum number of new, full-time
9 employees. Otherwise eligible businesses with between 150 and 300
10 new, full-time jobs may receive an award based on a prorated formula
11 developed by the authority. To be eligible for any tax credits
12 authorized under this section, a business shall demonstrate to the
13 authority, at the time of application, that the State's financial support
14 of the proposed capital investment in a qualified wind energy facility
15 will yield a net positive benefit to the State. The value of all credits
16 approved by the authority pursuant to this section may be up to
17 \$100,000,000, except as may be increased by the authority if the chief
18 executive officer of the authority judges certain qualified offshore
19 wind projects to be meritorious. Credits provided pursuant to this
20 section shall not be applicable to the cap on the credits provided in
21 section 3 of P.L.2007, c.346 (C.34:1B-209).

22 (2) (a) A business, other than a tenant eligible pursuant to
23 subparagraph (b) of this paragraph, shall make or acquire capital
24 investments totaling not less than \$50,000,000 in a qualified wind
25 energy facility, at which the business, including tenants at the
26 qualified wind energy facility, shall employ **【at least 300】** the
27 minimum number of new, full-time employees, to be eligible for a
28 credit under this section. A business that acquires a qualified wind
29 energy facility after the effective date of P.L.2010, c.57 (C.48:3-87.1
30 et al.) shall also be deemed to have acquired the capital investment
31 made or acquired by the seller.

32 (b) A business that is a tenant in the qualified wind energy
33 facility, the owner of which has made or acquired capital investments
34 in the facility totaling more than \$50,000,000, shall occupy a leased
35 area of the qualified wind energy facility that represents at least
36 \$17,500,000 of the capital investment in the qualified wind energy
37 facility at which **【at least 300】** the minimum number of new, full-
38 time employees in the aggregate are employed, to be eligible for a
39 credit under this section. The amount of capital investment in a
40 facility that a leased area represents shall be equal to that percentage
41 of the owner's total capital investment in the facility that the
42 percentage of net leasable area leased by the tenant is of the total net
43 leasable area of the qualified business facility. Capital investments
44 made by a tenant shall be deemed to be included in the calculation of
45 the capital investment made or acquired by the owner, but only to the
46 extent necessary to meet the owner's minimum capital investment of
47 \$50,000,000. Capital investments made by a tenant and not allocated
48 to meet the owner's minimum capital investment threshold of

1 \$50,000,000 shall be added to the amount of capital investment
2 represented by the tenant's leased area in the qualified wind energy
3 facility.

4 (c) The calculation of the number of new, full-time employees
5 required pursuant to subparagraphs (a) and (b) of this paragraph may
6 include the number of new, full-time positions resulting from an
7 equipment supply coordination agreement with equipment
8 manufacturers, suppliers, installers and operators associated with the
9 supply chain required to support the qualified wind energy facility.

10 For the purposes of this paragraph, "full time employee" shall not
11 include an employee who is a resident of another state and whose
12 income is not subject to the "New Jersey Gross Income Tax Act,"
13 N.J.S.54A:1-1 et seq., unless that state has entered into a reciprocity
14 agreement with the State of New Jersey **【**, provided that any
15 employee whose work is provided pursuant to a collective bargaining
16 agreement with a business in the wind energy zone may be included**】**.

17 (3) A business shall not be **【allowed】** awarded a tax credit
18 pursuant to this section if the business receives a business
19 employment incentive grant pursuant to the "Business Employment
20 Incentive Program Act," P.L.1996, c.26 (C.34:1B-124 et al.), relating
21 to the same capital and employees that qualify the business for this
22 credit, or if the business receives assistance pursuant to the "Business
23 Retention and Relocation Assistance Act," P.L.1996, c.25 (C.34:1B-
24 112 et seq.). A business that is **【allowed】** awarded a tax credit under
25 this section shall not be eligible for incentives authorized pursuant to
26 the "Municipal Rehabilitation and Economic Recovery Act,"
27 P.L.2002, c.43 (C.52:27BBB-1 et al.).

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

31 b. A business shall apply for the credit by July 1, **【2024】** 2025,
32 and a business shall submit its documentation for approval of its
33 credit amount by July 1, **【2027】** 2028.

34 c. The credit **【allowed】** awarded pursuant to this section shall
35 be administered in accordance with the provisions of subsection c. of
36 section 3 of P.L.2007, c.346 (C.34:1B-209) and section 33 of
37 P.L.2009, c.90 (C.34:1B-209.1), except that all references therein to
38 "qualified business facility" shall be deemed to refer to "qualified
39 wind energy facility," as that term is defined in subsection f. of this
40 section.

41 d. The amount of the credit **【allowed】** awarded pursuant to this
42 section shall, except as otherwise provided, be equal to the capital
43 investment made by the business, or the capital investment
44 represented by the business's leased area, and shall be taken over a
45 **【10-year】** five-year period, at the rate of **【one-tenth】** one-fifth of the
46 total amount of the business's credit for each tax accounting or
47 privilege period of the business, beginning with the **【tax period】**

1 privilege period or taxable year in which the business is first
2 approved by the authority as having met the investment capital and
3 employment qualifications, subject to any disqualification as
4 determined by annual review by the authority. In conducting its
5 annual review, the authority may require a business to submit any
6 information determined by the authority to be necessary and relevant
7 to its review. The credit amount for any **【tax period】** privilege period
8 or taxable year ending after the date 18 years after the effective date
9 of P.L.2007, c.346 (C.34:1B-207 et seq.) during which the
10 documentation of a business's credit amount remains unapproved
11 shall be forfeited, although credit amounts for the remainder of the
12 years of the **【10-year】** five-year credit period shall remain available.
13 The amount of the credit **【allowed】** awarded for a **【tax period】**
14 privilege period or taxable year to a business that is a tenant in a
15 qualified wind energy facility shall not exceed the business's total
16 lease payments for occupancy of the qualified wind energy facility
17 for the **【tax period】** privilege period or taxable year.

18 e. The authority shall adopt rules and regulations pursuant to the
19 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
20 seq.) as are necessary to implement this section, including, but not
21 limited to: examples of and the determination of capital investment;
22 the nature of businesses and employment positions constituting and
23 participating in an equipment supply coordination agreement; a
24 determination of the types of businesses that may be eligible and
25 expenses that may constitute capital improvements; the promulgation
26 of procedures and forms necessary to apply for a credit; and
27 provisions for applicants to be charged an initial application fee, and
28 ongoing service fees, to cover the administrative costs related to the
29 credit.

30 The rules and regulations established by the authority pursuant to
31 this subsection shall be effective immediately upon filing with the
32 Office of Administrative Law and shall be effective for a period not
33 to exceed 12 months and may, thereafter, be amended, adopted or
34 readopted in accordance with the provisions of the "Administrative
35 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

36 f. As used in this section: the terms "authority," "business," and
37 "capital investment" shall have the same meanings as defined in
38 section 2 of the "Urban Transit Hub Tax Credit Act," P.L.2007, c.346
39 (C.34:1B-208), except that all references therein to "qualified
40 business facility" shall be deemed to refer to "qualified wind energy
41 facility" as defined in this subsection.

42 In addition, as used in this section:

43 "Equipment supply coordination agreement" means an agreement
44 between a business and equipment manufacturer, supplier, installer,
45 and operator that supports a qualified offshore wind project, or other
46 wind energy project as determined by the authority, and that indicates
47 the number of new, full-time jobs to be created by the agreement

participants towards the employment requirement as set forth in paragraph (2) of subsection a. of this section.

"Minimum number of new, full-time employees" means:

(1) for the first award, at least a cumulative 100 new, full-time employees compared to the number of full-time employees at the time of application;

(2) for the second award, for a privilege period or taxable year following the first award, at least a cumulative 150 new, full-time employees compared to the number of full-time employees at the time of application;

(3) for the third award, for a privilege period or taxable year following the second award, at least a cumulative 200 new, full-time employees compared to the number of full-time employees at the time of application; and

(4) for the fourth award, for a privilege period or taxable year following the third award, at least a cumulative 300 new, full-time employees compared to the number of full-time employees at the time of application.

"Qualified offshore wind project" shall have the same meaning as provided in section 3 of P.L.1999, c.23 (C.48:3-51).

"Qualified wind energy facility" means any building, complex of buildings, or structural components of buildings, including water access infrastructure, and all machinery and equipment used in the manufacturing, assembly, development or administration of component parts that support the development and operation of a qualified offshore wind project, or other wind energy project as determined by the authority **】, and that are located in a wind energy zone】.**

【"Wind energy zone" means property located in the South Jersey Port District established pursuant to "The South Jersey Port Corporation Act," P.L.1968, c.60 (C.12:11A-1 et seq.).**】**
(cf: P.L.2018, c.17, s.7)

110. Section 1 of P.L.2018, c.56 (C.54:10A-5.39b) is amended to read as follows:

1. a. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in an amount equal to 30 percent of the qualified film production expenses of the taxpayer during a privilege period commencing on or after July 1, 2018 but before July 1, 2028, provided that:

(a) at least 60 percent of the total film production expenses, exclusive of post-production costs, of the taxpayer are incurred for services performed, and goods purchased through vendors authorized to do business, in New Jersey, or the qualified film production expenses of the taxpayer during the privilege period exceed \$1,000,000 per production;

1 (b) principal photography of the film commences within the
2 earlier of 180 days from the date of the original application for the
3 tax credit, or 150 days from the date of approval of the application
4 for the tax credit;

5 (c) the film includes, when determined to be appropriate by the
6 commission, at no cost to the State, marketing materials promoting
7 this State as a film and entertainment production destination, which
8 materials shall include placement of a "Filmed in New Jersey" or
9 "Produced in New Jersey" statement, or an approved logo approved
10 by the commission, in the end credits of the film;

11 (d) the taxpayer submits a tax credit verification report prepared
12 by an independent certified public accountant licensed in this State
13 in accordance with subsection f. of this section; and

14 (e) the taxpayer complies with the withholding requirements
15 provided for payments to loan out companies and independent
16 contractors in accordance with subsection g. of this section.

17 (2) Notwithstanding the provisions of paragraph (1) of subsection
18 a. of this section to the contrary, the tax credit allowed pursuant to
19 this subsection against the tax imposed pursuant to section 5 of
20 P.L.1945, c.162 (C.54:10A-5) shall be in an amount equal to 35
21 percent of the qualified film production expenses of the taxpayer
22 during a privilege period that are incurred for services performed and
23 tangible personal property purchased through vendors whose primary
24 place of business is located in Atlantic, Burlington, Camden, Cape
25 May, Cumberland, Gloucester, Mercer or Salem County.

26 b. (1) A taxpayer, upon approval of an application to the
27 authority and the director, shall be allowed a credit against the tax
28 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in an
29 amount equal to 20 percent of the qualified digital media content
30 production expenses of the taxpayer during a privilege period
31 commencing on or after July 1, 2018 but before July 1, 2028,
32 provided that:

33 (a) at least \$2,000,000 of the total digital media content
34 production expenses of the taxpayer are incurred for services
35 performed, and goods purchased through vendors authorized to do
36 business, in New Jersey;

37 (b) at least 50 percent of the qualified digital media content
38 production expenses of the taxpayer are for wages and salaries paid
39 to full-time or full-time equivalent employees in New Jersey;

40 (c) the taxpayer submits a tax credit verification report prepared
41 by an independent certified public accountant licensed in this State
42 in accordance with subsection f. of this section; and

43 (d) the taxpayer complies with the withholding requirements
44 provided for payments to loan out companies and independent
45 contractors in accordance with subsection g. of this section.

46 (2) Notwithstanding the provisions of paragraph (1) of subsection
47 b. of this section to the contrary, the tax credit allowed pursuant to
48 this subsection against the tax imposed pursuant to section 5 of

1 P.L.1945, c.162 (C.54:10A-5) shall be in an amount equal to 25
2 percent of the qualified digital media content production expenses of
3 the taxpayer during a privilege period that are incurred for services
4 performed and tangible personal property purchased through vendors
5 whose primary place of business is located in Atlantic, Burlington,
6 Camden, Cape May, Cumberland, Gloucester, Mercer, or Salem
7 County.

8 c. No tax credit shall be allowed pursuant to this section for any
9 costs or expenses included in the calculation of any other tax credit
10 or exemption granted pursuant to a claim made on a tax return filed
11 with the director, or included in the calculation of an award of
12 business assistance or incentive, for a period of time that coincides
13 with the privilege period for which a tax credit authorized pursuant
14 to this section is allowed. The order of priority in which the tax credit
15 allowed pursuant to this section and any other tax credits allowed by
16 law may be taken shall be as prescribed by the director. The amount
17 of the tax credit applied under this section against the tax imposed
18 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), for a privilege
19 period, when taken together with any other payments, credits,
20 deductions, and adjustments allowed by law shall not reduce the tax
21 liability of the taxpayer to an amount less than the statutory minimum
22 provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-
23 5). The amount of the tax credit otherwise allowable under this
24 section which cannot be applied for the privilege period due to the
25 limitations of this subsection or under other provisions of P.L.1945,
26 c.162 (C.54:10A-1 et seq.) may be carried forward, if necessary, to
27 the seven privilege periods following the privilege period for which
28 the tax credit was allowed.

29 d. A taxpayer, with an application for a tax credit provided for
30 in subsection a. or subsection b. of this section, may apply to the
31 authority and the director for a tax credit transfer certificate in lieu
32 of the taxpayer being allowed any amount of the tax credit against
33 the tax liability of the taxpayer. The tax credit transfer certificate,
34 upon receipt thereof by the taxpayer from the authority and the
35 director, may be sold or assigned, in full or in part, to any other
36 taxpayer that may have a tax liability under the "Corporation
37 Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), or
38 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in
39 exchange for private financial assistance to be provided by the
40 purchaser or assignee to the taxpayer that has applied for and been
41 granted the tax credit. The tax credit transfer certificate provided to
42 the taxpayer shall include a statement waiving the taxpayer's right to
43 claim that amount of the tax credit against the tax imposed pursuant
44 to section 5 of P.L.1945, c.162 (C.54:10A-5) that the taxpayer has
45 elected to sell or assign. The sale or assignment of any amount of a
46 tax credit transfer certificate allowed under this section shall not be
47 exchanged for consideration received by the taxpayer of less than 75
48 percent of the transferred tax credit amount. Any amount of a tax

1 credit transfer certificate used by a purchaser or assignee against a
2 tax liability under P.L.1945, c.162 (C.54:10A-1 et seq.) shall be
3 subject to the same limitations and conditions that apply to the use of
4 a tax credit pursuant to subsection c. of this section. Any amount of
5 a tax credit transfer certificate obtained by a purchaser or assignee
6 under subsection a. or subsection b. of this section may be applied
7 against the purchaser's or assignee's tax liability under N.J.S.54A:1-
8 1 et seq. and shall be subject to the same limitations and conditions
9 that apply to the use of a credit pursuant to subsections c. and d. of
10 section 2 of P.L.2018, c.56 (C.54A:4-12b).

11 e. (1) The value of tax credits, including tax credits allowed
12 through the granting of tax credit transfer certificates, approved by
13 the director and the authority pursuant to subsection a. of this section
14 and pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-
15 12b) to taxpayers, other than New Jersey film partners and New
16 Jersey film-lease partners, shall not exceed a cumulative total of
17 \$100,000,000 in fiscal year 2019 and in each fiscal year thereafter
18 prior to fiscal year 2029 to apply against the tax imposed pursuant to
19 section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed
20 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
21 et seq. In addition to the \$100,000,000 limitation on the value of tax
22 credits approved by the director for New Jersey film-lease partners
23 and the \$100,000,000 limitation on the value of tax credits approved
24 by the director for other taxpayers imposed by this paragraph, the
25 value of tax credits, including tax credits allowed through the
26 granting of tax credit transfer certificates, approved by the director
27 and the authority pursuant to subsection a. of this section and
28 pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-
29 12b) to New Jersey film partners shall not exceed a cumulative total
30 of \$100,000,000 in fiscal year 2021 and in each fiscal year thereafter
31 prior to fiscal year 2029 to apply against the tax imposed pursuant to
32 section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed
33 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
34 et seq. In addition to the \$100,000,000 limitation on the value of tax
35 credits approved by the director for New Jersey film partners and the
36 \$100,000,000 limitation on the value of tax credits approved by the
37 director for other taxpayers imposed by this paragraph, the value of
38 tax credits, including tax credits allowed through the granting of tax
39 credit transfer certificates, approved by the director and the authority
40 pursuant to subsection a. of this section and pursuant to subsection a.
41 of section 2 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey film-
42 lease partners shall not exceed a cumulative total of \$100,000,000 in
43 fiscal year 2021 and in each fiscal year thereafter prior to fiscal year
44 2029 to apply against the tax imposed pursuant to section 5 of
45 P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the
46 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

47 If the cumulative total amount of tax credits, and tax credit transfer
48 certificates, allowed to taxpayers for privilege periods or taxable

1 years commencing during a single fiscal year under subsection a. of
2 this section and subsection a. of section 2 of P.L.2018, c.56
3 (C.54A:4-12b) exceeds the amount of tax credits available in that
4 fiscal year, then taxpayers who have first applied for and have not
5 been allowed a tax credit or tax credit transfer certificate amount for
6 that reason shall be allowed, in the order in which they have
7 submitted an application, the amount of tax credit or tax credit
8 transfer certificate on the first day of the next succeeding fiscal year
9 in which tax credits and tax credit transfer certificates under
10 subsection a. of this section and subsection a. of section 2 of
11 P.L.2018, c.56 (C.54A:4-12b) are not in excess of the amount of
12 credits available.

13 Notwithstanding any provision of paragraph (1) of this subsection
14 to the contrary, for any fiscal year in which the amount of tax credits
15 approved pursuant to this paragraph is less than the cumulative total
16 amount of tax credits permitted to be approved in that fiscal year, the
17 authority shall certify the amount of the remaining tax credits
18 available for approval in that fiscal year, and shall increase the
19 cumulative total amount of tax credits permitted to be approved in
20 the subsequent fiscal year by the certified amount remaining from the
21 prior fiscal year. The authority shall also certify, for each fiscal year,
22 the amount of tax credits that were previously approved, but that the
23 taxpayer is not able to redeem or transfer to another taxpayer under
24 this section, and shall increase the cumulative total amount of tax
25 credits permitted to be approved in the subsequent fiscal year by the
26 amount of tax credits previously approved, but not subject to
27 redemption or transfer. The combined increase to the cumulative
28 total permitted to be approved in a subsequent fiscal year pursuant to
29 this paragraph shall not exceed \$50,000,000.

30 (2) The value of tax credits, including tax credits allowed through
31 the granting of tax credit transfer certificates, approved by the
32 authority and the director pursuant to subsection b. of this section and
33 pursuant to subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-
34 12b) shall not exceed a cumulative total of \$10,000,000 in fiscal year
35 2019 and in each fiscal year thereafter prior to fiscal year 2029 to
36 apply against the tax imposed pursuant to section 5 of P.L.1945,
37 c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey
38 Gross Income Tax Act," N.J.S.54A:1-1 et seq.

39 If the total amount of tax credits and tax credit transfer certificates
40 allowed to taxpayers for privilege periods or taxable years
41 commencing during a single fiscal year under subsection b. of this
42 section and subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-
43 12.b) exceeds the amount of tax credits available in that year, then
44 taxpayers who have first applied for and have not been allowed a tax
45 credit or tax credit transfer certificate amount for that reason shall be
46 allowed, in the order in which they have submitted an application,
47 the amount of tax credit or tax credit transfer certificate on the first
48 day of the next succeeding fiscal year in which tax credits and tax

1 credit transfer certificates under subsection b. of this section and
2 subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12.b) are not
3 in excess of the amount of credits available.

4 Notwithstanding any provision of this paragraph to the contrary,
5 for any fiscal year in which the amount of tax credits approved
6 pursuant to this paragraph is less than the cumulative total amount of
7 tax credits permitted to be approved in that fiscal year, the authority
8 shall certify the amount of the remaining tax credits available for
9 approval in that fiscal year, and shall increase the cumulative total
10 amount of tax credits permitted to be approved in the subsequent
11 fiscal year by the certified amount remaining from the prior fiscal
12 year. The authority shall also certify, for each fiscal year, the amount
13 of tax credits that were previously approved, but that the taxpayer is
14 not able to redeem or transfer to another taxpayer under this section,
15 and shall increase the cumulative total amount of tax credits
16 permitted to be approved in the subsequent fiscal year by the amount
17 of tax credits previously approved, but not subject to redemption or
18 transfer.

19 f. A taxpayer shall submit to the authority and the director a
20 report prepared by an independent certified public accountant
21 licensed in this State to verify the taxpayer's tax credit claim
22 following the completion of the production. The report shall be
23 prepared by the independent certified public accountant pursuant to
24 agreed upon procedures prescribed by the authority and the director,
25 and shall include such information and documentation as shall be
26 determined to be necessary by the authority and the director to
27 substantiate the qualified film production expenses or the qualified
28 digital media content production expenses of the taxpayer. A single
29 report with attachments deemed necessary by the authority shall be
30 submitted electronically. Upon receipt of the report, the authority
31 and the director shall review the findings of the independent certified
32 public accountant's report, and shall make a determination as to the
33 qualified film production expenses or the qualified digital media
34 content production expenses of the taxpayer. The determination shall
35 be provided in writing to the taxpayer, and a copy of the written
36 determination shall be included in the filing of a return that includes
37 a claim for a tax credit allowed pursuant to this section.

38 g. A taxpayer shall withhold from each payment to a loan out
39 company or to an independent contractor an amount equal to 6.37
40 percent of the payment otherwise due. The amounts withheld shall
41 be deemed to be withholding of liability pursuant to the "New Jersey
42 Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the taxpayer shall
43 be deemed to have the rights, duties, and responsibilities of an
44 employer pursuant to chapter 7 of Title 54A of the New Jersey
45 Statutes. The director shall allocate the amounts withheld for a
46 taxable year to the accounts of the individuals who are employees of
47 a loan out company in proportion to the employee's payment by the
48 loan out company in connection with a trade, profession, or

1 occupation carried on in this State or for the rendition of personal
2 services performed in this State during the taxable year. A loan out
3 company that reports its payments to employees in connection with
4 a trade, profession, or occupation carried on in this State or for the
5 rendition of personal services performed in this State during a taxable
6 year shall be relieved of its duties and responsibilities as an employer
7 pursuant to chapter 7 of Title 54A of the New Jersey Statutes for the
8 taxable year for any payments relating to the payments on which the
9 taxpayer withheld.

