

# ASSEMBLY, No. 2693

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

**Sponsored by:**

**Assemblyman VINCENT MAZZEO**

**District 2 (Atlantic)**

**Assemblyman RONALD S. DANCER**

**District 12 (Burlington, Middlesex, Monmouth and Ocean)**

**Co-Sponsored by:**

**Assemblyman Armato**

**SYNOPSIS**

Establishes loan program and provides corporation business tax and gross income tax credits for establishment