10 h. As used in this section:

11 "Authority" means the New Jersey Economic Development
12 Authority.

13 "Business assistance or incentive" means "business assistance or
14 incentive" as that term is defined pursuant to section 1 of P.L.2007,
15 c.101 (C.54:50-39).

16 "Commission" means the Motion Picture and Television
17 Development Commission.

18 "Digital media content" means any data or information that is
19 produced in digital form, including data or information created in
20 analog form but reformatted in digital form, text, graphics,
21 photographs, animation, sound, and video content. "Digital media
22 content" shall not mean content offerings generated by the end user
23 (including postings on electronic bulletin boards and chat rooms);
24 content offerings comprised primarily of local news, events, weather,
25 or local market reports; public service content; electronic commerce
26 platforms (such as retail and wholesale websites); websites or content
27 offerings that contain obscene material as defined pursuant to
28 N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or content that are
29 produced or maintained primarily for private, industrial, corporate,
30 or institutional purposes; or digital media content acquired or
31 licensed by the taxpayer for distribution or incorporation into the
32 taxpayer's digital media content.

33 "Film" means a feature film, a television series, or a television
34 show of 22 minutes or more in length, intended for a national
35 audience, or a television series or a television show of 22 minutes or
36 more in length intended for a national or regional audience,
37 including, but not limited to, a game show, award show, or other gala
38 event filmed and produced at a nonprofit arts and cultural venue
39 receiving State funding. "Film" shall not include a production
40 featuring news, current events, weather, and market reports or public
41 programming, talk show, or sports event, a production that solicits
42 funds, a production containing obscene material as defined under
43 N.J.S.2C:34-2 and N.J.S.2C:34-3, or a production primarily for
44 private, industrial, corporate, or institutional purposes, or a reality
45 show, except if the production company of the reality show owns,
46 leases, or otherwise occupies a production facility of no less than
47 20,000 square feet of real property for a minimum term of 24 months,
48 and invests no less than \$3,000,000 in such a facility within a

1 designated enterprise zone established pursuant to the "New Jersey
2 Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et al.),
3 or a UEZ-impacted business district established pursuant to section
4 3 of P.L.2001, c.347 (C.52:27H-66.2). "Film" shall not include an
5 award show or other gala event that is not filmed and produced at a
6 nonprofit arts and cultural venue receiving State funding.

7 "Full-time or full-time equivalent employee" means an individual
8 employed by the taxpayer for consideration for at least 35 hours a
9 week, or who renders any other standard of service generally
10 accepted by custom or practice as full-time or full-time equivalent
11 employment, whose wages are subject to withholding as provided in
12 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or
13 who is a partner of a taxpayer, who works for the partnership for at
14 least 35 hours a week, or who renders any other standard of service
15 generally accepted by custom or practice as full-time or full-time
16 equivalent employment, and whose distributive share of income,
17 gain, loss, or deduction, or whose guaranteed payments, or any
18 combination thereof, is subject to the payment of estimated taxes, as
19 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
20 et seq. "Full-time or full-time equivalent employee" shall not include
21 an individual who works as an independent contractor or on a
22 consulting basis for the taxpayer.

23 "Highly compensated individual" means an individual who
24 directly or indirectly receives compensation in excess of \$500,000
25 for the performance of services used directly in a production. An
26 individual receives compensation indirectly when the taxpayer pays
27 a loan out company that, in turn, pays the individual for the
28 performance of services.

29 "Independent contractor" means an individual treated as an
30 independent contractor for federal and State tax purposes who is
31 contracted with by the taxpayer for the performance of services used
32 directly in a production.

33 "Loan out company" means a personal service corporation or other
34 entity that is contracted with by the taxpayer to provide specified
35 individual personnel, such as artists, crew, actors, producers, or
36 directors for the performance of services used directly in a
37 production. "Loan out company" shall not include entities contracted
38 with by the taxpayer to provide goods or ancillary contractor services
39 such as catering, construction, trailers, equipment, or transportation.

40 "New Jersey film partner" means a film production company that
41 has made a commitment to produce films or commercial audiovisual
42 products in New Jersey and has developed, purchased, or executed a
43 10-year contract to lease a production facility of 250,000 square feet
44 or more as a "transformative project" pursuant to section 65 of P.L. ,
45 c. (C.) (pending before the Legislature as this bill). No more
46 than five film production companies may be designated as a New
47 Jersey film partner.

1 “New Jersey film-lease partner” means a taxpayer, including any
2 taxpayer that is a member of a combined group under P.L.2018, c.131
3 (C:54:10A-4.11), that has made a commitment to lease or acquire a
4 New Jersey production facility with an aggregate square footage of
5 at least 50,000 square feet, which includes a sound stage and
6 production support space such as production offices or a backlot, for
7 a period of five or more successive years and commits to spend, on a
8 separate-entity basis or in the aggregate with other members of the
9 taxpayer’s combined group, an annual average of \$50,000,000 of
10 qualified film production expenses over the period of at least five but
11 not to exceed 10 years. The authority shall be permitted to recapture
12 any credits awarded to a New Jersey film-lease partner if the New
13 Jersey film-lease partner, or any member of the New Jersey film-
14 lease partner’s combined group fails to maintain a New Jersey
15 production facility during the period prescribed or if the New Jersey
16 film-lease partner, on a separate-entity basis or in the aggregate with
17 other members of the New Jersey film-lease partner’s combined
18 group, fails to spend an annual average of \$50,000,000 of qualified
19 film production expenses over the prescribed period.

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

22 "Post-production costs" means the costs of the phase of production
23 of a film that follows principal photography, in which raw footage is
24 cut and assembled into a finished film with sound synchronization
25 and visual effects.

26 "Pre-production costs" means the costs of the phase of production
27 of a film that precedes principal photography, in which a detailed
28 schedule and budget for the production is prepared, the script and
29 location is finalized, and contracts with vendors are negotiated.

30 "Qualified digital media content production expenses" means an
31 expense incurred in New Jersey for the production of digital media
32 content. "Qualified digital media content production expenses" shall
33 include but not be limited to: wages and salaries of individuals
34 employed in the production of digital media content on which the tax
35 imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
36 et seq. has been paid or is due; and the costs of computer software
37 and hardware, data processing, visualization technologies, sound
38 synchronization, editing, and the rental of facilities and equipment.
39 Payment made to a loan out company or to an independent contractor
40 shall not be deemed a "qualified digital media content production
41 expense" unless the payment is made in connection with a trade,
42 profession, or occupation carried on in this State or for the rendition
43 of personal services performed in this State and the taxpayer has
44 made the withholding required pursuant to subsection g. of this
45 section. "Qualified digital media content production expenses" shall
46 not include expenses incurred in marketing, promotion, or
47 advertising digital media or other costs not directly related to the
48 production of digital media content. Costs related to the acquisition

1 or licensing of digital media content by the taxpayer for distribution
2 or incorporation into the taxpayer's digital media content shall not be
3 deemed "qualified digital media content production expenses."

4 "Qualified film production expenses" means an expense incurred
5 in New Jersey for the production of a film including pre-production
6 costs and post-production costs incurred in New Jersey. "Qualified
7 film production expenses" shall include but not be limited to: wages
8 and salaries of individuals employed in the production of a film on
9 which the tax imposed by the "New Jersey Gross Income Tax Act,"
10 N.J.S.54A:1-1 et seq. has been paid or is due; and the costs for
11 tangible personal property used, and services performed, directly and
12 exclusively in the production of a film, such as expenditures for film
13 production facilities, props, makeup, wardrobe, film processing,
14 camera, sound recording, set construction, lighting, shooting, editing,
15 and meals. Payment made to a loan out company or to an
16 independent contractor shall not be deemed a "qualified film
17 production expense" unless the payment is made in connection with
18 a trade, profession, or occupation carried on in this State or for the
19 rendition of personal services performed in this State and the
20 taxpayer has made the withholding required pursuant to subsection
21 g. of this section. "Qualified film production expenses" shall not
22 include: expenses incurred in marketing or advertising a film; and
23 payment in excess of \$500,000 to a highly compensated individual
24 for costs for a story, script, or scenario used in the production of a
25 film and wages or salaries or other compensation for writers,
26 directors, including music directors, producers, and performers, other
27 than background actors with no scripted lines, except as follows:

28 (1) for a New Jersey film partner that incurs more than
29 \$30,000,000, but less than \$100,000,000, in qualified film production
30 expenses in the State, an amount, not to exceed \$15,000,000, of the
31 wages or salaries or other compensation for writers, directors,
32 including music directors, producers, and performers, other than
33 background actors with no scripted lines, shall constitute qualified
34 film production expenses;

35 (2) for a New Jersey film partner that incurs \$100,000,000 or
36 more, but less than \$150,000,000, in qualified film production
37 expenses in the State, an amount, not to exceed \$30,000,000, of the
38 wages or salaries or other compensation for writers, directors,
39 including music directors, producers, and performers, other than
40 background actors with no scripted lines, shall constitute qualified
41 film production expenses; and

42 (3) for a New Jersey film partner that incurs \$150,000,000 or more
43 in qualified film production expenses in the State, an amount, not to
44 exceed \$60,000,000, of the wages or salaries or other compensation
45 for writers, directors, including music directors, producers, and
46 performers, other than background actors with no scripted lines, shall
47 constitute qualified film production expenses.

1 "Total digital media content production expenses" means costs for
2 services performed and property used or consumed in the production
3 of digital media content.

4 "Total film production expenses" means costs for services
5 performed and tangible personal property used or consumed in the
6 production of a film.

7 i. A business that is not a "taxpayer" as defined and used in the
8 "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-
9 1 et seq.) and therefore is not directly allowed a credit under this
10 section, but is a business entity that is classified as a partnership for
11 federal income tax purposes and is ultimately owned by a business
12 entity that is a "corporation" as defined in subsection (c) of section 4
13 of P.L.1945, c.162 (C.54:10A-4), or a limited liability company
14 formed under the "Revised Uniform Limited Liability Company
15 Act," P.L.2012, c.50 (C.42:2C-1 et seq.), or qualified to do business
16 in this State as a foreign limited liability company, with one member,
17 and is wholly owned by the business entity that is a "corporation" as
18 defined in subsection (c) of section 4 of P.L.1945, c.162 (C.54:10A-
19 4), but otherwise meets all other requirements of this section, shall
20 be considered an eligible applicant and "taxpayer" as that term is used
21 in this section.

22 (cf: P.L.2019, c.506, s.1)

23
24 111. Section 2 of P.L.2018, c.56 (C.54A:4-12b) is amended to
25 read as follows:

26 2. a. (1) A taxpayer, upon approval of an application to the
27 authority and the director, shall be allowed a credit against the tax
28 otherwise due for the taxable year under the "New Jersey Gross
29 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to 30
30 percent of the qualified film production expenses of the taxpayer
31 during a taxable year commencing on or after July 1, 2018 but before
32 July 1, 2028, provided that:

33 (a) at least 60 percent of the total film production expenses,
34 exclusive of post-production costs, of the taxpayer are incurred for
35 services performed, and goods purchased through vendors authorized
36 to do business, in New Jersey, or the qualified film production
37 expenses of the taxpayer during the taxable year exceed \$1,000,000
38 per production;

39 (b) principal photography of the film commences within the
40 earlier of 180 days from the date of the original application for the
41 tax credit, or 150 days from the date of approval of the application
42 for the tax credit;

43 (c) the film includes, when determined to be appropriate by the
44 commission, at no cost to the State, marketing materials promoting
45 this State as a film and entertainment production destination, which
46 materials shall include placement of a "Filmed in New Jersey" or
47 "Produced in New Jersey" statement, or an appropriate logo approved
48 by the commission, in the end credits of the film;

1 (d) the taxpayer submits a tax credit verification report prepared
2 by an independent certified public accountant licensed in this State
3 in accordance with subsection g. of this section; and

4 (e) the taxpayer complies with the withholding requirements
5 provided for payments to loan out companies and independent
6 contractors in accordance with subsection h. of this section.

7 (2) Notwithstanding the provisions of paragraph (1) of subsection
8 a. of this section to the contrary, the tax credit allowed pursuant to
9 this subsection against the tax otherwise due for the taxable year
10 under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et
11 seq., shall be in an amount equal to 35 percent of the qualified film
12 production expenses of the taxpayer during a taxable year that are
13 incurred for services performed and tangible personal property
14 purchased through vendors whose primary place of business is
15 located in Atlantic, Burlington, Camden, Cape May, Cumberland,
16 Gloucester, Mercer, or Salem County.

17 b. (1) A taxpayer, upon approval of an application to the
18 authority and the director, shall be allowed a credit against the tax
19 otherwise due for the taxable year under the "New Jersey Gross
20 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to 20
21 percent of the qualified digital media content production expenses of
22 the taxpayer during a taxable year commencing on or after July 1,
23 2018 but before July 1, 2028, provided that:

24 (a) at least \$2,000,000 of the total digital media content
25 production expenses of the taxpayer are incurred for services
26 performed, and goods purchased through vendors authorized to do
27 business, in New Jersey;

28 (b) at least 50 percent of the qualified digital media content
29 production expenses of the taxpayer are for wages and salaries paid
30 to full-time or full-time equivalent employees in New Jersey;

31 (c) the taxpayer submits a tax credit verification report prepared
32 by an independent certified public accountant licensed in this State
33 in accordance with subsection g. of this section; and

34 (d) the taxpayer complies with the withholding requirements
35 provided for payments to loan out companies and independent
36 contractors in accordance with subsection h. of this section.

37 (2) Notwithstanding the provisions of paragraph (1) of subsection
38 b. of this section to the contrary, the tax credit allowed pursuant to
39 this subsection against the tax otherwise due for the taxable year
40 under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et
41 seq., shall be in an amount equal to 25 percent for the qualified digital
42 media content production expenses of the taxpayer during a taxable
43 year that are incurred for services performed and tangible personal
44 property purchased through vendors whose primary place of business
45 is located in Atlantic, Burlington, Camden, Cape May, Cumberland,
46 Gloucester, Mercer, or Salem County.

47 c. No tax credit shall be allowed pursuant to this section for any
48 costs or expenses included in the calculation of any other tax credit

1 or exemption granted pursuant to a claim made on a tax return filed
2 with the director, or included in the calculation of an award of
3 business assistance or incentive, for a period of time that coincides
4 with the taxable year for which a tax credit authorized pursuant to
5 this section is allowed. The order of priority in which the tax credit
6 allowed pursuant to this section and any other tax credits allowed by
7 law may be taken shall be as prescribed by the director. The amount
8 of the tax credit applied under this section against the tax otherwise
9 due under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et
10 seq., for a taxable year, when taken together with any other payments,
11 credits, deductions, and adjustments allowed by law shall not reduce
12 the tax liability of the taxpayer to an amount less than zero. The
13 amount of the tax credit otherwise allowable under this section which
14 cannot be applied for the taxable year due to the limitations of this
15 subsection or under other provisions of N.J.S.54A:1-1 et seq., may
16 be carried forward, if necessary, to the seven taxable years following
17 the taxable year for which the tax credit was allowed.

18 d. (1) A business entity that is classified as a partnership for
19 federal income tax purposes shall not be allowed a tax credit pursuant
20 to this section directly, but the amount of tax credit of a taxpayer in
21 respect of a distributive share of entity income, shall be determined
22 by allocating to the taxpayer that proportion of the tax credit acquired
23 by the entity that is equal to the taxpayer's share, whether or not
24 distributed, of the total distributive income or gain of the entity for
25 its taxable year ending within or with the taxpayer's taxable year.

26 (2) A New Jersey S Corporation shall not be allowed a tax credit
27 pursuant to this section directly, but the amount of tax credit of a
28 taxpayer in respect of a pro rata share of S Corporation income, shall
29 be determined by allocating to the taxpayer that proportion of the tax
30 credit acquired by the New Jersey S Corporation that is equal to the
31 taxpayer's share, whether or not distributed, of the total pro rata share
32 of S Corporation income of the New Jersey S Corporation for its
33 privilege period ending within or with the taxpayer's taxable year.

34 A business entity that is not a gross income "taxpayer" as defined
35 and used in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
36 et seq., and therefore is not directly allowed a credit under this
37 section, but otherwise meets all the other requirements of this section,
38 shall be considered an eligible applicant and "taxpayer" as that term
39 is used in this section, and the application of an otherwise allowed
40 credit amount shall be distributed to appropriate gross income
41 taxpayers pursuant to the other requirements of this subsection.

42 e. A taxpayer, with an application for a tax credit provided for
43 in subsection a. or subsection b. of this section, may apply to the
44 authority and the director for a tax credit transfer certificate in lieu
45 of the taxpayer being allowed any amount of the tax credit against
46 the tax liability of the taxpayer. The tax credit transfer certificate,
47 upon receipt thereof by the taxpayer from the authority and the
48 director, may be sold or assigned, in full or in part, to any other

1 taxpayer that may have a tax liability under the "New Jersey Gross
2 Income Tax Act," N.J.S.54A:1-1 et seq., or the "Corporation
3 Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), in
4 exchange for private financial assistance to be provided by the
5 purchaser or assignee to the taxpayer that has applied for and been
6 granted the tax credit. The tax credit transfer certificate provided to
7 the taxpayer shall include a statement waiving the taxpayer's right to
8 claim that amount of the tax credit against the tax imposed pursuant
9 to N.J.S.54A:1-1 et seq. that the taxpayer has elected to sell or assign.
10 The sale or assignment of any amount of a tax credit transfer
11 certificate allowed under this section shall not be exchanged for
12 consideration received by the taxpayer of less than 75 percent of the
13 transferred tax credit amount. Any amount of a tax credit transfer
14 certificate used by a purchaser or assignee against a tax liability under
15 N.J.S.54A:1-1 et seq. shall be subject to the same limitations and
16 conditions that apply to the use of a tax credit pursuant to subsections
17 c. and d. of this section. Any amount of a tax credit transfer
18 certificate obtained by a purchaser or assignee under subsection e. of
19 this section may be applied against the purchaser's or assignee's tax
20 liability under P.L.1945, c.162 (C.54:10A-1 et seq.) and shall be
21 subject to the same limitations and conditions that apply to the use of
22 a credit pursuant to subsection c. of section 1 of P.L.2018, c.56
23 (C.54:10A-5.39b).

24 f. (1) The value of tax credits, including tax credits allowed
25 through the granting of tax credit transfer certificates, approved by
26 the director and the authority pursuant to subsection a. of this section
27 and pursuant to subsection a. of section 1 of P.L.2018, c.56
28 (C.54:10A-5.39b) to taxpayers, other than New Jersey film partners
29 and New Jersey film-lease partners, shall not exceed a cumulative
30 total of \$100,000,000 in fiscal year 2019 and in each fiscal year
31 thereafter prior to fiscal year 2029 to apply against the tax imposed
32 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
33 et seq., and pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).
34 In addition to the \$100,000,000 limitation on the value of tax credits
35 approved by the director for New Jersey film-lease partners and the
36 \$100,000,000 limitation on the value of tax credits approved by the
37 director for other taxpayers imposed by this paragraph, the value of
38 tax credits, including tax credits allowed through the granting of tax
39 credit transfer certificates, approved by the director and the authority
40 pursuant to subsection a. of this section and pursuant to subsection a.
41 of section 2 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey film
42 partners shall not exceed a cumulative total of \$100,000,000 in fiscal
43 year 2021 and in each fiscal year thereafter prior to fiscal year 2029
44 to apply against the tax imposed pursuant to section 5 of P.L.1945,
45 c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey
46 Gross Income Tax Act," N.J.S.54A:1-1 et seq. In addition to the
47 \$100,000,000 limitation on the value of tax credits approved by the
48 director for New Jersey film partners and the \$100,000,000 limitation

1 on the value of tax credits approved by the director for other
2 taxpayers imposed by this paragraph, the value of tax credits,
3 including tax credits allowed through the granting of tax credit
4 transfer certificates, approved by the director and the authority
5 pursuant to subsection a. of this section and pursuant to subsection a.
6 of section 1 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey film-
7 lease partners shall not exceed a cumulative total of \$100,000,000 in
8 fiscal year 2021 and in each fiscal year thereafter prior to fiscal year
9 2029 to apply against the tax imposed pursuant to section 5 of
10 P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the
11 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

12 If the cumulative total amount of tax credits, and tax credit transfer
13 certificates, allowed to taxpayers for taxable years or privilege
14 periods commencing during a single fiscal year under subsection a.
15 of this section and subsection a. of section 1 of P.L.2018, c.56
16 (C.54:10A-5.39b) exceeds the amount of tax credits available in that
17 fiscal year, then taxpayers who have first applied for and have not
18 been allowed a tax credit or tax credit transfer certificate amount for
19 that reason shall be allowed, in the order in which they have
20 submitted an application, the amount of tax credit or tax credit
21 transfer certificate on the first day of the next succeeding fiscal year
22 in which tax credits and tax credit transfer certificates under
23 subsection a. of this section and subsection a. of section 1 of
24 P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of the amount of
25 credits available.

26 Notwithstanding any provision of paragraph (1) of this subsection
27 to the contrary, for any fiscal year in which the amount of tax credits
28 approved pursuant to this paragraph is less than the cumulative total
29 amount of tax credits permitted to be approved in that fiscal year, the
30 authority shall certify the amount of the remaining tax credits
31 available for approval in that fiscal year, and shall increase the
32 cumulative total amount of tax credits permitted to be approved in
33 the subsequent fiscal year by the certified amount remaining from the
34 prior fiscal year. The authority shall also certify, for each fiscal year,
35 the amount of tax credits that were previously approved, but that the
36 taxpayer is not able to redeem or transfer to another taxpayer under
37 this section, and shall increase the cumulative total amount of tax
38 credits permitted to be approved in the subsequent fiscal year by the
39 amount of tax credits previously approved, but not subject to
40 redemption or transfer. The combined increase to the cumulative
41 total permitted to be approved in a subsequent fiscal year pursuant to
42 this paragraph shall not exceed \$50,000,000.

43 (2) The value of tax credits, including tax credits allowed through
44 the granting of tax credit transfer certificates, approved by the
45 authority and the director pursuant to subsection b. of this section and
46 pursuant to subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-
47 5.39b) shall not exceed a cumulative total of \$10,000,000 in fiscal
48 year 2019 and in each fiscal year thereafter prior to fiscal year 2029

1 to apply against the tax imposed pursuant to the "New Jersey Gross
2 Income Tax Act," N.J.S.54A:1-1 et seq. and the tax imposed pursuant
3 to section 5 of P.L.1945, c.162 (C.54:10A-5).

4 If the total amount of tax credits and tax credit transfer certificates
5 allowed to taxpayers for taxable years or privilege periods
6 commencing during a single fiscal year under subsection b. of this
7 section and subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-
8 5.39b) exceeds the amount of tax credits available in that year, then
9 taxpayers who have first applied for and have not been allowed a tax
10 credit or tax credit transfer certificate amount for that reason shall be
11 allowed, in the order in which they have submitted an application,
12 the amount of tax credit or tax credit transfer certificate on the first
13 day of the next succeeding fiscal year in which tax credits and tax
14 credit transfer certificates under subsection b. of this section and
15 subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) are not
16 in excess of the amount of credits available.

17 Notwithstanding any provision of this paragraph to the contrary,
18 for any fiscal year in which the amount of tax credits approved
19 pursuant to this paragraph is less than the cumulative total amount of
20 tax credits permitted to be approved in that fiscal year, the authority
21 shall certify the amount of the remaining tax credits available for
22 approval in that fiscal year, and shall increase the cumulative total
23 amount of tax credits permitted to be approved in the subsequent
24 fiscal year by the certified amount remaining from the prior fiscal
25 year. The authority shall also certify, for each fiscal year, the amount
26 of tax credits that were previously approved, but that the taxpayer is
27 not able to redeem or transfer to another taxpayer under this section,
28 and shall increase the cumulative total amount of tax credits
29 permitted to be approved in the subsequent fiscal year by the amount
30 of tax credits previously approved, but not subject to redemption or
31 transfer.

32 g. A taxpayer shall submit to the authority and the director a
33 report prepared by an independent certified public accountant
34 licensed in this State to verify the taxpayer's tax credit claim
35 following the completion of the production. The report shall be
36 prepared by the independent certified public accountant pursuant to
37 agreed upon procedures prescribed by the authority and the director,
38 and shall include such information and documentation as shall be
39 determined to be necessary by the authority and the director to
40 substantiate the qualified film production expenses or the qualified
41 digital media content production expenses of the taxpayer. A single
42 report with attachments deemed necessary by the authority shall be
43 submitted electronically. Upon receipt of the report, the authority
44 and the director shall review the findings of the independent certified
45 public accountant's report, and shall make a determination as to the
46 qualified film production expenses or the qualified digital media
47 content production expenses of the taxpayer. The determination shall
48 be provided in writing to the taxpayer, and a copy of the written

1 determination shall be included in the filing of a return that includes
2 a claim for a tax credit allowed pursuant to this section.

3 h. A taxpayer shall withhold from each payment to a loan out
4 company or to an independent contractor an amount equal to 6.37
5 percent of the payment otherwise due. The amounts withheld shall
6 be deemed to be withholding of liability pursuant to the "New Jersey
7 Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the taxpayer shall
8 be deemed to have the rights, duties, and responsibilities of an
9 employer pursuant to chapter 7 of Title 54A of the New Jersey
10 Statutes. The director shall allocate the amounts withheld for a
11 taxable year to the accounts of the individuals who are employees of
12 a loan out company in proportion to the employee's payment by the
13 loan out company in connection with a trade, profession, or
14 occupation carried on in this State or for the rendition of personal
15 services performed in this State during the taxable year. A loan out
16 company that reports its payments to employees in connection with
17 a trade, profession, or occupation carried on in this State or for the
18 rendition of personal services performed in this State during a taxable
19 year shall be relieved of its duties and responsibilities as an employer
20 pursuant to chapter 7 of Title 54A of the New Jersey Statutes for the
21 taxable year for any payments relating to the payments on which the
22 taxpayer withheld.

23 i. As used in this section:

24 "Authority" means the New Jersey Economic Development
25 Authority.

26 "Business assistance or incentive" means "business assistance or
27 incentive" as that term is defined pursuant to section 1 of P.L.2007,
28 c.101 (C.54:50-39).

29 "Commission" means the Motion Picture and Television
30 Development Commission.

31 "Digital media content" means any data or information that is
32 produced in digital form, including data or information created in
33 analog form but reformatted in digital form, text, graphics,
34 photographs, animation, sound, and video content. "Digital media
35 content" shall not mean content offerings generated by the end user
36 (including postings on electronic bulletin boards and chat rooms);
37 content offerings comprised primarily of local news, events, weather
38 or local market reports; public service content; electronic commerce
39 platforms (such as retail and wholesale websites); websites or content
40 offerings that contain obscene material as defined pursuant to
41 N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or content that are
42 produced or maintained primarily for private, industrial, corporate,
43 or institutional purposes; or digital media content acquired or
44 licensed by the taxpayer for distribution or incorporation into the
45 taxpayer's digital media content.

46 "Film" means a feature film, a television series, or a television
47 show of 22 minutes or more in length, intended for a national
48 audience, or a television series or a television show of 22 minutes or

1 more in length intended for a national or regional audience,
2 including, but not limited to, a game show, award show, or other gala
3 event filmed and produced at a nonprofit arts and cultural venue
4 receiving State funding. "Film" shall not include a production
5 featuring news, current events, weather, and market reports or public
6 programming, talk show, sports event, or reality show, a production
7 that solicits funds, a production containing obscene material as
8 defined under N.J.S.2C:34-2 and N.J.S.2C:34-3, or a production
9 primarily for private, industrial, corporate, or institutional purposes.
10 "Film" shall not include an award show or other gala event that is not
11 filmed and produced at a nonprofit arts and cultural venue receiving
12 State funding.

13 "Full-time or full-time equivalent employee" means an individual
14 employed by the taxpayer for consideration for at least 35 hours a
15 week, or who renders any other standard of service generally
16 accepted by custom or practice as full-time or full-time equivalent
17 employment, whose wages are subject to withholding as provided in
18 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or
19 who is a partner of a taxpayer, who works for the partnership for at
20 least 35 hours a week, or who renders any other standard of service
21 generally accepted by custom or practice as full-time or full-time
22 equivalent employment, and whose distributive share of income,
23 gain, loss, or deduction, or whose guaranteed payments, or any
24 combination thereof, is subject to the payment of estimated taxes, as
25 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
26 et seq. "Full-time or full-time equivalent employee" shall not include
27 an individual who works as an independent contractor or on a
28 consulting basis for the taxpayer.

29 "Highly compensated individual" means an individual who
30 directly or indirectly receives compensation in excess of \$500,000
31 for the performance of services used directly in a production. An
32 individual receives compensation indirectly when the taxpayer pays
33 a loan out company that, in turn, pays the individual for the
34 performance of services.

35 "Independent contractor" means an individual treated as an
36 independent contractor for federal and State tax purposes who is
37 contracted with by the taxpayer for the performance of services used
38 directly in a production.

39 "Loan out company" means a personal service corporation or other
40 entity that is contracted with by the taxpayer to provide specified
41 individual personnel, such as artists, crew, actors, producers, or
42 directors for the performance of services used directly in a
43 production. "Loan out company" shall not include entities contracted
44 with by the taxpayer to provide goods or ancillary contractor services
45 such as catering, construction, trailers, equipment, or transportation.

46 "New Jersey film partner" means a film production company that
47 has made a commitment to produce films or commercial audiovisual
48 products in New Jersey and has developed, purchased, or executed a

1 10-year contract to lease a production facility of 250,000 square feet
2 or more as a “transformative project” pursuant to section 65 of P.L. ,
3 c. (C.) (pending before the Legislature as this bill). No more
4 than five film production companies may be designated as a New
5 Jersey film partner.

6 “New Jersey film-lease partner” means a taxpayer, including any
7 taxpayer that is a member of a combined group under P.L.2018, c.131
8 (C:54:10A-4.11), that has made a commitment to lease or acquire a
9 New Jersey production facility with an aggregate square footage of
10 at least 50,000 square feet, which includes a sound stage and
11 production support space such as production offices or a backlot, for
12 a period of five or more successive years and commits to spend, on a
13 separate-entity basis or in the aggregate with other members of the
14 taxpayer’s combined group, an annual average of \$50,000,000 of
15 qualified film production expenses over the period of at least five but
16 not to exceed 10 years. The authority shall be permitted to recapture
17 any credits awarded to a New Jersey film-lease partner if the New
18 Jersey film-lease partner, or any member of the New Jersey film-
19 lease partner’s combined group fails to maintain a New Jersey
20 production facility during the period prescribed or if the New Jersey
21 film-lease partner, on a separate-entity basis or in the aggregate with
22 other members of the New Jersey film-lease partner’s combined
23 group, fails to spend an annual average of \$50,000,000 of qualified
24 film production expenses over the prescribed period.

25 “Partnership” means an entity classified as a partnership for
26 federal income tax purposes.

27 “Post-production costs” means the costs of the phase of production
28 of a film that follows principal photography, in which raw footage is
29 cut and assembled into a finished film with sound synchronization
30 and visual effects.

31 “Pre-production costs” means the costs of the phase of production
32 of a film that precedes principal photography, in which a detailed
33 schedule and budget for the production is prepared, the script and
34 location is finalized, and contracts with vendors are negotiated.

35 “Qualified digital media content production expenses” means an
36 expense incurred in New Jersey for the production of digital media
37 content. “Qualified digital media content production expenses” shall
38 include but not be limited to: wages and salaries of individuals
39 employed in the production of digital media content on which the tax
40 imposed by the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1
41 et seq. has been paid or is due; and the costs of computer software
42 and hardware, data processing, visualization technologies, sound
43 synchronization, editing, and the rental of facilities and equipment.
44 Payment made to a loan out company or to an independent contractor
45 shall not be deemed a “qualified digital media content production
46 expense” unless the payment is made in connection with a trade,
47 profession, or occupation carried on in this State or for the rendition
48 of personal services performed in this State and the taxpayer has

1 made the withholding required pursuant to subsection h. of this
2 section. "Qualified digital media content production expenses" shall
3 not include expenses incurred in marketing, promotion, or
4 advertising digital media or other costs not directly related to the
5 production of digital media content. Costs related to the acquisition
6 or licensing of digital media content by the taxpayer for distribution
7 or incorporation into the taxpayer's digital media content shall not be
8 deemed "qualified digital media content production expenses."

9 "Qualified film production expenses" means an expense incurred
10 in New Jersey for the production of a film including pre-production
11 costs and post-production costs incurred in New Jersey. "Qualified
12 film production expenses" shall include but not be limited to: wages
13 and salaries of individuals employed in the production of a film on
14 which the tax imposed by the "New Jersey Gross Income Tax Act,"
15 N.J.S.54A:1-1 et seq. has been paid or is due; and the costs for
16 tangible personal property used, and services performed, directly and
17 exclusively in the production of a film, such as expenditures for film
18 production facilities, props, makeup, wardrobe, film processing,
19 camera, sound recording, set construction, lighting, shooting, editing,
20 and meals. Payment made to a loan out company or to an
21 independent contractor shall not be deemed a "qualified film
22 production expense" unless the payment is made in connection with
23 a trade, profession, or occupation carried on in this State or for the
24 rendition of personal services performed in this State and the
25 taxpayer has made the withholding required by subsection h. of this
26 section. "Qualified film production expenses" shall not include:
27 expenses incurred in marketing or advertising a film; and payment in
28 excess of \$500,000 to a highly compensated individual for costs for
29 a story, script, or scenario used in the production of a film and wages
30 or salaries or other compensation for writers, directors, including
31 music directors, producers, and performers, other than background
32 actors with no scripted lines, except as follows:

33 (1) for a New Jersey film partner that incurs more than
34 \$30,000,000, but less than \$100,000,000, in qualified film production
35 expenses in the State, an amount, not to exceed \$15,000,000, of the
36 wages or salaries or other compensation for writers, directors,
37 including music directors, producers, and performers, other than
38 background actors with no scripted lines, shall constitute qualified
39 film production expenses;

40 (2) for a New Jersey film partner that incurs \$100,000,000 or
41 more, but less than \$150,000,000, in qualified film production
42 expenses in the State, an amount, not to exceed \$30,000,000, of the
43 wages or salaries or other compensation for writers, directors,
44 including music directors, producers, and performers, other than
45 background actors with no scripted lines, shall constitute qualified
46 film production expenses; and

47 (3) for a New Jersey film partner that incurs \$150,000,000 or more
48 in qualified film production expenses in the State, an amount, not to

1 exceed \$60,000,000, of the wages or salaries or other compensation
2 for writers, directors, including music directors, producers, and
3 performers, other than background actors with no scripted lines, shall
4 constitute qualified film production expenses.

5 "Total digital media content production expenses" means costs for
6 services performed and property used or consumed in the production
7 of digital media content.

8 "Total film production expenses" means costs for services
9 performed and tangible personal property used or consumed in the
10 production of a film.

11 (cf: P.L.2019, c.506, s.2)

12
13 112. Section 1 of P.L.1979, c.303 (C.34:1b-5.1) is amended to
14 read as follows:

15 1. a. The New Jersey Economic Development Authority shall
16 adopt rules and regulations requiring that not less than the prevailing
17 wage rate be paid to workers employed in the performance of any
18 construction contract, including contracts for millwork fabrication,
19 undertaken in connection with authority financial assistance or any
20 of its projects, those projects which it undertakes pursuant to
21 P.L.2002, c.43 (C.52:27BBB-1 et al.), or undertaken to fulfill any
22 condition of receiving authority financial assistance, including the
23 performance of any contract to construct, renovate or otherwise
24 prepare a facility for operations which are necessary for the receipt
25 of authority financial assistance, unless the work performed under the
26 contract is performed on a facility owned by a landlord of the entity
27 receiving the assistance and less than 55% of the facility is leased by
28 the entity at the time of the contract and under any agreement to
29 subsequently lease the facility. The prevailing wage rate shall be the
30 rate determined by the Commissioner of Labor and Workforce
31 Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-
32 56.25 et seq.). For the purposes of this section, "authority financial
33 assistance" means any loan, loan guarantee, grant, incentive, tax
34 exemption or other financial assistance that is approved, funded,
35 authorized, administered or provided by the authority to any entity
36 and is provided before, during or after completion of a project,
37 including but not limited to, all authority financial assistance
38 received by the entity pursuant to the "Business Employment
39 Incentive Program Act," P.L.1996, c.26 (C.34:1B-124 et al.) that
40 enables the entity to engage in a construction contract, but this
41 section shall not be construed as requiring the payment of the
42 prevailing wage for construction commencing more than two years
43 after an entity has executed with the authority a commitment letter
44 regarding authority financial assistance and the first payment or other
45 provision of the assistance is received.

46 b. The New Jersey Economic Development Authority shall
47 adopt rules and regulations requiring that not less than the prevailing
48 wage rate be paid to workers employed in the performance of any

1 contract, for construction, demolition, remediation, removal of
2 hazardous substances, alteration, custom fabrication, repair work, or
3 maintenance work, including painting and decorating, or excavation,
4 grading, pile driving, concrete form, or other types of foundation
5 work in connection with the "New Jersey Aspire Program Act,"
6 sections 54 through 67 of P.L. , c. (C.) (pending before the
7 Legislature as this bill) and the "New Jersey Community-Anchored
8 Development Act," sections 43 through 53 of P.L. , c. (C.)
9 (pending before the Legislature as this bill). The requirements of this
10 subsection shall apply to any site preparation work performed 24
11 months prior to and during the incentive eligibility period of any
12 project receiving tax credits under the "New Jersey Aspire Program
13 Act," sections 54 through 67 of P.L. , c. (C.) (pending before
14 the Legislature as this bill) and the "New Jersey Community-
15 Anchored Development Act," sections 43 through 53 of P.L. ,
16 c. (C.) (pending before the Legislature as this bill), in which
17 there is a continuity of ownership in the site of the redevelopment
18 project, including work undertaken to fulfill any condition of
19 receiving tax credits under the programs. Work that is subject to the
20 requirements of this subsection shall include the performance of any
21 contract for construction, demolition, remediation, removal of
22 hazardous substances, alteration, custom fabrication, repair work, or
23 maintenance work, including painting and decorating, or excavation,
24 grading, pile driving, concrete form, or other types of foundation
25 work undertaken on a facility for operations which are necessary for
26 the receipt of tax credits under the "New Jersey Aspire Program Act,"
27 sections 54 through 67 of P.L. , c. (C.) (pending before the
28 Legislature as this bill) and the "New Jersey Community-Anchored
29 Development Act," sections 43 through 53 of P.L. , c. (C.)
30 (pending before the Legislature as this bill), unless the work
31 performed under the contract is performed on a facility owned by a
32 landlord of the entity receiving the tax credit and less than 35 percent
33 of the facility is leased by the entity at the time of the contract and
34 under any agreement to subsequently lease the facility. The
35 prevailing wage rate shall be the rate determined by the
36 Commissioner of Labor and Workforce Development pursuant to the
37 provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.), and all
38 contractors and subcontractors subject to the prevailing wage
39 requirement set forth in this section shall be registered with the
40 Department of Labor and Workforce Development pursuant to the
41 provisions of section 5 of P.L.1999, c.238 (C.34:11-56.52). An
42 applicant for tax credits under the "New Jersey Aspire Program Act,"
43 sections 54 through 67 of P.L. , c. (C.) (pending before the
44 Legislature as this bill) and the "New Jersey Community-Anchored
45 Development Act," sections 43 through 53 of P.L. , c. (C.)
46 (pending before the Legislature as this bill), shall certify under
47 penalty of perjury as part of its application that all construction
48 contracts undertaken on any project in connection with an award

1 under the programs comply with the prevailing wage requirements of
2 this subsection. If at any time the authority determines that the
3 developer made a material misrepresentation regarding compliance
4 with the provisions of this subsection on the developer's application,
5 the developer shall forfeit 35 percent of the tax credits allowed under
6 the programs, and pay to the affected workers back wages in an
7 amount that compensates the workers at the prevailing wage rate for
8 the work performed.

9 (cf: P.L.2007, c.245, s.1)

10
11 113. Section 1 of P.L.1997, c. 334 (C.34:1B-7.42a) is amended to
12 read as follows:

13 1. a. The New Jersey Economic Development Authority shall
14 establish within the New Jersey Emerging Technology and
15 Biotechnology Financial Assistance Program established pursuant to
16 P.L.1995, c.137 (C.34:1B-7.37 et seq.), a corporation business tax
17 benefit certificate transfer program to allow new or expanding
18 emerging technology and biotechnology companies in this State with
19 unused amounts of research and development tax credits otherwise
20 allowable which cannot be applied for the credit's tax year due to the
21 limitations of subsection b. of section 1 of P.L.1993, c.175
22 (C.54:10A-5.24) and unused net operating loss carryover pursuant to
23 subparagraph (B) of paragraph (6) of subsection (k) of section 4 of
24 P.L.1945, c.162 (C.54:10A-4), to surrender those tax benefits for use
25 by other corporation business taxpayers in this State, provided that
26 the taxpayer receiving the surrendered tax benefits is not affiliated
27 with a corporation that is surrendering its tax benefits under the
28 program established under P.L.1997, c.334. For the purposes of this
29 section, the test of affiliation is whether the same entity directly or
30 indirectly owns or controls 5% or more of the voting rights or 5% or
31 more of the value of all classes of stock of both the taxpayer receiving
32 the benefits and a corporation that is surrendering the benefits. The
33 tax benefits may be used on the corporation business tax returns to
34 be filed by those taxpayers in exchange for private financial
35 assistance to be provided by the corporation business taxpayer that is
36 the recipient of the corporation business tax benefit certificate to
37 assist in the funding of costs incurred by the new or expanding
38 emerging technology and biotechnology company.

39 b. The authority, in cooperation with the Division of Taxation in
40 the Department of the Treasury, shall review and approve
41 applications by new or expanding emerging technology and
42 biotechnology companies in this State with unused but otherwise
43 allowable carryover of research and development tax credits pursuant
44 to section 1 of P.L.1993, c.175 (C.54:10A-5.24), and unused but
45 otherwise allowable net operating loss carryover pursuant to
46 paragraph (6) of subsection (k) of section 4 of P.L.1945, c.162
47 (C.54:10A-4), to surrender those tax benefits in exchange for private
48 financial assistance to be made by the corporation business taxpayer

1 that is the recipient of the corporation business tax benefit certificate
2 in an amount equal to at least 80% of the amount of the surrendered
3 tax benefit. Provided that the amount of the surrendered tax benefit
4 for a surrendered research and development tax credit carryover is
5 the amount of the credit, and provided that the amount of the
6 surrendered tax benefit for a surrendered net operating loss carryover
7 is the amount of the loss multiplied by the new or expanding
8 emerging technology or biotechnology company's anticipated
9 allocation factor, as determined pursuant to section 6 of P.L.1945,
10 c.162 (C.54:10A-6) for the tax year in which the benefit is transferred
11 and subsequently multiplied by the corporation business tax rate
12 provided pursuant to subsection (c) of section 5 of P.L.1945, c.162
13 (C.54:10A-5). The authority shall be authorized to approve the
14 transfer of no more than **【\$60,000,000】** \$75,000,000 of tax benefits
15 in a State fiscal year. If the total amount of transferable tax benefits
16 requested to be surrendered by approved applicants exceeds
17 **【\$60,000,000】** \$75,000,000 for a State fiscal year, the authority, in
18 cooperation with the Division of Taxation in the Department of the
19 Treasury, shall not be authorized to approve the transfer of more than
20 **【\$60,000,000】** \$75,000,000 for that State fiscal year and shall
21 allocate the transfer of tax benefits by approved companies using the
22 following method:

23 (1) an eligible applicant with \$250,000 or less of transferable tax
24 benefits shall be authorized to surrender the entire amount of its
25 transferable tax benefits;

26 (2) an eligible applicant with more than \$250,000 of transferable
27 tax benefits shall be authorized to surrender a minimum of \$250,000
28 of its transferable tax benefits;

29 (3) (Deleted by amendment, P.L.2009, c.90.)

30 (4) an eligible applicant with more than \$250,000 shall also be
31 authorized to surrender additional transferable tax benefits
32 determined by multiplying the applicant's transferable tax benefits
33 less the minimum transferable tax benefits that company is
34 authorized to surrender under paragraph (2) of this subsection by a
35 fraction, the numerator of which is the total amount of transferable
36 tax benefits that the authority is authorized to approve less the total
37 amount of transferable tax benefits approved under paragraphs (1),
38 (2), and (5) of this subsection and the denominator of which is the
39 total amount of transferable tax benefits requested to be surrendered
40 by all eligible applicants less the total amount of transferable tax
41 benefits approved under paragraphs (1), (2), and (5) of this
42 subsection;

43 (5) The authority shall establish the boundaries for three
44 innovation zones to be geographically distributed in the northern,
45 central, and southern portions of this State. Of the **【\$60,000,000】**
46 \$75,000,000 of transferable tax benefits authorized for each State
47 fiscal year, \$10,000,000 shall be allocated for the surrender of

1 transferable tax benefits exclusively by new and expanding emerging
2 technology and biotechnology companies that operate within the
3 boundaries of the innovation zones, except that any portion of the
4 \$10,000,000 that is not so approved shall be available for that State
5 fiscal year for the surrender of transferable tax benefits by new and
6 expanding emerging technology and biotechnology companies that
7 do not operate within the boundaries of an innovation zone.

8 If the total amount of transferable tax benefits that would be
9 authorized using the above method exceeds **[\$60,000,000]**
10 \$75,000,000 for a State fiscal year, then the authority, in cooperation
11 with the Division of Taxation in the Department of the Treasury, shall
12 limit the total amount of tax benefits authorized to be transferred to
13 **[\$60,000,000]** \$75,000,000 by applying the above method on an
14 apportioned basis.

15 For purposes of this section transferable tax benefits include an
16 eligible applicant's unused but otherwise allowable carryover of net
17 operating losses multiplied by the applicant's anticipated allocation
18 factor as determined pursuant to section 6 of P.L.1945, c.162
19 (C.54:10A-6) for the tax year in which the benefit is transferred and
20 subsequently multiplied by the corporation business tax rate as
21 provided in subsection (c) of section 5 of P.L.1945, c.162 (C.54:10A-
22 5) plus the total amount of the applicant's unused but otherwise
23 allowable carryover of research and development tax credits. An
24 eligible applicant's transferable tax benefits shall be limited to net
25 operating losses and research and development tax credits that the
26 applicant requests to surrender in its application to the authority and
27 shall not, in total, exceed the maximum amount of tax benefits that
28 the applicant is eligible to surrender.

29 No application for a corporation business tax benefit transfer
30 certificate shall be approved in which the new or expanding emerging
31 technology or biotechnology company (1) has demonstrated positive
32 net operating income in any of the two previous full years of ongoing
33 operations as determined on its financial statements issued according
34 to generally accepted accounting standards endorsed by the Financial
35 Accounting Standards Board; or (2) is directly or indirectly at least
36 50 percent owned or controlled by another corporation that has
37 demonstrated positive net operating income in any of the two
38 previous full years of ongoing operations as determined on its
39 financial statements issued according to generally accepted
40 accounting standards endorsed by the Financial Accounting
41 Standards Board or is part of a consolidated group of affiliated
42 corporations, as filed for federal income tax purposes, that in the
43 aggregate has demonstrated positive net operating income in any of
44 the two previous full years of ongoing operations as determined on
45 its combined financial statements issued according to generally
46 accepted accounting standards endorsed by the Financial Accounting
47 Standards Board.

1 The maximum lifetime value of surrendered tax benefits that a
2 corporation shall be permitted to surrender pursuant to the program
3 is ~~【\$15,000,000】~~ \$20,000,000. Applications must be received on or
4 before June 30 of each State fiscal year.

5 The authority, in consultation with the Division of Taxation, shall
6 establish rules for the recapture of all, or a portion of, the amount of
7 a grant of a corporation business tax benefit certificate from the new
8 or emerging technology and biotechnology company having
9 surrendered tax benefits pursuant to this section in the event the
10 taxpayer fails to use the private financial assistance received for the
11 surrender of tax benefits as required by this section or fails to
12 maintain a headquarters or a base of operation in this State during the
13 five years following receipt of the private financial assistance; except
14 if the failure to maintain a headquarters or a base of operation in this
15 State is due to the liquidation of the new or expanding emerging
16 technology and biotechnology company.

17 c. The authority, in cooperation with the Division of Taxation in
18 the Department of the Treasury, shall review and approve
19 applications by taxpayers under the Corporation Business Tax Act
20 (1945), P.L.1945, c.162 (C.54:10A- 1 et seq.), to acquire surrendered
21 tax benefits approved pursuant to subsection b. of this section which
22 shall be issued in the form of corporation business tax benefit transfer
23 certificates, in exchange for private financial assistance to be made
24 by the taxpayer in an amount equal to at least 80% of the amount of
25 the surrendered tax benefit of an emerging technology or
26 biotechnology company in the State. A corporation business tax
27 benefit transfer certificate shall not be issued unless the applicant
28 certifies that as of the date of the exchange of the corporation
29 business tax benefit certificate it is operating as a new or expanding
30 emerging technology or biotechnology company and has no current
31 intention to cease operating as a new or expanding emerging
32 technology or biotechnology company.

33 The private financial assistance shall assist in funding expenses
34 incurred in connection with the operation of the new or expanding
35 emerging technology or biotechnology company in the State,
36 including but not limited to the expenses of fixed assets, such as the
37 construction and acquisition and development of real estate,
38 materials, start-up, tenant fit-out, working capital, salaries, research
39 and development expenditures and any other expenses determined by
40 the authority to be necessary to carry out the purposes of the New
41 Jersey Emerging Technology and Biotechnology Financial
42 Assistance Program.

43 The authority shall require a corporation business taxpayer that
44 acquires a corporation business tax benefit certificate to enter into a
45 written agreement with the new or expanding emerging technology
46 or biotechnology company concerning the terms and conditions of
47 the private financial assistance made in exchange for the certificate.
48 The written agreement may contain terms concerning the

1 maintenance by the new or expanding emerging technology or
2 biotechnology company of a headquarters or a base of operation in
3 this State.

4 d. (Deleted by amendment, P.L.2009, c.90.)
5 (cf: P.L.2009, c.90, s.29)
6

7 114. Section 1 of P.L.1999, c.140 (C.34:1B-7.42b) is amended to
8 read as follows:

9 1. As used in P.L.1997, c.334 (C.34:1B-7.42a et al.):

10 “Authority” means the New Jersey Economic Development
11 Authority established pursuant to section 4 of P.L.1974, c.80
12 (C.34:1B-4).

13 “Biotechnology” means the continually expanding body of
14 fundamental knowledge about the functioning of biological systems
15 from the macro level to the molecular and sub-atomic levels, as well
16 as novel products, services, technologies and sub-technologies
17 developed as a result of insights gained from research advances that
18 add to that body of fundamental knowledge. This definition may be
19 modified by regulation to conform to definitions in other programs
20 administered by the authority.

21 “Biotechnology company” means an emerging corporation that
22 has its headquarters or base of operations in this State; that owns, has
23 filed for, or has a valid license to use protected, proprietary
24 intellectual property; and that is engaged in the research,
25 development, production, or provision of biotechnology for the
26 purpose of developing or providing products or processes for specific
27 commercial or public purposes, including but not limited to, medical,
28 pharmaceutical, nutritional, and other health-related purposes,
29 agricultural purposes, and environmental purposes. This definition
30 may be modified by regulation to conform to definitions in other
31 programs administered by the authority.

32 “Full-time employee” means a person employed by a new or
33 expanding emerging technology or biotechnology company for
34 consideration for at least 35 hours a week, or who renders any other
35 standard of service generally accepted by custom or practice as full-
36 time employment and whose wages are subject to withholding as
37 provided in the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1
38 et seq., or who is a partner of a new or expanding emerging
39 technology or biotechnology company who works for the partnership
40 for at least 35 hours a week, or who renders any other standard of
41 service generally accepted by custom or practice as full-time
42 employment, and whose distributive share of income, gain, loss, or
43 deduction, or whose guaranteed payments, or any combination
44 thereof, is subject to the payment of estimated taxes, as provided in
45 the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1 et seq. To
46 qualify as a “full-time employee,” an employee shall also receive
47 from the new or expanding emerging technology or biotechnology
48 company health benefits under [a group health plan as defined under

1 section 14 of P.L.1997, c.146 (C.17B:27-54), a health benefits plan
2 as defined under section 1 of P.L.1992, c.162 (C.17B:27A-17), or a
3 policy or contract of health insurance covering more than one person
4 issued pursuant to Article 2 [N.J.S.17B:27-26 et seq.] of chapter 27
5 of Title 17B of the New Jersey Statutes] a health benefits plan
6 authorized pursuant to State or federal law. “Full-time employee”
7 shall not include any person who works as an independent contractor
8 or on a consulting basis for the new or expanding emerging
9 technology or biotechnology company.

10 “New or expanding” means a technology or biotechnology
11 company that (1) on June 30 of the year in which the company files
12 an application for surrender of unused but otherwise allowable tax
13 benefits under P.L.1997, c.334 (C.34:1B-7.42a et al.) and on the date
14 of the exchange of the corporation business tax benefit certificate,
15 has fewer than 225 employees in the United States of America; (2)
16 on June 30 of the year in which the company files such an application,
17 has at least one full-time employee working in this State if the
18 company has been incorporated for less than three years, has at least
19 five full-time employees working in this State if the company has
20 been incorporated for more than three years but less than five years,
21 and has at least 10 full-time employees working in this State if the
22 company has been incorporated for more than five years; and (3) on
23 the date of the exchange of the corporation business tax benefit
24 certificate, the company has the requisite number of full-time
25 employees in New Jersey that were required on June 30 as set forth
26 in part (2) of this definition.

27 “Technology company” means an emerging corporation that has
28 its headquarters or base of operations in this State; that owns, has
29 filed for, or has a valid license to use protected, proprietary
30 intellectual property; and that employs some combination of the
31 following: highly educated or trained managers and workers, or both,
32 employed in this State who use sophisticated scientific research
33 service or production equipment, processes or knowledge to
34 discover, develop, test, transfer or manufacture a product or service.
35 This definition may be modified by regulation to conform to
36 definitions in other programs administered by the authority.
37 (cf: P.L.2010, c.10, s.2)

38
39 115. Section 5 of P.L.1974, c.80 (C.34:1B-5) is amended to read
40 as follows:

41 5. The authority shall have the following powers:

- 42 a. To adopt bylaws for the regulation of its affairs and the
43 conduct of its business;
44 b. To adopt and have a seal and to alter the same at pleasure;
45 c. To sue and be sued;
46 d. To acquire in the name of the authority by purchase or
47 otherwise, on such terms and conditions and such manner as it may
48 deem proper, or by the exercise of the power of eminent domain in

1 the manner provided by the "Eminent Domain Act of 1971,"
2 P.L.1971, c.361 (C.20:3-1 et seq.), any lands or interests therein or
3 other property which it may determine is reasonably necessary for
4 any project; provided, however, that the authority in connection with
5 any project shall not take by exercise of the power of eminent domain
6 any real property except upon consent thereto given by resolution of
7 the governing body of the municipality in which such real property
8 is located; and provided further that the authority shall be limited in
9 its exercise of the power of eminent domain in connection with any
10 project in qualifying municipalities as defined under the provisions
11 of P.L.1978, c.14 (C.52:27D-178 et seq.), or to municipalities which
12 had a population, according to the latest federal decennial census, in
13 excess of 10,000;

14 e. To enter into contracts with a person upon such terms and
15 conditions as the authority shall determine to be reasonable,
16 including, but not limited to, reimbursement for the planning,
17 designing, financing, construction, reconstruction, improvement,
18 equipping, furnishing, operation and maintenance of the project and
19 to pay or compromise any claims arising therefrom;

20 f. To establish and maintain reserve and insurance funds with
21 respect to the financing of the project or the school facilities project
22 and any project financed pursuant to the "Municipal Rehabilitation
23 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.);

24 g. To sell, convey or lease to any person all or any portion of a
25 project for such consideration and upon such terms as the authority
26 may determine to be reasonable;

27 h. To mortgage, pledge or assign or otherwise encumber all or
28 any portion of a project, or revenues, whenever it shall find such
29 action to be in furtherance of the purposes of this act, P.L.2000, c.72
30 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic
31 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007,
32 c.137 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009,
33 c.90 (C.52:27D-489c et al.);

34 i. To grant options to purchase or renew a lease for any of its
35 projects on such terms as the authority may determine to be
36 reasonable;

37 j. To contract for and to accept any gifts or grants or loans of
38 funds or property or financial or other aid in any form from the
39 United States of America or any agency or instrumentality thereof,
40 or from the State or any agency, instrumentality or political
41 subdivision thereof, or from any other source and to comply, subject
42 to the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of
43 P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.),
44 the "Municipal Rehabilitation and Economic Recovery Act,"
45 P.L.2002, c.43 (C.52:27BBB-1 et al.), and P.L.2007, c.137
46 (C.52:18A-235 et al.), with the terms and conditions thereof;

47 k. In connection with any action undertaken by the authority in
48 the performance of its duties and any application for assistance or

1 commitments therefor and modifications thereof, to require and
2 collect such fees and charges as the authority shall determine to be
3 reasonable, including but not limited to fees and charges for the
4 authority's administrative, organizational, insurance, operating,
5 legal, and other expenses;

6 l. To adopt, amend and repeal regulations to carry out the
7 provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of
8 P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.),
9 the "Municipal Rehabilitation and Economic Recovery Act,"
10 P.L.2002, c.43 (C.52:27BBB-1 et al.), and P.L.2007, c.137
11 (C.52:18A-235 et al.);

12 m. To acquire, purchase, manage and operate, hold and dispose
13 of real and personal property or interests therein, take assignments of
14 rentals and leases and make and enter into all contracts, leases,
15 agreements and arrangements necessary or incidental to the
16 performance of its duties;

17 n. To purchase, acquire and take assignments of notes,
18 mortgages and other forms of security and evidences of indebtedness;

19 o. To purchase, acquire, attach, seize, accept or take title to any
20 project or school facilities project by conveyance or by foreclosure,
21 and sell, lease, manage or operate any project or school facilities
22 project for a use specified in this act, P.L.2000, c.72 (C.18A:7G-1 et
23 al.), the "Municipal Rehabilitation and Economic Recovery Act,"
24 P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-
25 235 et al.), and sections 3 through 18 of P.L.2009, c.90 (C.52:27D-
26 489c et al.);

27 p. To borrow money and to issue bonds of the authority and to
28 provide for the rights of the holders thereof, as provided in P.L.1974,
29 c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1),
30 P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation
31 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.),
32 P.L.2007, c.137 (C.52:18A-235 et al.), and sections 3 through 18 of
33 P.L.2009, c.90 (C.52:27D-489c et al.);

34 q. To extend credit or make loans to any person for the planning,
35 designing, acquiring, constructing, reconstructing, improving,
36 equipping and furnishing of a project or school facilities project,
37 which credits or loans may be secured by loan and security
38 agreements, mortgages, leases and any other instruments, upon such
39 terms and conditions as the authority shall deem reasonable,
40 including provision for the establishment and maintenance of reserve
41 and insurance funds, and to require the inclusion in any mortgage,
42 lease, contract, loan and security agreement or other instrument, of
43 such provisions for the construction, use, operation and maintenance
44 and financing of a project or school facilities project as the authority
45 may deem necessary or desirable;

46 r. To guarantee up to 90% of the amount of a loan to a person,
47 if the proceeds of the loan are to be applied to the purchase and

1 installation, in a building devoted to industrial or commercial
2 purposes, or in an office building, of an energy improvement system;

3 s. To employ consulting engineers, architects, attorneys, real
4 estate counselors, appraisers, and such other consultants and
5 employees as may be required in the judgment of the redevelopment
6 utility to carry out the purposes of P.L.1974, c.80 (C.34:1B-1 et seq.),
7 section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72
8 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic
9 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007,
10 c.137 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009,
11 c.90 (C.52:27D-489c et al.), and to fix and pay their compensation
12 from funds available to the redevelopment utility therefor, all without
13 regard to the provisions of Title 11A of the New Jersey Statutes;

14 t. To do and perform any acts and things authorized by
15 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401
16 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal
17 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
18 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and
19 sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.),
20 under, through or by means of its own officers, agents and
21 employees, or by contract with any person;

22 u. To procure insurance against any losses in connection with its
23 property, operations or assets in such amounts and from such insurers
24 as it deems desirable;

25 v. To do any and all things necessary or convenient to carry out
26 its purposes and exercise the powers given and granted in P.L.1974,
27 c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1),
28 P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation
29 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.),
30 P.L.2007, c.137 (C.52:18A-235 et al.), and sections 3 through 18 of
31 P.L.2009, c.90 (C.52:27D-489c et al.);

32 w. To construct, reconstruct, rehabilitate, improve, alter, equip,
33 maintain or repair or provide for the construction, reconstruction,
34 improvement, alteration, equipping or maintenance or repair of any
35 development property and lot, award and enter into construction
36 contracts, purchase orders and other contracts with respect thereto,
37 upon such terms and conditions as the authority shall determine to be
38 reasonable, including, but not limited to, reimbursement for the
39 planning, designing, financing, construction, reconstruction,
40 improvement, equipping, furnishing, operation and maintenance of
41 any such development property and the settlement of any claims
42 arising therefrom and the establishment and maintenance of reserve
43 funds with respect to the financing of such development property;

44 x. When authorized by the governing body of a municipality
45 exercising jurisdiction over an urban growth zone, to construct, cause
46 to be constructed or to provide financial assistance to projects in an
47 urban growth zone which shall be exempt from the terms and
48 requirements of the land use ordinances and regulations, including,

- 1 but not limited to, the master plan and zoning ordinances, of such
2 municipality;
- 3 y. To enter into business employment incentive agreements as
4 provided in the "Business Employment Incentive Program Act,"
5 P.L.1996, c.26 (C.34:1B-124 et al.);
- 6 z. To enter into agreements or contracts, execute instruments,
7 and do and perform all acts or things necessary, convenient or
8 desirable for the purposes of the redevelopment utility to carry out
9 any power expressly provided pursuant to P.L.1974, c.80 (C.34:1B-
10 1 et seq.), P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007, c.137
11 (C.52:18A-235 et al.), including, but not limited to, entering into
12 contracts with the State Treasurer, the Commissioner of Education,
13 districts, the New Jersey Schools Development Authority, and any
14 other entity which may be required in order to carry out the
15 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.2007, c.137
16 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009, c.90
17 (C.52:27D-489c et al.);
- 18 aa. (Deleted by amendment, P.L.2007, c.137);
- 19 bb. To make and contract to make loans to local units to finance
20 the cost of school facilities projects and to acquire and contract to
21 acquire bonds, notes or other obligations issued or to be issued by
22 local units to evidence the loans, all in accordance with the provisions
23 of P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007, c.137
24 (C.52:18A-235 et al.);
- 25 cc. Subject to any agreement with holders of its bonds issued to
26 finance a project or school facilities project, obtain as security or to
27 provide liquidity for payment of all or any part of the principal of and
28 interest and premium on the bonds of the authority or for the purchase
29 upon tender or otherwise of the bonds, lines of credit, letters of credit,
30 reimbursement agreements, interest rate exchange agreements,
31 currency exchange agreements, interest rate floors or caps, options,
32 puts or calls to hedge payment, currency, rate, spread or similar
33 exposure or similar agreements, float agreements, forward
34 agreements, insurance contract, surety bond, commitment to
35 purchase or sell bonds, purchase or sale agreement, or commitments
36 or other contracts or agreements, and other security agreements or
37 instruments in any amounts and upon any terms as the authority may
38 determine and pay any fees and expenses required in connection
39 therewith;
- 40 dd. To charge to and collect from local units, the State and any
41 other person, any fees and charges in connection with the authority's
42 actions undertaken with respect to school facilities projects,
43 including, but not limited to, fees and charges for the authority's
44 administrative, organization, insurance, operating and other expenses
45 incident to the financing of school facilities projects;
- 46 ee. To make loans to refinance solid waste facility bonds through
47 the issuance of bonds or other obligations and the execution of any
48 agreements with counties or public authorities to effect the refunding

1 or rescheduling of solid waste facility bonds, or otherwise provide
2 for the payment of all or a portion of any series of solid waste facility
3 bonds. Any county or public authority refunding or rescheduling its
4 solid waste facility bonds pursuant to this subsection shall provide
5 for the payment of not less than fifty percent of the aggregate debt
6 service for the refunded or rescheduled debt of the particular county
7 or public authority for the duration of the loan; except that, whenever
8 the solid waste facility bonds to be refinanced were issued by a public
9 authority and the county solid waste facility was utilized as a regional
10 county solid waste facility, as designated in the respective adopted
11 district solid waste management plans of the participating counties
12 as approved by the department prior to November 10, 1997, and the
13 utilization of the facility was established pursuant to tonnage
14 obligations set forth in their respective interdistrict agreements, the
15 public authority refunding or rescheduling its solid waste facility
16 bonds pursuant to this subsection shall provide for the payment of a
17 percentage of the aggregate debt service for the refunded or
18 rescheduled debt of the public authority not to exceed the percentage
19 of the specified tonnage obligation of the host county for the duration
20 of the loan. Whenever the solid waste facility bonds are the
21 obligation of a public authority, the relevant county shall execute a
22 deficiency agreement with the authority, which shall provide that the
23 county pledges to cover any shortfall and to pay deficiencies in
24 scheduled repayment obligations of the public authority. All costs
25 associated with the issuance of bonds pursuant to this subsection may
26 be paid by the authority from the proceeds of these bonds. Any
27 county or public authority is hereby authorized to enter into any
28 agreement with the authority necessary, desirable or convenient to
29 effectuate the provisions of this subsection.

30 The authority shall not issue bonds or other obligations to effect
31 the refunding or rescheduling of solid waste facility bonds after
32 December 31, 2002. The authority may refund its own bonds issued
33 for the purposes herein at any time;

34 ff. To pool loans for any local government units that are refunding
35 bonds and do and perform any and all acts or things necessary,
36 convenient or desirable for the purpose of the authority to achieve
37 more favorable interest rates and terms for those local governmental
38 units;

39 gg. To finance projects approved by the board, provide staff
40 support to the board, oversee and monitor progress on the part of the
41 board in carrying out the revitalization, economic development and
42 restoration projects authorized pursuant to the "Municipal
43 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
44 (C.52:27BBB-1 et al.) and otherwise fulfilling its responsibilities
45 pursuant thereto;

46 hh. To offer financial assistance to qualified film production
47 companies as provided in the "New Jersey Film Production
48 Assistance Act," P.L.2003, c.182 (C.34:1B-178 et al.);

1 ii. To finance or develop private or public parking facilities or
2 structures, which may include the use of solar photovoltaic
3 equipment, in municipalities qualified to receive State aid pursuant
4 to the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.) and
5 municipalities that contain areas designated pursuant to P.L.1985,
6 c.398 (C.52:18A-196 et al.) as Planning Area 1 (Metropolitan),
7 Planning Area 2 (Suburban), or a town center, and to provide
8 appropriate assistance, including but not limited to, extensions of
9 credit, loans, and guarantees, to municipalities qualified to receive
10 State aid pursuant to the provisions of P.L.1978, c.14 (C.52:27D-178
11 et seq.) and municipalities that contain areas designated pursuant to
12 P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning Area 1
13 (Metropolitan), Planning Area 2 (Suburban), or a town center, and
14 their agencies and instrumentalities or to private entities whose
15 projects are located in those municipalities, in order to facilitate the
16 financing and development of parking facilities or structures in such
17 municipalities. The authority may serve as the issuing agent of bonds
18 to finance the undertaking of a project for the purposes of this
19 subsection; **and**

20 jj. To make grants for the planning, designing, acquiring,
21 constructing, reconstructing, improving, equipping, and furnishing of
22 a project, including, but not limited to, grants for working capital and
23 meeting payroll requirements, upon such terms and conditions as the
24 authority shall deem reasonable, during periods of emergency
25 declared by the Governor and for the duration of economic
26 disruptions due to the emergency;

27 kk. To purchase and lease real property at a nominal rate when it
28 would result in a net economic benefit to the State, enhance access to
29 employment and investment for underserved populations, or increase
30 investment and employment in high-growth technology sectors; and
31 (cf: P.L.2020, c.8, s.1)

32
33 116. Section 4 of P.L.1992, c.16 (C.34:1B-7.13) is amended to
34 read as follows:

35 4. The authority may use the moneys in the fund to pay principal
36 of, premium, if any, and interest on bonds or notes, which shall be
37 entitled "Economic Recovery Fund Bonds or Notes," as appropriate,
38 the proceeds, or net proceeds, of which shall be deposited into the
39 fund, or used for purposes of the fund, and moneys in the fund,
40 including money received from the sale of bonds shall, in such
41 manner as is determined by the authority, and pursuant to subsections
42 d., e., and f. of this section, be used for the financing of projects as
43 set forth in section 3 of P.L.1974, c.80 (C.34:1B-3) and to establish:

44 a. an economic growth account for **business** programs and
45 initiatives, which will support and invest in small and medium-size
46 businesses and other entities engaged in economic, community, and
47 workforce development that have the greatest potential for creating

- 1 jobs and stimulating economic growth through such elements **[as]**
2 including, but not limited to:
- 3 (1) a Statewide lending pool and guarantee pool for small
4 business, whether directly or through a community development
5 financial institution;
- 6 (2) a business composite bond guarantee **[.]** ;
- 7 (3) a fund to further supplement the export finance program of
8 the authority to provide direct loans and working capital necessary
9 for New Jersey businesses to compete in the global market, real estate
10 partnerships **[.]** ;
- 11 (4) a Statewide composite bond pool to assist municipalities in
12 acquiring needed financing for capital expenditures **[.]** ;
- 13 (5) **[community-based]** financial assistance to assist
14 municipalities **[in establishing local development corporations]** ,
15 municipal entities, counties, county entities, regional entities, State
16 instrumentalities, and not-for-profit local economic and community
17 development entities to execute programs and initiative to stimulate
18 community and economic development**[.]** ;
- 19 (6) a venture, seed, or angel capital fund for start-up costs for
20 businesses developing new concepts and inventions **[.]** ;
- 21 (7) a fund to assist businesses, either directly or through a not-
22 for-profit or for-profit entity with expansion or transition to a new
23 business model in such areas **[as]** including, but not limited to,
24 manufacturing retooling to improve quality, to reduce production
25 costs and to train employees to apply the latest technology **[, and]** ;
- 26 (8) a "Main Street Business Assistance Program" to provide
27 guarantees and loans to small and mid-size businesses and not-for-
28 profit **[corporations]** entities to stimulate the economy;
- 29 (9) in consultation with the Department of Labor and Workforce
30 Development and the Office of the Secretary of Higher Education, a
31 fund to support and invest in innovative workforce development
32 approaches and programs, including those that could benefit
33 individuals directly, either undertaken directly by the authority or
34 through a governmental, not-for-profit, or for-profit entity, that align
35 with targeted industries as defined by the authority's board or support
36 a high-demand occupation;
- 37 (10) a fund to provide grants, financing, or equity to collaborations
38 between large corporations, small-to-medium sized businesses,
39 academic institutions, government entities, or not-for-profit entities,
40 where one of the purposes of the collaboration is to stimulate
41 community or economic development;
- 42 (11) a fund to provide grants, financing, or equity in innovation
43 centers, research centers, incubators, and accelerators, and other
44 similar innovation-oriented entities, which are focused on the
45 targeted industries as defined by the authority's board or support
46 increasing diversity and inclusion within the state's entrepreneurial
47 economy; the fund may also be used to pay for membership fees, or

1 other similar arrangements, for the authority to join or participate in
2 such innovation-oriented entities;

3 (12) a fund to provide grants or competition prizes to fund
4 initiative-based activities which stimulate growth in targeted
5 industries as defined by the authority's board or supports increasing
6 diversity and inclusion within the state's entrepreneurial economy;
7 this fund may also support not-for-profit industry, trade, and labor
8 organization initiatives; and

9 (13) a fund to provide grants or competition prizes, either directly
10 or through a not-for-profit entity, that is consistent with economic
11 development priorities as defined by the authority's board, where
12 funds have been specifically allocated to the economic recovery fund
13 for this purpose, including but not limited to an appropriation or
14 transfer from another government entity).

15 The authority may promulgate rules and regulations for the
16 effective implementation of the "Main Street Business Assistance
17 Program." Notwithstanding any provision of the "Administrative
18 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary,
19 the authority may adopt, immediately upon filing with the Office of
20 Administrative Law, such regulations as are necessary to implement
21 the provisions of this act, which shall be effective for a period not to
22 exceed 12 months following enactment, and may thereafter be
23 amended, adopted, or readopted by the authority in accordance with
24 the requirements of the "Administrative Procedure Act," P.L.1968,
25 c.410 (C.52:14B-1 et seq.). **During periods of emergency declared**
26 **by the Governor and for the duration of economic disruptions due to**
27 **the emergency, the** The authority may use the economic growth
28 account for the planning, designing, acquiring, constructing,
29 reconstructing, improving, equipping, and furnishing by small and
30 medium-size businesses and not-for-profit corporations of a project
31 as defined in section 3 of P.L.1974, c. 80 (C.34:1B-3), including, but
32 not limited to, grants for working capital and meeting payroll
33 requirements, upon such terms and conditions as the authority shall
34 deem reasonable;

35 b. an economic development infrastructure program account,
36 which shall provide for the financing and development of
37 infrastructure and transportation projects, including but not limited
38 to ports, terminal and transit facilities, roads and airports, parking
39 facilities used in connection with transit facilities, and related
40 facilities, including public-private partnerships, that are integral to
41 economic growth;

42 c. an account for a cultural, recreational, fine and performing
43 arts, military and veterans memorial, historic preservation project
44 and tourism facilities and improvements program, which shall
45 provide for the financing and development of cultural, recreational,
46 fine and performing arts, military and veterans memorial, historic
47 preservation and tourism projects, including partnerships with public,
48 private and nonprofit entities;

1 d. an account, into which shall be deposited an amount not less
2 than \$45,000,000, out of the total amounts deposited or credited to
3 the fund from the proceeds of the sale of Economic Recovery Fund
4 Bonds or Notes, for the financing of capital facilities for primary and
5 secondary schools in the State for the purpose of the renovation,
6 repair or alteration of existing school buildings, the construction of
7 new school buildings or the conversion of existing school buildings
8 to other instructional purposes.

9 (1) Of the amount deposited in the account, not less than
10 \$25,000,000 shall be deposited in the "Public School Facilities Code
11 Compliance Loan Fund" established pursuant to section 4 of
12 P.L.1993, c.102 (C.34:1B-7.23).

13 (2) Of the amount deposited in the account, not less than
14 \$20,000,000 shall be deposited in the "Public School Facilities Loan
15 Assistance Fund" established pursuant to section 5 of P.L.1993, c.102
16 (C.34:1B-7.24);

17 e. an environmental cleanup assistance account, into which shall
18 be deposited an amount not less than \$10,000,000, out of the total
19 amounts deposited or credited to the fund from the proceeds of the
20 sale of Economic Recovery Fund Bonds or Notes, to provide
21 financial assistance to the persons and other entities entitled to apply
22 for financial assistance pursuant to P.L.1993, c.139; and

23 f. an account, into which shall be deposited an amount not less
24 than \$15,000,000, out of the total amounts deposited or credited to
25 the fund from the proceeds of the sale of Economic Recovery Fund
26 Bonds or Notes, for the financing of shore restoration, maintenance,
27 monitoring, protection and preservation projects pursuant to the
28 shore protection master plan prepared by the Department of
29 Environmental Protection pursuant to P.L.1978, c.157.

30 (cf: P.L.2020, c.8, s.2)

31
32 117. Section 2 of P.L.1997, c.349 (C.54:10A-5.29) is amended to
33 read as follows:

34 2. As used in sections 1 through 3 of P.L.1997, c.349 (C.54:10A-
35 5.28 through C.54:10A-5.30):

36 "Advanced computing" means a technology used in the designing
37 and developing of computing
38 hardware and software, including innovations in designing the full
39 spectrum of hardware from hand- held calculators to super
40 computers, and peripheral equipment.

41 "Advanced materials" means materials with engineered properties
42 created through the development of specialized processing and
43 synthesis technology, including ceramics, high value-added metals,
44 electronic materials, composites, polymers, and biomaterials.

45 "Biotechnology" means the continually expanding body of
46 fundamental knowledge about the functioning of biological systems
47 from the macro level to the molecular and sub-atomic levels, as well
48 as novel products, services, technologies, and sub-technologies

1 developed as a result of insights gained from research advances
2 which add to that body of fundamental knowledge.

3 “Carbon footprint reduction technology” means a technology
4 using equipment for the commercial, institutional, and industrial
5 sectors that: increases energy efficiency; develops and delivers
6 renewable or non-carbon-emitting energy technologies; develops
7 innovative carbon emissions abatement with significant carbon
8 emissions reduction potential; or promotes measurable electricity
9 end-use energy efficiency.

10 “Control” with respect to a corporation means ownership, directly
11 or indirectly, of stock possessing 80 percent or more of the total
12 combined voting power of all classes of the stock of the corporation
13 entitled to vote; and “control” with respect to a trust means
14 ownership, directly or indirectly, of 80 percent or more of the
15 beneficial interest in the principal or income of the trust. The
16 ownership of stock in a corporation, of a capital or profits interest in
17 a partnership or association or of a beneficial interest in a trust shall
18 be determined in accordance with the rules for constructive
19 ownership of stock provided in subsection (c) of section 267 of the
20 federal Internal Revenue Code of 1986 (26 U.S.C. § 267), other than
21 paragraph (3) of subsection (c) of that section.

22 “Controlled group” means one or more chains of corporations
23 connected through stock ownership with a common parent
24 corporation if stock possessing at least 80 percent of the voting power
25 of all classes of stock of each of the corporations is owned directly
26 or indirectly by one or more of the corporations and the common
27 parent owns directly stock possessing at least 80 percent of the voting
28 power of all classes of stock of at least one of the other corporations.

29 “Director” means the Director of the Division of Taxation in the
30 Department of the Treasury.

31 “Diverse entrepreneur” means a New Jersey based business that
32 meets the criteria for a minority business or female business set forth
33 in section 2 of P.L.1983, c.482 (C.52:32-19).

34 “Electronic device technology” means a technology involving
35 microelectronics, semiconductors, electronic equipment and
36 instrumentation, radio frequency, microwave and millimeter
37 electronics, and optical and optic-electrical devices, or data and
38 digital communications and imaging devices.

39 “Information technology” means software publishing, motion
40 picture and video production, television production and post-
41 production services, telecommunications, data processing, hosting
42 and related services, custom computer programming services,
43 computer system design, computer facilities management services,
44 other computer related services, and computer training.

45 “Life sciences” means the production of medical equipment,
46 ophthalmic goods, medical or dental instruments, diagnostic
47 substances, biopharmaceutical products, or physical and biological
48 research.

1 “Medical device technology” means a technology involving any
2 medical equipment or product (other than a pharmaceutical product)
3 that has therapeutic value, diagnostic value, or both, and is regulated
4 by the federal Food and Drug Administration.

5 “Mobile communications technology” means a technology
6 involving the functionality and reliability of the transmission of voice
7 and multimedia data using a communication infrastructure via a
8 computer or a mobile device, that shall include, but not be limited to,
9 smartphones, electronic books and tablets, digital audio players,
10 motor vehicle electronics, home entertainment systems, and other
11 wireless appliances, without having connected to any physical or
12 fixed link.

13 “New Jersey based business” means a company with fewer than
14 225 employees, of whom at least 75 percent are filling a position in
15 New Jersey, that is doing business, employing or owning capital or
16 property, or maintaining an office in this State.

17 “New Jersey emerging technology business” means a company
18 with fewer than 225 employees, of whom at least 75 percent are
19 filling a position in New Jersey, that is doing business, employing or
20 owning capital or property, or maintaining an office in this State and:
21 has qualified research expenses paid or incurred for research
22 conducted in this State; conducts pilot scale manufacturing in this
23 State; or conducts technology commercialization in this State in the
24 fields of advanced computing, advanced materials, biotechnology,
25 carbon footprint reduction technology, electronic device technology,
26 information technology, life sciences, medical device technology,
27 mobile communications technology, or renewable energy
28 technology.

29 “New Jersey emerging technology business holding company”
30 means any corporation, association, firm, partnership, trust, or other
31 form of business organization, but not a natural person, which
32 directly or indirectly, owns, has the power or right to control, or has
33 the power to vote, a controlling share of the outstanding voting
34 securities of a corporation or other form of a New Jersey emerging
35 technology business.

36 “Partnership” means a syndicate, group, pool, joint venture, or
37 other unincorporated organization through or by means of which any
38 business, financial operation, or venture is carried on, and which is
39 not a trust or estate, a corporation, or a sole proprietorship.

40 “Pilot scale manufacturing” means the design, construction, and
41 testing of preproduction prototypes and models in the fields of
42 advanced computing, advanced materials, biotechnology, carbon
43 footprint reduction technology electronic device technology,
44 information technology, life sciences, medical device technology,
45 mobile communications technology, and renewable energy
46 technology, other than for commercial sale, excluding sales of
47 prototypes or sales for market testing if the total gross receipts, as
48 calculated in the manner provided in section 6 of P.L.1945, c.162

(C.54:10A-6), from the sales of the product, service, or process do not exceed \$1,000,000.

“Qualified investment” means the non-refundable transfer of cash to a New Jersey emerging technology business or to a New Jersey emerging technology business holding company by a taxpayer that is not a related person of the New Jersey emerging technology business or the New Jersey emerging technology business holding company, the transfer of which is in connection with either: a transaction between or among the taxpayer and the New Jersey emerging technology business or the New Jersey emerging technology holding company or both in exchange for stock, interests in partnerships or joint ventures, licenses (exclusive or non-exclusive), rights to use technology, marketing rights, warrants, options, or any items similar to those included herein, including, but not limited to, options or rights to acquire any of the items included herein; or a purchase, production, or research agreement between or among the taxpayer and the New Jersey emerging technology business or the New Jersey emerging technology holding company or both. “Qualified investment” also means the non-refundable transfer of cash or irrevocable contractual commitment to transfer cash to a qualified venture fund.

“Qualified research expenses” means qualified research expenses, as defined in section 41 of the federal Internal Revenue Code of 1986 (26 U.S.C. § 41), as in effect on June 30, 1992, in the fields of advanced computing, advanced materials, biotechnology, carbon footprint reduction technology, electronic device technology, information technology, life sciences, medical device technology, mobile communications technology, or renewable energy technology.

“Qualified venture fund” means a venture fund required by contract to invest a minimum of 50 percent of its funds in New Jersey based businesses that the authority, in its sole discretion, based upon the qualified venture fund’s investment history, if any, its private placement memorandum and other relevant information, has determined has the capacity to make the minimum investment.

“Related person” means:

a corporation, partnership, association or trust controlled by the taxpayer;

an individual, corporation, partnership, association or trust that is in the control of the taxpayer;

a corporation, partnership, association or trust controlled by an individual, corporation, partnership, association or trust that is in the control of the taxpayer; or

a member of the same controlled group as the taxpayer.

“Renewable energy technology” means a technology involving the generation of electricity from solar energy; wind energy; wave or tidal action; geothermal energy; the combustion of gas from the anaerobic digestion of food waste and sewage sludge at a biomass

1 generating facility; the combustion of methane gas captured from a
2 landfill; and a fuel cell powered by methanol, ethanol, landfill gas,
3 digester gas, biomass gas, or other renewable fuel but not powered
4 by a fossil fuel.

5 “Tax year” means the fiscal or calendar accounting period of a
6 taxpayer.

7 “Venture fund” means a partnership, corporation, trust, or limited
8 liability company that invests cash in a business during the early or
9 expansion stages of a business in exchange for an equity stake in the
10 business in,” which the investment is made. Venture firm may
11 include a venture capital fund, a family office fund, or a corporate
12 investor fund, provided that a professional manager administers the
13 venture firm.

14 “Verified transfer of funds” means a non-refundable transfer of
15 funds equal to 100 percent of the taxpayer’s qualified investment in
16 the New Jersey emerging technology business holding company to a
17 New Jersey emerging technology business by the New Jersey
18 emerging technology business holding company that is accompanied
19 by documentation, as required by the New Jersey Economic
20 Development Authority, which provides proof of a cash transaction
21 originating with a taxpayer and concluding with a New Jersey
22 emerging technology business, provided that the transactions from
23 origin to destination occur within the same tax year.

24 The definitions of “advanced computing,” “advanced materials,”
25 “biotechnology,” carbon footprint reduction technology,” “electronic
26 device technology,” “information technology,”” life sciences,””
27 medical device technology,” mobile communications technology,””
28 “New Jersey emerging technology business,” “pilot scale
29 manufacturing,” and “renewable energy technology may be
30 modified by regulation to conform to definitions in other programs
31 administered by the authority.

32 (cf: P.L.2017, c.40, s.1)

33
34 118. Section 3 of P.L.1997, c.349 (C.54:10A-5.30) is amended to
35 read as follows:

36 3. a. (1) A taxpayer, upon approval of the taxpayer’s
37 application therefor by the New Jersey Economic Development
38 Authority and in consultation with the director, shall be allowed a
39 credit against the tax imposed pursuant to section 5 of P.L.1945,
40 c.162 (C.54:10A-5), in an amount equal to 20 percent of the qualified
41 investment made by the taxpayer in a New Jersey emerging
42 technology business, **[or]** in a New Jersey emerging technology
43 business holding company that makes a verified transfer of funds to
44 a New Jersey emerging technology business, or in a qualified venture
45 fund; provided, however, a taxpayer may be allowed a tax credit in
46 an amount equal to 25 percent of the qualified investment if the
47 taxpayer satisfies one of the requirements set forth in paragraph (2)
48 of this subsection. The value of tax credits allowed to a taxpayer

1 pursuant to this section shall not exceed \$500,000 for the privilege
2 period for each qualified investment made by the taxpayer.

3 (2) Subject to the limits established in paragraph (1) of this
4 subsection, the New Jersey Economic Development Authority, in
5 consultation with the director, shall increase the amount of a tax
6 credit allowed pursuant to this section by five percent if the taxpayer
7 makes a qualified investment in a New Jersey emerging technology
8 business, or in a New Jersey emerging technology business holding
9 company that makes a verified transfer of funds to a New Jersey
10 emerging technology business, or in a qualified venture fund, if the
11 New Jersey emerging technology business is **■**:

12 (a) **■** either located in a qualified opportunity zone pursuant to 26
13 U.S.C. § 1400Z-1, or a low-income community as defined in
14 subparagraph (e) of 26 U.S.C. § 45D **■**; **■** or

15 **■**(b)**■** certified by the State as a minority business or a women's
16 business pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.) and,
17 in the case of a qualified venture fund, if the qualified venture fund
18 commits by contract to invest 50 percent of its funds in diverse
19 entrepreneurs.

20 b. A credit shall not be allowed pursuant to section 1 of
21 P.L.1993, c.175 (C.54:10A-5.24), for expenses paid from funds for
22 which a credit is allowed, or which are includable in the calculation
23 of a credit allowed, under this section.

24 Notwithstanding any other provision of law, the order of priority in
25 which the credit allowed by this section and any other credits allowed
26 by law may be taken shall be as prescribed by the director.

27 c. Except as provided in subsection d. of this section, the amount
28 of credit otherwise allowable under this section which cannot be
29 applied for the privilege period against tax liability otherwise due for
30 that privilege period may either be carried over, if necessary, to the
31 15 privilege periods following the privilege period for which the
32 credit was allowed or, at the election of the taxpayer, be claimed as
33 and treated as an overpayment for the purposes of R.S.54:49-15,
34 provided, however, that section 7 of P.L.1992, c.175 (C.54:49-15.1)
35 shall not apply.

36 d. A taxpayer may not carry over any amount of credit allowed
37 under subsection a. of this section to a privilege period during which
38 a corporate acquisition with respect to which the taxpayer was a
39 target corporation occurred or during which the taxpayer was a party
40 to a merger or a consolidation, or to any subsequent privilege period,
41 if the credit was allowed for a privilege period prior to the year of
42 acquisition, merger or consolidation, except that if in the case of a
43 corporate merger or corporate consolidation the taxpayer can
44 demonstrate, through the submission of a copy of the plan of merger
45 or consolidation and such other evidence as may be required by the
46 director, the identity of the constituent corporation which was the
47 acquiring person, a credit allowed to the acquiring person may be

1 carried over by the taxpayer. As used in this subsection, “acquiring
2 person” means the constituent corporation the stockholders of which
3 own the largest proportion of the total voting power in the surviving
4 or consolidated corporation after the merger or consolidation.

5 e. The Executive Director of the New Jersey Economic
6 Development Authority, in consultation with the director, shall
7 adopt, pursuant to the “Administrative Procedure Act,” P.L.1968,
8 c.410 (C.52:14B-1 et seq.), rules and regulations that are necessary
9 to implement sections 1 through 3 of P.L.1997, c.349 (C.54:10A-5.28
10 through C.54:10A-5.30) and section 4 of P.L.2013, c.14 (C.54A:4-
11 13), including, but not limited to: examples of and the determination
12 of qualified investments of which applicants shall provide
13 documentation with their tax credit application; the promulgation of
14 procedures and forms necessary to apply for a credit; provisions for
15 recapture in the event a taxpayer receives a credit on the basis of its
16 commitment to transfer cash to a qualified venture fund and it does
17 not fund its commitment; and provisions for credit applicants to be
18 charged an initial application fee and ongoing service fees to cover
19 the administrative costs related to the credit.

20 The amount of credits approved by the Executive Director of the
21 New Jersey Economic Development Authority, and in consultation
22 with the director, pursuant to subsection a. of this section and
23 pursuant to section 4 of P.L.2013, c.14 (C.54A:4-13), shall not
24 exceed a cumulative total of **【\$25,000,000】** \$35,000,000 in any
25 calendar year to apply against the tax imposed pursuant to section 5
26 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the
27 “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1 et seq. If the
28 cumulative amount of credits allowed to taxpayers in a calendar year
29 exceeds the amount of credits available in that year, then taxpayers
30 who have first applied for and have not been allowed a credit amount
31 for that reason shall be allowed, in the order in which they have
32 submitted an application, the amount of the tax credit on the first day
33 of the next succeeding calendar year in which tax credits under this
34 section and section 4 of P.L.2013, c.14 (C.54A:4-13) are not in
35 excess of the amount of credits available.

36 (cf: P.L.2017, c.40, s.2)

37
38 119. Section 4 of P.L.2013, c.14 (C.54A:4-13) is amended to read
39 as follows:

40 4. a. (1) A taxpayer, upon approval of the taxpayer's application
41 therefor by the New Jersey Economic Development Authority, and
42 in consultation with the director, shall be allowed a credit against the
43 tax otherwise due for the taxable year under the "New Jersey Gross
44 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to 20
45 percent of the qualified investment made by the taxpayer in a New
46 Jersey emerging technology business, **【or】** in a New Jersey emerging
47 technology business holding company that makes a verified transfer
48 of funds to a New Jersey emerging technology business, or in a

1 qualified venture fund; provided, however, a taxpayer may be
 2 allowed a tax credit in an amount equal to 25 percent of the qualified
 3 investment if the taxpayer satisfies one of the requirements set forth
 4 in paragraph (2) of this subsection. The value of tax credits allowed
 5 to a taxpayer pursuant to this section shall not exceed \$500,000 for
 6 the taxable year for each qualified investment made by the taxpayer.

7 (2) Subject to the limits established in paragraph (1) of this
 8 subsection, the New Jersey Economic Development Authority, in
 9 consultation with the director, shall increase the amount of a tax
 10 credit allowed pursuant to this section by five percent if the taxpayer
 11 makes a qualified investment in a New Jersey emerging technology
 12 business, **or** in a New Jersey emerging technology business
 13 holding company that makes a verified transfer of funds to a New
 14 Jersey emerging technology business, or in a qualified venture fund,
 15 if the New Jersey emerging technology business is **:**

16 (a) **either** located in a qualified opportunity zone pursuant to 26
 17 U.S.C. § 1400Z-1, or a low-income community as defined in
 18 subparagraph (e) of 26 U.S.C. § 45D **;** or

19 **[(b)]** certified by the State as a minority business or a women's
 20 business pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.) and,
 21 in the case of a qualified venture fund, if the qualified venture fund
 22 commits by contract to invest 50 percent of its funds in diverse
 23 entrepreneurs.

24 b. The amount of the credit allowed pursuant to this section shall
 25 be applied against the tax otherwise due under the "New Jersey Gross
 26 Income Tax Act," N.J.S.54A:1-1 et seq., after all other credits and
 27 payments. If the credit exceeds the amount of tax liability otherwise
 28 due, that amount of excess shall be an overpayment for the purposes
 29 of N.J.S.54A:9-7, provided, however, that subsection (f) of
 30 N.J.S.54A:9-7 shall not apply.

31 c. (1) A partnership shall not be allowed a credit under this
 32 section directly, but the amount of credit of a taxpayer in respect of
 33 a distributive share of partnership income under the "New Jersey
 34 Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be determined
 35 by allocating to the taxpayer that proportion of the credit acquired by
 36 the partnership that is equal to the taxpayer's share, whether or not
 37 distributed, of the total distributive income or gain of the partnership
 38 for its taxable year ending within or with the taxpayer's taxable year.
 39 For the purposes of subsection b. of this section, the amount of tax
 40 liability that would be otherwise due of a taxpayer is that proportion
 41 of the total liability of the taxpayer that the taxpayer's share of the
 42 partnership income or gain included in gross income bears to the total
 43 gross income of the taxpayer.

44 (2) The credit for a corporation that has made a valid election as
 45 a New Jersey S corporation pursuant to section 3 of P.L.1993, c.173
 46 (C.54:10A-5.22) may be applied by the shareholders of the S
 47 corporation against the tax liability otherwise due under the "New

1 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., provided that
2 the amount of credit that may be used by a shareholder of the S
3 corporation shall be determined by allocating to each shareholder of
4 the S corporation that proportion of the tax credit of the S corporation
5 that is equal to the shareholder's proportionate share of the S
6 corporation, whether or not distributed, of the total distributive
7 income or gain of the S corporation for its tax period ending with or
8 within the shareholder's tax period, and the credit may be applied by
9 the shareholders against the tax liability otherwise due pursuant to
10 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

11 d. The Executive Director of the New Jersey Economic
12 Development Authority, in consultation with the director, shall
13 adopt, pursuant to the "Administrative Procedure Act," P.L.1968,
14 c.410 (C.52:14B-1 et seq.), rules and regulations that are necessary
15 to implement sections 1 through 3 of P.L.1997, c.349 (C.54:10A-5.28
16 through C.54:10A-5.30) and this section, including, but not limited
17 to: examples of and the determination of qualified investments of
18 which applicants shall provide documentation with their tax credit
19 application; the promulgation of procedures and forms necessary to
20 apply for a credit; provisions for recapture in the event a taxpayer
21 receives a credit on the basis of its commitment to transfer cash to a
22 qualified venture fund and it does not fund its commitment; and
23 provisions for credit applicants to be charged an initial application
24 fee and ongoing service fees to cover the administrative costs related
25 to the credit.

26 The amount of credits approved by the Executive Director of the
27 New Jersey Economic Development Authority and the Director of
28 the Division of Taxation in the Department of the Treasury, pursuant
29 to subsection a. of this section and pursuant to section 3 of P.L.1997,
30 c.349 (C.54:10A-5.30), shall not exceed a cumulative total of
31 ~~【\$25,000,000】~~ \$35,000,000 in any calendar year to apply against the
32 tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
33 and the tax imposed pursuant to the "New Jersey Gross Income Tax
34 Act," N.J.S.54A:1-1 et seq. If the cumulative amount of credits
35 allowed to taxpayers in a calendar year exceeds the amount of credits
36 available in that year, then taxpayers who have first applied for and
37 have not been allowed a credit amount for that reason shall be
38 allowed, in the order in which they have submitted an application,
39 the amount of the tax credit on the first day of the next succeeding
40 calendar year in which tax credits under this section and section 3 of
41 P.L.1997, c.349 (C.54:10A-5.30) are not in excess of the amount of
42 credits available.

43 e. As used in this section:

44 "Advanced computing" means a technology used in the designing
45 and developing of computing hardware and software, including
46 innovations in designing the full spectrum of hardware from hand-
47 held calculators to super computers, and peripheral equipment.

1 "Advanced materials" means materials with engineered properties
2 created through the development of specialized processing and
3 synthesis technology, including ceramics, high value-added metals,
4 electronic materials, composites, polymers, and biomaterials.

5 "Biotechnology" means the continually expanding body of
6 fundamental knowledge about the functioning of biological systems
7 from the macro level to the molecular and sub-atomic levels, as well
8 as novel products, services, technologies, and sub-technologies
9 developed as a result of insights gained from research advances
10 which add to that body of fundamental knowledge.

11 "Carbon footprint reduction technology" means a technology
12 using equipment for the commercial, institutional, and industrial
13 sectors that: increases energy efficiency; develops and delivers
14 renewable or non-carbon-emitting energy technologies; develops
15 innovative carbon emissions abatement with significant carbon
16 emissions reduction potential; or promotes measurable electricity
17 end-use energy efficiency.

18 "Control" with respect to a corporation, means ownership, directly
19 or indirectly, of stock possessing 80 percent or more of the total
20 combined voting power of all classes of the stock of the corporation
21 entitled to vote; and "control," with respect to a trust, means
22 ownership, directly or indirectly, of 80 percent or more of the
23 beneficial interest in the principal or income of the trust. The
24 ownership of stock in a corporation, of a capital or profits interest in
25 a partnership or association or of a beneficial interest in a trust shall
26 be determined in accordance with the rules for constructive
27 ownership of stock provided in subsection (c) of section 267 of the
28 federal Internal Revenue Code of 1986 (26 U.S.C. s.267), other than
29 paragraph (3) of subsection (c) of that section.

30 "Controlled group" means one or more chains of corporations
31 connected through stock ownership with a common parent
32 corporation if stock possessing at least 80 percent of the voting power
33 of all classes of stock of each of the corporations is owned directly
34 or indirectly by one or more of the corporations and the common
35 parent owns directly stock possessing at least 80 percent of the voting
36 power of all classes of stock of at least one of the other corporations.

37 "Director" means the Director of the Division of Taxation in the
38 Department of the Treasury.

39 "Diverse entrepreneur" means a New Jersey based business that
40 meets the criteria for a minority business or female business set forth
41 in section 2 of P.L.1983, c.482 (C.52:32-19).

42 "Electronic device technology" means a technology involving
43 microelectronics, semiconductors, electronic equipment and
44 instrumentation, radio frequency, microwave and millimeter
45 electronics, and optical and optic-electrical devices, or data and
46 digital communications and imaging devices.

47 "Information technology" means software publishing, motion
48 picture and video production, television production and post-

1 production services, telecommunications, data processing, hosting
2 and related services, custom computer programming services,
3 computer system design, computer facilities management services,
4 other computer related services, and computer training.

5 "Life sciences" means the production of medical equipment,
6 ophthalmic goods, medical or dental instruments, diagnostic
7 substances, biopharmaceutical products, or physical and biological
8 research.

9 "Medical device technology" means a technology involving any
10 medical equipment or product (other than a pharmaceutical product)
11 that has therapeutic value, diagnostic value, or both, and is regulated
12 by the federal Food and Drug Administration.

13 "Mobile communications technology" means a technology
14 involving the functionality and reliability of the transmission of voice
15 and multimedia data using a communication infrastructure via a
16 computer or a mobile device, that shall include, but not be limited to,
17 smartphones, electronic books and tablets, digital audio players,
18 motor vehicle electronics, home entertainment systems, and other
19 wireless appliances, without having connected to any physical or
20 fixed link.

21 "New Jersey based business" means a company with fewer than
22 225 employees, of whom at least 75 percent are filling a position in
23 New Jersey, that is doing business, employing or owning capital or
24 property, or maintaining an office in this State.

25 "New Jersey emerging technology business" means a company
26 with fewer than 225 employees, of whom at least 75 percent are
27 filling a position in New Jersey, that is doing business, employing or
28 owning capital or property, or maintaining an office in this State and:
29 has qualified research expenses paid or incurred for research
30 conducted in this State; conducts pilot scale manufacturing in this
31 State; or conducts technology commercialization in this State in the
32 fields of advanced computing, advanced materials, biotechnology,
33 carbon footprint reduction technology, electronic device technology,
34 information technology, life sciences, medical device technology,
35 mobile communications technology, or renewable energy
36 technology.

37 "New Jersey emerging technology business holding company"
38 means any corporation, association, firm, partnership, trust or other
39 form of business organization, but not a natural person, which
40 directly or indirectly, owns, has the power or right to control, or has
41 the power to vote, a controlling share of the outstanding voting
42 securities of a corporation or other form of a New Jersey emerging
43 technology business.

44 "Partnership" means a syndicate, group, pool, joint venture, or
45 other unincorporated organization through or by means of which any
46 business, financial operation, or venture is carried on, and which is
47 not a trust or estate, a corporation, or a sole proprietorship.

1 "Pilot scale manufacturing" means design, construction, and
2 testing of preproduction prototypes and models in the fields of
3 advanced computing, advanced materials, biotechnology, carbon
4 footprint reduction technology electronic device technology,
5 information technology, life sciences, medical device technology,
6 mobile communications technology, or renewable energy
7 technology, other than for commercial sale, excluding sales of
8 prototypes or sales for market testing if the total gross receipts, as
9 calculated in the manner provided in section 6 of P.L.1945, c.162
10 (C.54:10A-6), from the sales of the product, service, or process do
11 not exceed \$1,000,000.

12 "Qualified investment" means the non-refundable transfer of cash
13 to a New Jersey emerging technology business or to a New Jersey
14 emerging technology business holding company by a taxpayer that is
15 not a related person of the New Jersey emerging technology business
16 or the New Jersey emerging technology business holding company,
17 the transfer of which is in connection with either: a transaction
18 between or among the taxpayer and the New Jersey emerging
19 technology business or the New Jersey emerging technology holding
20 company or both in exchange for stock, interests in partnerships or
21 joint ventures, licenses (exclusive or non-exclusive), rights to use
22 technology, marketing rights, warrants, options, or any items similar
23 to those included herein, including, but not limited to, options or
24 rights to acquire any of the items included herein; or a purchase,
25 production, or research agreement between or among the taxpayer
26 and the New Jersey emerging technology business or the New Jersey
27 emerging technology holding company or both. "Qualified
28 investment" also means the non-refundable transfer of cash or
29 irrevocable contractual commitment to transfer cash to a qualified
30 venture fund.

31 "Qualified research expenses" means qualified research expenses,
32 as defined in section 41 of the federal Internal Revenue Code of 1986
33 (26 U.S.C. s.41), as in effect on June 30, 1992, in the fields of
34 advanced computing, advanced materials, biotechnology, electronic
35 device technology, information technology, life sciences, medical
36 device technology, mobile communications technology, or
37 renewable energy technology.

38 "Qualified venture fund" means a venture fund required by
39 contract to invest a minimum of 50 percent of its funds in New Jersey
40 based businesses that the authority, in its sole discretion, based upon
41 the qualified venture fund's investment history, if any, its private
42 placement memorandum and other relevant information, has
43 determined has the capacity to make the minimum investment.

44 "Related person" means:

45 a corporation, partnership, association or trust controlled by the
46 taxpayer;

47 an individual, corporation, partnership, association or trust that is
48 in the control of the taxpayer;

1 a corporation, partnership, association or trust controlled by an
2 individual, corporation, partnership, association or trust that is in the
3 control of the taxpayer; or

4 a member of the same controlled group as the taxpayer.

5 "Renewable energy technology" means a technology involving the
6 generation of electricity from solar energy; wind energy; wave or
7 tidal action; geothermal energy; the combustion of gas from the
8 anaerobic digestion of food waste and sewage sludge at a biomass
9 generating facility; the combustion of methane gas captured from a
10 landfill; and a fuel cell powered by methanol, ethanol, landfill gas,
11 digester gas, biomass gas, or other renewable fuel but not powered
12 by a fossil fuel.

13 "Venture fund" means a partnership, corporation, trust, or limited
14 liability company that invests cash in a business during the early or
15 expansion stages of a business in exchange for an equity stake in the
16 business in," which the investment is made. Venture firm may
17 include a venture capital fund, a family office fund, or a corporate
18 investor fund, provided that a professional manager administers the
19 venture firm.

20 "Verified transfer of funds" means a non-refundable transfer of
21 funds equal to 100 percent of the taxpayer's qualified investment in
22 the New Jersey emerging technology business holding company to a
23 New Jersey emerging technology business by the New Jersey
24 emerging technology business holding company that is accompanied
25 by documentation, as required by the New Jersey Economic
26 Development Authority, which provides proof of a cash transaction
27 originating with a taxpayer and concluding with a New Jersey
28 emerging technology business, provided that the transactions from
29 origin to destination occur within the same taxable year.

30 The definitions of "advanced computing," "advanced materials,"
31 "biotechnology," carbon footprint reduction technology," "electronic
32 device technology," "information technology,"" life sciences,""
33 medical device technology," mobile communications technology,""
34 "New Jersey emerging technology business," "pilot scale
35 manufacturing," and "renewable energy technology may be
36 modified by regulation to conform to definitions in other programs
37 administered by the authority.

38 (cf: P.L.2019, c.145, s.3)

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

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

43 "Affiliate" means an entity that directly or indirectly controls, is
44 under common control with, or is controlled by the business. Control
45 exists in all cases in which the entity is a member of a controlled
46 group of corporations as defined pursuant to section 1563 of the
47 Internal Revenue Code of 1986 (26 U.S.C. s.1563) or the entity is an
48 organization in a group of organizations under common control as

1 defined pursuant to subsection (b) or (c) of section 414 of the Internal
2 Revenue Code of 1986 (26 U.S.C. s.414). A taxpayer may establish
3 by clear and convincing evidence, as determined by the Director of
4 the Division of Taxation in the Department of the Treasury, that
5 control exists in situations involving lesser percentages of ownership
6 than required by those statutes. An affiliate of a business may
7 contribute to meeting either the qualified investment or full-time
8 employee requirements of a business that applies for a credit under
9 section 3 of P.L.2007, c.346 (C.34:1B-209).

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

12 "Aviation district" means all areas within the boundaries of the
13 "Atlantic City International Airport," established pursuant to section
14 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation
15 Administration William J. Hughes Technical Center and the area
16 within a one-mile radius of the outermost boundary of the "Atlantic
17 City International Airport" and the Federal Aviation Administration
18 William J. Hughes Technical Center.

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

21 a corporation that is subject to the tax imposed pursuant to section
22 5 of P.L.1945, c.162 (C.54:10A-5);

23 a corporation that is subject to the tax imposed pursuant to sections
24 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1
25 of P.L.1950, c.231 (C.17:32-15) or N.J.S.17B:23-5;

26 a partnership;

27 an S corporation;

28 a limited liability company; or

29 a non-profit corporation.

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

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

40 "Capital investment" in a qualified business facility means
41 expenses by a business or any affiliate of the business incurred after
42 application for:

43 a. site preparation and construction, repair, renovation,
44 improvement, equipping, or furnishing on real property or of a
45 building, structure, facility, or improvement to real property;

46 b. obtaining and installing furnishings and machinery,
47 apparatus, or equipment, including but not limited to material goods
48 subject to bonus depreciation under sections 168 and 179 of the

1 federal Internal Revenue Code (26 U.S.C. s.168 and s.179), for the
2 operation of a business on real property or in a building, structure,
3 facility, or improvement to real property;

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

7 d. any of the foregoing.

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

17 In addition to the foregoing, if a business acquires or leases a
18 qualified business facility, the capital investment made or acquired
19 by the seller or owner, as the case may be, if pertaining primarily to
20 the premises of the qualified business facility, shall be considered a
21 capital investment by the business and, if pertaining generally to the
22 qualified business facility being acquired or leased, shall be allocated
23 to the premises of the qualified business facility on the basis of the
24 gross leasable area of the premises in relation to the total gross
25 leasable area in the qualified business facility. The capital
26 investment described herein may include any capital investment
27 made or acquired within 24 months prior to the date of application so
28 long as the amount of capital investment made or acquired by the
29 business, any affiliate of the business, or any owner after the date of
30 application equals at least 50 percent of the amount of capital
31 investment, allocated to the premises of the qualified business facility
32 being acquired or leased on the basis of the gross leasable area of the
33 premises in relation to the total gross leasable area in the qualified
34 business facility made or acquired prior to the date of application.

35 "College or university" means a county college, an independent
36 institution of higher education, a public research university, or a State
37 college.

38 "Commitment period" means the period of time that is 1.5 times
39 the eligibility period.

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

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

1 "Disaster recovery project" means a project located on property
2 that has been wholly or substantially damaged or destroyed as a result
3 of a federally-declared disaster which, after utilizing all disaster
4 funds available from federal, State, county, and local funding
5 sources, demonstrates to the satisfaction of the authority that access
6 to additional funding authorized pursuant to the "New Jersey
7 Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-
8 489p et al.), is necessary to complete the redevelopment project, and
9 which is located within the qualified incentive area and has been
10 determined by the authority to be in an area appropriate for
11 development and in need of economic development incentive
12 assistance.

13 "Distressed municipality" means a municipality that is qualified
14 to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a
15 municipality under the supervision of the Local Finance Board
16 pursuant to the provisions of the "Local Government Supervision Act
17 (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality
18 identified by the Director of the Division of Local Government
19 Services in the Department of Community Affairs to be facing
20 serious fiscal distress, a SDA municipality, or a municipality in
21 which a major rail station is located.

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

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

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

37 "Full-time employee" means a person:

38 a. who is employed by a business for consideration for at least
39 35 hours a week, or who renders any other standard of service
40 generally accepted by custom or practice as full-time employment;
41 or

42 b. who is employed by a professional employer organization
43 pursuant to an employee leasing agreement between the business and
44 the professional employer organization, in accordance with
45 P.L.2001, c.260 (C.34:8-67 et seq.) for at least 35 hours a week, or
46 who renders any other standard of service generally accepted by
47 custom or practice as full-time employment, and whose wages are

1 subject to withholding as provided in the "New Jersey Gross Income
2 Tax Act," N.J.S.54A:1-1 et seq.; or

3 c. who is a resident of another State but whose income is not
4 subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et
5 seq. or who is a partner of a business who works for the partnership
6 for at least 35 hours a week, or who renders any other standard of
7 service generally accepted by custom or practice as full-time
8 employment, and whose distributive share of income, gain, loss, or
9 deduction, or whose guaranteed payments, or any combination
10 thereof, is subject to the payment of estimated taxes, as provided in
11 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.; and

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

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

19 the requirement that employee health benefits are to be provided
20 shall be deemed to be satisfied if the benefits are provided in
21 accordance with industry practice by a third party obligated to
22 provide such benefits pursuant to a collective bargaining agreement;

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

26 35 hours of employment per week at a qualified business facility
27 shall constitute one "full-time employee," regardless of whether or
28 not the hours of work were performed by one or more persons.

29 For any project located in a Garden State Growth Zone which
30 qualifies under the "Municipal Rehabilitation and Economic
31 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or any project
32 located in the Atlantic City Tourism District as established pursuant
33 to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the
34 Casino Reinvestment Development Authority, and which will
35 include a retail facility of at least 150,000 square feet, of which at
36 least 50 percent will be occupied by either a full-service supermarket
37 or grocery store, 30 hours of employment per week at a qualified
38 business facility shall constitute one "full-time employee," regardless
39 of whether the hours of work were performed by one or more persons,
40 and the requirement that employee health benefits are to be provided
41 shall be deemed to be satisfied if the employees of the business are
42 covered by a collective bargaining agreement.

43 "Full-time employee" shall not include any person who works as
44 an independent contractor or on a consulting basis for the business.

45 Full-time employee shall also not include any person who at the
46 time of project application works in New Jersey for consideration for
47 at least 35 hours per week, or who renders any other standard of
48 service generally accepted by custom or practice as full-time

1 employment but who prior to project application was not provided,
2 by the business, with employee health benefits under a health benefits
3 plan authorized pursuant to State or federal law.

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

9 "Garden State Growth Zone" or "growth zone" means the four
10 New Jersey cities with the lowest median family income based on the
11 2009 American Community Survey from the US Census, (Table 708.
12 Household, Family, and Per Capita Income and Individuals, and
13 Families Below Poverty Level by City: 2009); a municipality which
14 contains a Tourism District as established pursuant to section 5 of
15 P.L.2011, c.18 (C.5:12-219) and regulated by the Casino
16 Reinvestment Development Authority; or an aviation district.

17 "Highlands development credit receiving area or redevelopment
18 area" means an area located within a qualified incentive area and
19 designated by the Highlands Water Protection and Planning Council
20 for the receipt of 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).

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

27 "Incentive effective date" means the date **【the authority issues a**
28 **tax credit based on】** a business submits the documentation
29 **【submitted by a business】** required pursuant to paragraph (1) of
30 subsection b. of section 6 of P.L.2011, c.149 (C.34:1B-247) in a form
31 satisfactory to the authority.

32 "Independent institution of higher education" means a college or
33 university incorporated and located in New Jersey, which by virtue
34 of law or character or license is a nonprofit educational institution
35 authorized to grant academic degrees and which provides a level of
36 education which is equivalent to the education provided by the State's
37 public institutions of higher education, as attested by the receipt of
38 and continuation of regional accreditation by the Middle States
39 Association of Colleges and Schools, and which is eligible to receive
40 State aid under the provisions of the Constitution of the United States
41 and the Constitution of the State of New Jersey, but does not include
42 any educational institution dedicated primarily to the education or
43 training of ministers, priests, rabbis or other professional persons in
44 the field of religion.

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

1 "Mega project" means:

2 a. a qualified business facility located in a port district housing
3 a business in the logistics, manufacturing, energy, defense, or
4 maritime industries, either:

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

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

10 b. a qualified business facility located in an aviation district
11 housing a business in the aviation industry, in a Garden State Growth
12 Zone, or in a priority area housing the United States headquarters and
13 related facilities of an automobile manufacturer, either:

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

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

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

23 d. a project located in an area designated in need of
24 redevelopment, pursuant to P.L.1992, c.79 (C.40A:12A-1 et al.) prior
25 to the enactment of P.L.2014, c.63 (C.34:1B-251 et al.) within
26 Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester,
27 Ocean, or Salem counties having a capital investment in excess of
28 \$20,000,000, and at which more than 150 full-time employees of the
29 business are created or retained; or

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

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

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

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

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

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

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

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

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

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

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

26 b. a 15-mile radius of the outermost boundary of each marine
27 terminal facility established, acquired, constructed, rehabilitated, or
28 improved by the South Jersey Port District established pursuant to
29 "The South Jersey Port Corporation Act," P.L.1968, c.60 (C.12:11A-
30 1 et seq.).

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

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

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

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

47 d. contain: a vacant commercial building having over 400,000
48 square feet of office, laboratory, or industrial space available for

1 occupancy for a period of over one year; or a site that has been
2 negatively impacted by the approval of a "qualified business
3 facility," as defined pursuant to section 2 of P.L.2007, c.346
4 (C.34:1B-208).

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

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

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

12 "Qualified business facility" means any building, complex of
13 buildings or structural components of buildings, and all machinery
14 and equipment located within a qualified incentive area, used in
15 connection with the operation of a business that is not engaged in
16 final point of sale retail business at that location unless the building,
17 complex of buildings or structural components of buildings, and all
18 machinery and equipment located within a qualified incentive area,
19 are used in connection with the operation of:

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

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

27 "Qualified incentive area" means:

28 a. an aviation district;

29 b. a port district;

30 c. a distressed municipality or urban transit hub municipality;

31 d. an area (1) designated pursuant to the "State Planning Act,"
32 P.L.1985, c.398 (C.52:18A-196 et seq.), as:

33 (a) Planning Area 1 (Metropolitan);

34 (b) Planning Area 2 (Suburban); or

35 (c) Planning Area 3 (Fringe Planning Area);

36 (2) located within a smart growth area and planning area
37 designated in a master plan adopted by the New Jersey Meadowlands
38 Commission pursuant to subsection (i) of section 6 of P.L.1968,
39 c.404 (C.13:17-6) or subject to a redevelopment plan adopted by the
40 New Jersey Meadowlands Commission pursuant to section 20 of
41 P.L.1968, c.404 (C.13:17-21);

42 (3) located within any land owned by the New Jersey Sports and
43 Exposition Authority, established pursuant to P.L.1971, c.137
44 (C.5:10-1 et seq.), within the boundaries of the Hackensack
45 Meadowlands District as delineated in section 4 of P.L.1968, c.404
46 (C.13:17-4);

47 (4) located within a regional growth area, rural development area
48 zoned for industrial use as of the effective date of P.L.2016, c.75,

1 town, village, or a military and federal installation area designated in
2 the comprehensive management plan prepared and adopted by the
3 Pinelands Commission pursuant to the "Pinelands Protection Act,"
4 P.L.1979, c.111 (C.13:18A-1 et seq.);

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

8 (6) located within a Garden State Growth Zone;

9 (7) located within land approved for closure under any federal
10 Commission on Base Realignment and Closure action; or

11 (8) located only within the following portions of the areas
12 designated pursuant to the "State Planning Act," P.L.1985, c.398
13 (C.52:18A-196 et seq.), as Planning Area 4A (Rural Planning Area),
14 Planning Area 4B (Rural/Environmentally Sensitive) or Planning
15 Area 5 (Environmentally Sensitive) if Planning Area 4A (Rural
16 Planning Area), Planning Area 4B (Rural/Environmentally Sensitive)
17 or Planning Area 5 (Environmentally Sensitive) is located within:

18 (a) a designated center under the State Development and
19 Redevelopment Plan;

20 (b) a designated growth center in an endorsed plan until the State
21 Planning Commission revises and readopts New Jersey's State
22 Strategic Plan and adopts regulations to revise this definition as it
23 pertains to Statewide planning areas;

24 (c) any area determined to be in need of redevelopment pursuant
25 to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and C.40A:12A-
26 6) or in need of rehabilitation pursuant to section 14 of P.L.1992, c.79
27 (C.40A:12A-14);

28 (d) any area on which a structure exists or previously existed
29 including any desired expansion of the footprint of the existing or
30 previously existing structure provided the expansion otherwise
31 complies with all applicable federal, State, county, and local permits
32 and approvals;

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

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

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

41 "Qualified incubator facility" means a commercial building
42 located within a qualified incentive area: which contains 50,000 or
43 more square feet of office, laboratory, or industrial space; which is
44 located near, and presents opportunities for collaboration with, a
45 research institution, teaching hospital, college, or university; and
46 within which, at least 50 percent of the gross leasable area is
47 restricted for use by one or more technology startup companies
48 during the commitment period.

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

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

23 "SDA municipality" means a municipality in which an SDA
24 district is situate.

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

27 "Targeted industry" means any industry identified from time to
28 time by the authority which shall initially include advanced
29 transportation and logistics, advanced manufacturing, aviation,
30 autonomous vehicle and zero-emission vehicle research or
31 development, clean energy, life sciences, hemp processing,
32 information and high technology, finance and insurance, professional
33 services, film and digital media, and non-retail food and beverage
34 businesses, including food innovation and other innovative industries
35 that disrupt current technologies or business models.

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

41 "Tourism destination project" means a qualified non-gaming
42 business facility that will be among the most visited privately owned
43 or operated tourism or recreation sites in the State, and which is
44 located within the qualified incentive area and has been determined
45 by the authority to be in an area appropriate for development and in
46 need of economic development incentive assistance, including a non-
47 gaming business within an established Tourism District with a
48 significant impact on the economic viability of that District.

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

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

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

19 (cf: P.L.2018, c.120, s.1)
20

21 121. Section 4 of P.L.2011, c.149 (C.34:1B-245) is amended to
22 read as follows:

23 4. The authority shall require an eligible business to enter into
24 an incentive agreement prior to the issuance of tax credits. The
25 incentive agreement shall include, but shall not be limited to, the
26 following:

27 a. A detailed description of the proposed project which will
28 result in job creation or retention, and the number of new or retained
29 full-time jobs that are approved for tax credits.

30 b. The eligibility period of the tax credits, including the first year
31 for which the tax credits may be claimed.

32 c. Personnel information that will enable the authority to
33 administer the program.

34 d. A requirement that the applicant maintain the project at a
35 location in New Jersey for the commitment period, with at least the
36 minimum number of full-time employees as required by this
37 program, except as otherwise agreed to pursuant to subsection h. of
38 section 6 of P.L.2011, c.159 (C.34:1B-247) and a provision to permit
39 the authority to recapture all or part of any tax credits awarded, at its
40 discretion, if the business does not remain in compliance with this
41 provision for the required term, and in the instance of the business
42 terminating an existing incentive agreement in order to participate in
43 an incentive agreement authorized pursuant to the "New Jersey
44 Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-
45 489p et al.), such permitted recapture may be calculated to recognize
46 the period of time that the business was in compliance prior to
47 termination.

1 e. A method for the business to certify that it has met the capital
2 investment and employment requirements of the program pursuant to
3 paragraph (1) of subsection a. of section 3 of P.L.2011, c.149
4 (C.34:1B-244) and to report annually to the authority the number of
5 full-time employees for which the tax credits are to be made.

6 f. A provision permitting an audit of the payroll records of the
7 business from time to time, as the authority deems necessary.

8 g. A provision which permits the authority to amend the
9 agreement.

10 h. A provision establishing the conditions under which the
11 agreement may be terminated.

12 (cf: P.L.2013, c.161, s.9)

13
14 122. Section 5 of P.L.2009, c.90 (C.52:27D-489e) is amended to
15 read as follows:

16 5. a. The New Jersey Economic Development Authority, in
17 consultation with the State Treasurer, shall establish an Economic
18 Redevelopment and Growth Grant program for the purpose of
19 encouraging redevelopment projects in qualifying economic
20 redevelopment and growth grant incentive areas that do not qualify
21 as such areas solely by virtue of being a transit village, through the
22 provision of incentive grants to reimburse developers for certain
23 project financing gap costs.

24 b. (1) A developer shall submit an application for a State
25 incentive grant prior to July 1, 2019, except: (a) a developer of a
26 qualified residential project or a mixed use parking project seeking
27 an award of credits toward the funding of its incentive grant for a
28 project restricted under category (viii) of subparagraph (b) of
29 paragraph (3) of subsection b. of section 6 of P.L.2009, c.90
30 (C.52:27D-489f) shall submit an incentive grant application prior to
31 December 31, 2021 and (b) a developer seeking an award of credits
32 toward the funding of its incentive grant under subparagraphs (f) and
33 (g) of paragraph (3) of subsection b. of section 6 of P.L.2009, c.90
34 (C.52:27D-489f) shall submit an incentive grant application prior to
35 December 31, 2021. A developer that submits an application for a
36 State incentive grant shall indicate on the application whether it is
37 also applying for a local incentive grant. Tax credits awarded to
38 developers who apply after the effective date of P.L. _____,
39 c. (C. _____)(pending before the Legislature as this bill) under
40 subparagraphs (f) and (g) of paragraph (3) of subsection b. of section
41 6 of P.L.2009, c.90 (C.52:27D-489f) shall not exceed \$200,000,000
42 subject to the limitations of subparagraphs (f) and (g) of that
43 paragraph.

44 (2) When an applicant indicates it is also applying for a local
45 incentive grant, the authority shall forward a copy of the application
46 to the municipality wherein the redevelopment project is to be located
47 for approval by municipal ordinance.

1 c. An application for a State incentive grant shall be reviewed
2 and approved by the authority. The authority shall not approve an
3 application for a State incentive grant unless the application was
4 submitted prior to July 1, 2019, except: (1) the authority shall not
5 approve an application for a State incentive grant by a developer of
6 a qualified residential project or a mixed use parking project seeking
7 an award of credits toward the funding of its incentive grant for a
8 project restricted under category (viii) of subparagraph (b) of
9 paragraph (3) of subsection b. of section 6 of P.L.2009, c.90
10 (C.52:27D-489f) unless the application was submitted prior to
11 December 31, 2021 and (2) the authority shall not approve an
12 application for a State incentive grant by a developer under
13 subparagraphs (f) and (g) of paragraph (3) of subsection b. of section
14 6 of P.L.2009, c.90 (C.52:27D-489f) unless the application was
15 submitted prior to December 31, 2021.

16 d. A developer shall not be required to purchase pinelands
17 development credits under the "Pinelands Protection Act," P.L.1979,
18 c.111 (C.13:18A-1 et seq.), the pinelands comprehensive
19 management plan, or any other rule or regulation adopted pursuant to
20 that act in connection with any approval or relief obtained related to
21 a redevelopment project located in an aviation district on or after the
22 effective date of P.L.2018, c.120, except if seeking to develop in
23 permanently protected open space pursuant to the Pinelands
24 Protection Act. The provisions of this subsection shall not apply to
25 a developer of a qualified residential project.
26 (cf: P.L.2018, c.120, s.6)

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

30 6. a. Up to the limits established in subsection b. of this section
31 and in accordance with a redevelopment incentive grant agreement,
32 beginning upon the receipt of occupancy permits for any portion of
33 the redevelopment project, or upon any other event evidencing
34 project completion as set forth in the incentive grant agreement, the
35 State Treasurer shall pay to the developer incremental State revenues
36 directly realized from businesses operating at the site of the
37 redevelopment project from the following taxes: the Corporation
38 Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), the
39 tax imposed on marine insurance companies pursuant to R.S.54:16-1
40 et seq., the tax imposed on insurers generally, pursuant to P.L.1945,
41 c.132 (C.54:18A-1 et seq.), the public utility franchise tax, public
42 utilities gross receipts tax and public utility excise tax imposed on
43 sewerage and water corporations pursuant to P.L.1940, c.5
44 (C.54:30A-49 et seq.), those tariffs and charges imposed by electric,
45 natural gas, telecommunications, water and sewage utilities, and
46 cable television companies under the jurisdiction of the New Jersey
47 Board of Public Utilities, or comparable entity, except for those
48 tariffs, fees, or taxes related to societal benefits charges assessed

1 pursuant to section 12 of P.L.1999, c.23 (C.48:3-60), any charges
2 paid for compliance with the "Global Warming Response Act,"
3 P.L.2007, c.112 (C.26:2C-37 et seq.), transitional energy facility
4 assessment unit taxes paid pursuant to section 67 of P.L.1997, c.162
5 (C.48:2-21.34), and the sales and use taxes on public utility and cable
6 television services and commodities, the tax derived from net profits
7 from business, a distributive share of partnership income, or a pro
8 rata share of S corporation income under the "New Jersey Gross
9 Income Tax Act," N.J.S.54A:1-1 et seq., the tax derived from a
10 business at the site of a redevelopment project that is required to
11 collect the tax pursuant to the "Sales and Use Tax Act," P.L.1966,
12 c.30 (C.54:32B-1 et seq.), the tax imposed pursuant to P.L.1966, c.30
13 (C.54:32B-1 et seq.) from the purchase of furniture, fixtures and
14 equipment, or materials for the remediation, the construction of new
15 structures at the site of a redevelopment project, the hotel and motel
16 occupancy fee imposed pursuant to section 1 of P.L.2003, c.114
17 (C.54:32D-1), or the portion of the fee imposed pursuant to section 3
18 of P.L.1968, c.49 (C.46:15-7) derived from the sale of real property
19 at the site of the redevelopment project and paid to the State Treasurer
20 for use by the State, that is not credited to the "Shore Protection
21 Fund" or the "Neighborhood Preservation Nonlapsing Revolving
22 Fund" ("New Jersey Affordable Housing Trust Fund") pursuant to
23 section 4 of P.L.1968, c.49 (C.46:15-8). Any developer shall be
24 allowed to assign their ability to apply for the tax credit under this
25 subsection to a non-profit organization with a mission dedicated to
26 attracting investment and completing development and
27 redevelopment projects in a Garden State Growth Zone. The non-
28 profit organization may make an application on behalf of a developer
29 which meets the requirements for the tax credit, or a group of non-
30 qualifying developers, such that these will be considered a unified
31 project for the purposes of the incentives provided under this section.

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

36 (2) In the case of a qualified residential project or a project
37 involving university infrastructure, if the authority determines that
38 the estimated amount of incremental revenues pledged towards the
39 State portion of an incentive grant is inadequate to fully fund the
40 amount of the State portion of the incentive grant, then in lieu of an
41 incentive grant based on the incremental revenues, the developer
42 shall be awarded tax credits equal to the full amount of the incentive
43 grant.

44 (3) In the case of a mixed use parking project, if the authority
45 determines that the estimated amount of incremental revenues
46 pledged towards the State portion of an incentive grant is inadequate
47 to fully fund the amount of the State portion of the incentive grant,
48 then, in lieu of an incentive grant based on the incremental revenues,

1 the developer shall be awarded tax credits equal to the full amount of
2 the incentive grant.

3 The value of all credits approved by the authority pursuant to
4 paragraphs (2) and (3) of this subsection shall not exceed
5 **【\$823,000,000】** \$1,043,000,000, of which:

6 (a) \$250,000,000 shall be restricted to qualified residential
7 projects within Atlantic, Burlington, Camden, Cape May,
8 Cumberland, Gloucester, Ocean, and Salem counties, of which
9 \$175,000,000 of the credits shall be restricted to the following
10 categories of projects: (i) qualified residential projects located in a
11 Garden State Growth Zone located within the aforementioned
12 counties; and (ii) mixed use parking projects located in a Garden
13 State Growth Zone or urban transit hub located within the
14 aforementioned counties; (iii) and \$75,000,000 of the credits shall be
15 restricted to qualified residential projects in municipalities with a
16 2007 Municipal Revitalization Index of 400 or higher as of the date
17 of enactment of the "New Jersey Economic Opportunity Act of
18 2013," P.L.2013, c.161 (C.52:27D-489p et al.) and located within the
19 aforementioned counties;

20 (b) \$395,000,000 shall be restricted to the following categories of
21 projects: (i) qualified residential projects located in urban transit hubs
22 that are commuter rail in nature that otherwise do not qualify under
23 subparagraph (a) of this paragraph; (ii) qualified residential projects
24 located in Garden State Growth Zones that do not qualify under
25 subparagraph (a) of this paragraph; (iii) mixed use parking projects
26 located in urban transit hubs or Garden State Growth Zones that do
27 not qualify under subparagraph (a) of this paragraph, provided
28 however, an urban transit hub shall be allocated no more than
29 \$25,000,000 for mixed use parking projects; (iv) qualified residential
30 projects which are disaster recovery projects that otherwise do not
31 qualify under subparagraph (a) of this paragraph; (v) qualified
32 residential projects in SDA municipalities located in Hudson County
33 that were awarded State Aid in State Fiscal Year 2013 through the
34 Transitional Aid to Localities program and otherwise do not qualify
35 under subparagraph (a) of this paragraph; (vi) \$25,000,000 of credits
36 shall be restricted to mixed use parking projects in Garden State
37 Growth Zones which have a population in excess of 125,000 and do
38 not qualify under subparagraph (a) of this paragraph; (vii)
39 \$40,000,000 of credits shall be restricted to qualified residential
40 projects that include a theater venue for the performing arts and do
41 not qualify under subparagraph (a) of this paragraph, which projects
42 are located in a municipality with a population of less than 100,000
43 according to the latest federal decennial census, and within which
44 municipality is located an urban transit hub and a campus of a public
45 research university, as defined in section 1 of P.L.2009, c.308
46 (C.18A:3B-46); and (viii) **【\$105,000,000】** \$125,000,000 of credits
47 shall be restricted to qualified residential projects and mixed use
48 parking projects in Garden State Growth Zones having a population

1 in excess of 125,000 and do not qualify under subparagraph (a) of
2 this paragraph;

3 (c) \$87,000,000 shall be restricted to the following categories of
4 projects: (i) qualified residential projects located in distressed
5 municipalities, deep poverty pockets, highlands development credit
6 receiving areas or redevelopment areas, otherwise not qualifying
7 pursuant to subparagraph (a) or (b) of this paragraph; and (ii) mixed
8 use parking projects that do not qualify under subparagraph (a) or (b)
9 of this paragraph, and which are used by an independent institution
10 of higher education, a school of medicine, a nonprofit hospital
11 system, or any combination thereof; provided, however, that
12 \$20,000,000 of the \$87,000,000 shall be allocated to mixed use
13 parking projects that do not qualify under subparagraph (a) or (b) of
14 this paragraph;

15 (d) (i) \$16,000,000 shall be restricted to qualified residential
16 projects that are located within a qualifying economic redevelopment
17 and growth grant incentive area otherwise not qualifying under
18 subparagraph (a), (b), or (c) of this paragraph; and

19 (ii) an additional \$50,000,000 shall be restricted to qualified
20 residential projects which, as of the effective date of P.L.2016, c.51,
21 are located in a city of the first class with a population in excess of
22 270,000, are subject to a Renewal Contract for a Section 8 Mark-Up-
23 To-Market Project from the United States Department of Housing
24 and Urban Development, and for which an application for the award
25 of tax credits under this subsection was submitted prior to January 1,
26 2016; **【and】**

27 (e) \$25,000,000 shall be restricted to projects involving university
28 infrastructure;

29 (f) \$150,000,000 shall be restricted to applications submitted after
30 the effective date of P.L. , c. (C.)(pending before the
31 Legislature as this bill) for projects which are predominantly
32 commercial and contain 100,000 or more square feet of office and
33 retail space, or industrial space for purchase or lease and may include
34 a parking component; and

35 (g) \$50,000,000 shall be restricted to applications submitted after
36 the effective date of P.L. , c. (C.)(pending before the
37 Legislature as this bill) for residential projects in any county of the
38 State.

39 **【(f)】(h)** For subparagraphs (a) through (d) of this paragraph, not
40 more than \$40,000,000 of credits shall be awarded to any qualified
41 residential project in a deep poverty pocket or distressed municipality
42 and not more than \$20,000,000 of credits shall be awarded to any
43 other qualified residential project. The developer of a qualified
44 residential project seeking an award of credits towards the funding of
45 its incentive grant shall submit an incentive grant application prior to
46 July 1, 2016 and if approved after September 18, 2013, the effective
47 date of P.L.2013, c.161 (C.52:27D-489p et al.) shall submit a
48 temporary certificate of occupancy for the project no later than **【July**

1 28, 2021】 December 31, 2023. The developer of a mixed use parking
2 project seeking an award of credits towards the funding of its
3 incentive grant pursuant to subparagraph (c) of this paragraph and if
4 approved after the effective date of P.L.2015, c.217, shall submit a
5 temporary certificate of occupancy for the project no later than 【July
6 28, 2021】 December 31, 2023. The developer of a qualified
7 residential project or a mixed use parking project seeking an award
8 of credits toward the funding of its incentive grant for a project
9 restricted under categories (vi) and (viii) of subparagraph (b) of this
10 paragraph shall submit an incentive grant application prior to July 1,
11 2019 or, in the case of a project restricted under category (viii) of
12 subparagraph (b) of this paragraph, December 31, 2021, and if
13 approved after the effective date of P.L.2017, c.59, shall submit a
14 temporary certificate of occupancy for the project no later than 【July
15 28, 2022】 December 31, 2023 provided that the municipality in
16 which the project is located shall have submitted to the chief
17 executive officer of the authority a letter of support identifying up to
18 six projects prior to July 1, 2018. The letter of support is to contain a
19 project scope for each of the projects and may be supplemented or
20 amended from time to time until July 1, 2019 or, in the case of a
21 project restricted under category (viii) of subparagraph (b) of this
22 paragraph, December 31, 2021. Applications for tax credits pursuant
23 to this subsection relating to an ancillary infrastructure project or
24 infrastructure improvement in the public right-of-way, or both, shall
25 be accompanied with a letter of support relating to the project or
26 improvement by the governing body or agency in which the project
27 is located. Credits awarded to a developer pursuant to this subsection
28 shall be subject to the same financial and related analysis by the
29 authority, the same term of the grant, and the same mechanism for
30 administering the credits, and shall be utilized or transferred by the
31 developer as if the credits had been awarded to the developer
32 pursuant to section 35 of P.L.2009, c.90 (C.34:1B-209.3) for
33 qualified residential projects thereunder. No portion of the revenues
34 pledged pursuant to the "New Jersey Economic Opportunity Act of
35 2013," P.L.2013, c.161 (C.52:27D-489p et al.) shall be subject to
36 withholding or retainage for adjustment, in the event the developer
37 or taxpayer waives its rights to claim a refund thereof.

38 (i) The developer of a project seeking an award of credits for a
39 project restricted under subparagraphs (f) and (g) of this paragraph
40 shall submit an incentive grant application prior to December 31,
41 2021, and if approved after the effective date of P.L. _____,
42 c. (C. _____)(pending before the Legislature as this bill), shall submit
43 a temporary certificate of occupancy for the project no later than
44 December 31, 2024. In addition to the requirements for an award of
45 credits set forth in P.L.2009, c.90 (C.52:27D-489a et al.), a developer
46 shall be eligible to receive an award of credits for a project restricted
47 under subparagraphs (f) and (g) of this paragraph only if the

1 developer demonstrates to the authority at that time of application
2 that: (i) the project shall comply with minimum environmental and
3 sustainability standards; (ii) the project shall comply with the
4 authority's affirmative action requirements, adopted pursuant to
5 section 4 of P.L.1979, c.303 (C.34:1B-5.4); (iii) each worker
6 employed by the developer or subcontractor of a developer working
7 at the project shall be paid not less than \$15 per hour or 120 percent
8 of the minimum wage fixed under subsection a. of section 5 of
9 P.L.1966, c.113 (C.34:11-56a4), whichever is higher; and (iv) during
10 the eligibility period, each worker employed to perform construction
11 work or building services work at the project shall be paid not less
12 than the prevailing wage rate for the worker's craft or trade, as
13 determined by the Commissioner of Labor and Workforce
14 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and
15 P.L.2005, c.379 (C.34:11-56.58 et seq.).

16 Prior to the board considering an application submitted by a
17 developer for a project restricted under subparagraphs (f) and (g) of
18 this paragraph, the Department of Labor and Workforce
19 Development, the Department of Environmental Protection, and the
20 Department of the Treasury shall each report to the chief executive
21 officer of the authority whether the developer is in substantial good
22 standing with the respective department, or has entered into an
23 agreement with the respective department that includes a practical
24 corrective action plan for the developer. The developer, or an
25 authorized agent of the developer, shall certify to the authority that
26 all factual assertions made in the developer's application are true
27 under the penalty of perjury. If at any time the authority determines
28 that the developer made a material misrepresentation on the
29 developer's application, the developer shall forfeit the award of
30 credits and the authority shall recapture any tax credits awarded to
31 the developer.

32 (4) A developer may apply to the Director of the Division of
33 Taxation in the Department of the Treasury and the chief executive
34 officer of the authority for a tax credit transfer certificate, if the
35 developer is awarded a tax credit pursuant to paragraph (2) or
36 paragraph (3) of this subsection, covering one or more years, in lieu
37 of the developer being allowed any amount of the credit against the
38 tax liability of the developer. The tax credit transfer certificate, upon
39 receipt thereof by the developer from the director and the chief
40 executive officer of the authority, may be sold or assigned, in full or
41 in part, to any other person who may have a tax liability pursuant to
42 section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of
43 P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of
44 P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The certificate
45 provided to the developer shall include a statement waiving the
46 developer's right to claim that amount of the credit against the taxes
47 that the developer has elected to sell or assign. The sale or assignment
48 of any amount of a tax credit transfer certificate allowed under this

1 paragraph shall not be exchanged for consideration received by the
2 developer of less than 75 percent of the transferred credit amount
3 before considering any further discounting to present value that may
4 be permitted. Any amount of a tax credit transfer certificate used by
5 a purchaser or assignee against a tax liability shall be subject to the
6 same limitations and conditions that apply to the use of the credit by
7 the developer who originally applied for and was allowed the credit.

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

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

16 e. The municipality is authorized to collect any information
17 necessary to facilitate grants under this program and remit that
18 information in order to assist in the calculation of incremental
19 revenue.

20 (cf: P.L.2018, c.44, s.2)

21
22 124. Section 8 of P.L.2009, c.90 (C.52:27D-489h) is amended to
23 read as follows:

24 8. a. (1) The authority, in consultation with the State Treasurer,
25 shall promulgate an incentive grant application form and procedure
26 for the Economic Redevelopment and Growth Grant program.

27 (2) (a) The Local Finance Board, in consultation with the
28 authority, shall develop a minimum standard incentive grant
29 application form for municipal Economic Redevelopment and
30 Growth Grant programs.

31 (b) Through regulation, the authority shall establish standards for
32 redevelopment projects seeking State or local incentive grants based
33 on the green building manual prepared by the Commissioner of
34 Community Affairs pursuant to section 1 of P.L.2007, c.132
35 (C.52:27D-130.6), regarding the use of renewable energy, energy-
36 efficient technology, and non-renewable resources in order to reduce
37 environmental degradation and encourage long-term cost reduction.

38 b. Within each incentive grant application, a developer shall
39 certify information concerning:

40 (1) the status of control of the entire redevelopment project site;

41 (2) all required State and federal government permits that have
42 been issued for the redevelopment project, or will be issued pending
43 resolution of financing issues;

44 (3) local planning and zoning board approvals, as required, for
45 the redevelopment project;

46 (4) estimates of the revenue increment base, the eligible revenues
47 for the project, and the assumptions upon which those estimates are
48 made.

1 c. (1) With regard to State tax revenues proposed to be pledged
2 for an incentive grant the authority and the State Treasurer shall
3 review the project costs, evaluate and validate the project financing
4 gap estimated by the developer, and conduct a State fiscal impact
5 analysis to ensure that the overall public assistance provided to the
6 project, except with regards to a qualified residential project, a mixed
7 use parking project, or a project involving university infrastructure,
8 will result in net benefits to the State including, without limitation,
9 both direct and indirect economic benefits and non-financial
10 community revitalization objectives, including but not limited to, the
11 promotion of the use of public transportation in the case of the
12 ancillary infrastructure project portion of any transit project.

13 (2) With regard to local incremental revenues proposed to be
14 pledged for an incentive grant the authority and the Local Finance
15 Board shall review the project costs, and except with respect to an
16 application by a municipal redeveloper, evaluate and validate the
17 project financing gap projected by the developer, and conduct a local
18 fiscal impact analysis to ensure that the overall public assistance
19 provided to the project, except with regards to a qualified residential
20 project, a mixed use parking project, or a project involving university
21 infrastructure, will result in net benefits to the municipality wherein
22 the redevelopment project is located including, without limitation,
23 both direct and indirect economic benefits and non-financial
24 community revitalization objectives, including but not limited to, the
25 promotion of the use of public transportation in the case of the
26 ancillary infrastructure project portion of any transit project.

27 (3) The authority, State Treasurer, and Local Finance Board may
28 act cooperatively to administer and review applications, and shall
29 consult with the Office of State Planning on matters concerning State,
30 regional, and local development and planning strategies.

31 (4) The costs of the aforementioned reviews shall be assessed to
32 the applicant as an application fee, except for applications submitted
33 on or after January 1, 2018, but before June 30, 2018, which are
34 amended after the effective date of P.L. , c. (C.) (pending
35 before the Legislature as this bill), the authority may waive fees.

36 (5) A developer who has already applied for an incentive grant
37 award prior to the effective date of the "New Jersey Economic
38 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.),
39 but who has not yet been approved for the grant, or has not executed
40 an agreement with the authority, may proceed under that application
41 or seek to amend the application or reapply for an incentive grant
42 award for the same project or any part thereof for the purpose of
43 availing himself or herself of any more favorable provisions of the
44 Economic Redevelopment and Growth Grant program established
45 pursuant to the "New Jersey Economic Opportunity Act of 2013,"
46 P.L.2013, c.161 (C.52:27D-489p et al.), except that projects with
47 costs exceeding \$200,000,000 shall not be eligible for revised

1 percentage caps under subsection d. of section 19 of P.L.2013, c.161
2 (C.52:27D-489i).
3 (cf: P.L.2015, c.242, s.3)
4

5 125. R.S.54:50-8 is amended to read as follows:

6 54:50-8. a. The records and files of the director respecting the
7 administration of the State Uniform Tax Procedure Law or of any
8 State tax law shall be considered confidential and privileged and
9 neither the director nor any employee engaged in the administration
10 thereof or charged with the custody of any such records or files, nor
11 any former officer or employee, nor any person who may have
12 secured information therefrom under subsection d., e., f., g., p., **[or]**
13 q., or r. of R.S.54:50-9 or any other provision of State law, shall
14 divulge, disclose, use for their own personal advantage, or examine
15 for any reason other than a reason necessitated by the performance of
16 official duties any information obtained from the said records or files
17 or from any examination or inspection of the premises or property of
18 any person. Neither the director nor any employee engaged in such
19 administration or charged with the custody of any such records or
20 files shall be required to produce any of them for the inspection of
21 any person or for use in any action or proceeding except when the
22 records or files or the facts shown thereby are directly involved in an
23 action or proceeding under the provisions of the State Uniform Tax
24 Procedure Law or of the State tax law affected, or where the
25 determination of the action or proceeding will affect the validity or
26 amount of the claim of the State under some State tax law, or in any
27 lawful proceeding for the investigation and prosecution of any
28 violation of the criminal provisions of the State Uniform Tax
29 Procedure Law or of any State tax law.

30 b. The prohibitions of this section, against unauthorized
31 disclosure, use or examination by any present or former officer or
32 employee of this State or any other individual having custody of such
33 information obtained pursuant to the explicit authority of State law,
34 shall specifically include, without limitation, violations involving the
35 divulgence or examination of any information from or any copy of a
36 federal return or federal return information required by New Jersey
37 law to be attached to or included in any New Jersey return. Any
38 person violating this section by divulging, disclosing or using
39 information shall be guilty of a crime of the fourth degree. Any
40 person violating this section by examining records or files for any
41 reason other than a reason necessitated by the performance of official
42 duties shall be guilty of a disorderly persons offense.

43 c. Whenever records and files are used in connection with the
44 prosecution of any person for violating the provisions of this section
45 by divulging, disclosing or using records or files or examining
46 records and files for any reason other than a reason necessitated by
47 the performance of official duties, the defendant shall be given access
48 to those records and files. The court shall review such records and

1 files in camera, and that portion of the court record containing the
2 records and files shall be sealed by the court.

3 (cf: P.L.2019, c.367, s.1)

4
5 126. R.S.54:50-9 is amended to read as follows:

6 54:50-9. Nothing herein contained shall be construed to prevent:

7 a. The delivery to a taxpayer or the taxpayer's duly authorized
8 representative of a copy of any report or any other paper filed by the
9 taxpayer pursuant to the provisions of this subtitle or of any such
10 State tax law;

11 b. The publication of statistics so classified as to prevent the
12 identification of a particular report and the items thereof;

13 c. The director, in the director's discretion and subject to
14 reasonable conditions imposed by the director, from disclosing the
15 name and address of any licensee under any State tax law, unless
16 expressly prohibited by such State tax law;

17 d. The inspection by the Attorney General or other legal
18 representative of this State of the reports or files relating to the claim
19 of any taxpayer who shall bring an action to review or set aside any
20 tax imposed under any State tax law or against whom an action or
21 proceeding has been instituted in accordance with the provisions
22 thereof;

23 e. The examination of said records and files by the Comptroller,
24 State Auditor or State Commissioner of Finance, or by their
25 respective duly authorized agents;

26 f. The furnishing, at the discretion of the director, of any
27 information contained in tax reports or returns or any audit thereof or
28 the report of any investigation made with respect thereto, filed
29 pursuant to the tax laws, to the taxing officials of any other state, the
30 District of Columbia, the United States and the territories thereof,
31 providing said jurisdictions grant like privileges to this State and
32 providing such information is to be used for tax purposes only;

33 g. The furnishing, at the discretion of the director, of any
34 material information disclosed by the records or files to any law
35 enforcing authority of this State who shall be charged with the
36 investigation or prosecution of any violation of the criminal
37 provisions of this subtitle or of any State tax law;

38 h. The furnishing by the director to the State agency responsible
39 for administering the Child Support Enforcement program pursuant
40 to Title IV-D of the federal Social Security Act, Pub.L.93-647 (42
41 U.S.C. s.651 et seq.), with the names, home addresses, social security
42 numbers and sources of income and assets of all absent parents who
43 are certified by that agency as being required to pay child support,
44 upon request by the State agency and pursuant to procedures and in
45 a form prescribed by the director;

46 i. The furnishing by the director to the Board of Public Utilities
47 any information contained in tax information statements, reports or
48 returns or any audit thereof or a report of any investigation made with

- 1 respect thereto, as may be necessary for the administration of
2 P.L.1991, c.184 (C.54:30A-18.6 et al.) and P.L.1997, c.162
3 (C.54:10A-5.25 et al.);
- 4 j. The furnishing by the director to the Director of the Division
5 of Alcoholic Beverage Control in the Department of Law and Public
6 Safety any information contained in tax information statements,
7 reports or returns or any audit thereof or a report of any investigation
8 made with respect thereto, as may be relevant, in the discretion of the
9 director, in any proceeding conducted for the issuance, suspension or
10 revocation of any license authorized pursuant to Title 33 of the
11 Revised Statutes;
- 12 k. The inspection by the Attorney General or other legal
13 representative of this State of the reports or files of any tobacco
14 product manufacturer, as defined in section 2 of P.L.1999, c.148
15 (C.52:4D-2), for any period in which that tobacco product
16 manufacturer was not or is not in compliance with subsection a. of
17 section 3 of P.L.1999, c.148 (C.52:4D-3), or of any licensed
18 distributor as defined in section 102 of P.L.1948, c.65 (C.54:40A-2),
19 for the purpose of facilitating the administration of the provisions of
20 P.L.1999, c.148 (C.52:4D-1 et seq.);
- 21 l. The furnishing, at the discretion of the director, of
22 information as to whether a contractor or subcontractor holds a valid
23 business registration as defined in section 1 of P.L.2001, c.134
24 (C.52:32-44);
- 25 m. The furnishing by the director to a State agency as defined in
26 section 1 of P.L.1995, c.158 (C.54:50-24) the names of licensees
27 subject to suspension for non-payment of State tax indebtedness
28 pursuant to P.L.2004, c.58 (C.54:50-26.1 et al.);
- 29 n. The release to the United States Department of the Treasury,
30 Bureau of Financial Management Service, or its successor of relevant
31 taxpayer information for purposes of implementing a reciprocal
32 collection and offset of indebtedness agreement entered into between
33 the State of New Jersey and the federal government pursuant to
34 section 1 of P.L.2006, c.32 (C.54:49-12.7);
- 35 o. The examination of said records and files by the
36 Commissioner of Health and Senior Services, the Commissioner of
37 Human Services, the Medicaid Inspector General, or their respective
38 duly authorized agents, pursuant to section 5 of P.L.2007, c.217
39 (C.26:2H-18.60e), section 3 of P.L.1968, c.413 (C.30:4D-3), or
40 section 5 of P.L.2005, c.156 (C.30:4J-12);
- 41 p. The furnishing at the discretion of the director of employer
42 provided wage and tax withholding information contained in tax
43 reports or returns filed pursuant to N.J.S.54A:7-2, 54A:7-4 and
44 54A:7-7, to the designated municipal officer of a municipality
45 authorized to impose an employer payroll tax pursuant to the
46 provisions of Article 5 (Employer Payroll Tax) of the "Local Tax
47 Authorization Act," P.L.1970, c.326 (C.40:48C-14 et seq.), for the

1 limited purpose of verifying the payroll information reported by
2 employers subject to the employer payroll tax;

3 q. The furnishing by the director to the Commissioner of Labor
4 and Workforce Development of any information, including, but not
5 limited to, tax information statements, reports, audit files, returns, or
6 reports of any investigation for the purpose of labor market research
7 or assisting in investigations pursuant to any State wage, benefit or
8 tax law as enumerated in section 1 of P.L.2009, c.194 (C.34:1A-
9 1.11); or pursuant to P.L.1940, c.153 (C.34:2-21.1 et seq.).

10 r. The furnishing by the director to the New Jersey Economic
11 Development Authority any information contained in tax information
12 statements, reports or returns, or any audit thereof or a report of any
13 investigation made with respect thereto, as may be relevant to assist
14 the authority in the implementation of programs through which
15 grants, loans, tax credits, or other forms of financial assistance are
16 provided. The director shall provide to the New Jersey Economic
17 Development Authority, upon request, such information.

18
19 127. There is appropriated from the General Fund:

20 a. to the Main Street Recovery Fund, the sum of \$50,000,000 to
21 implement the provisions of sections 82 through 88 of P.L. ,

22 c. (C.) (pending before the Legislature as this bill)

23 b. to the Economic Development Authority, the sum of \$250,000
24 to implement the provisions of sections 99 through 105 of P.L. ,

25 c. (C.) (pending before the Legislature as this bill);

26 c. to the Economic Development Authority, the sum of \$250,000
27 to implement the provisions of sections 92 through 97 of P.L. ,

28 c. (C.) (pending before the Legislature as this bill); and

29 d. to the Economic Development Authority, the sum of
30 \$5,000,000 to be used to award competitive grants for zoning and
31 economic planning services in government-restricted municipalities
32 or economic redevelopment plans for distressed assets in other
33 municipalities.

34
35 128. This act shall take effect immediately.

36
37
38 STATEMENT

39
40 This bill, named the "New Jersey Economic Recovery Act of
41 2020" provides for administration of programs and policies related
42 to jobs, property development, food deserts, community partnerships,
43 small and early stage businesses, State procurement, wind energy,
44 and film production.

45 Sections 2-8 of the bill is the "Historic Property Reinvestment
46 Act" providing tax credits for part of the cost of rehabilitating historic
47 properties in this State.

1 Sections 9-19 of the bill is the “Brownfields Redevelopment
2 Incentive Program Act” providing tax credits to compensate
3 developers of redevelopment projects located on brownfield sites for
4 remediation costs.

5 Section 20-34 of the bill is the "New Jersey Innovation Evergreen
6 Act" auctioning tax credits for cash, which will be used to invest in
7 innovation as a catalyst for economic growth and to advance the
8 competitiveness of the State’s businesses in the global economy.

9 Sections 35-42 of the bill is the “Food Desert Relief Act”
10 providing tax credits in order to incentivize businesses to establish
11 and retain new supermarkets and grocery stores in food desert
12 communities.

13 Sections 43-53 is the "New Jersey Community-Anchored
14 Development Act" providing tax credits to anchor institutions to
15 incentivize the expansion of targeted industries in the State and the
16 continued development of certain areas of the State.

17 Sections 54-67 is the "New Jersey Aspire Program Act" providing
18 tax credits to encourage redevelopment projects by covering certain
19 project financing gap costs.

20 Sections 68-81 is the “Emerge Program Act” providing tax credits
21 to encourage economic development, job creation, and the retention
22 of significant numbers of jobs in imminent danger of leaving the
23 State.

24 Sections 82-88 is the "Main Street Recovery Finance Program
25 Act" providing grants, loans, and loan guarantees to small businesses.

26 Sections 92-97 is the "New Jersey Ignite Act" a public-private
27 partnership providing start-up rent grants to collaborative
28 workspaces to support the early months of an early stage innovation
29 economy business’s rent at the collaborative workspace.

30 Section 99-105 is the “Economic Development Authority
31 Integrity and Protection Act" to create an Office of the Economic
32 Development Inspector General, which will operate independent of
33 the oversight or management of the of the EDA, and to require
34 employment of Chief Compliance Officer to manage the Division of
35 Portfolio Management and Compliance in the EDA.

36 Sections 106-107 allow tax credits for new hires involved in the
37 manufacture of personal protective.

38 Sections 108-124 amend existing tax credit programs and
39 requirements.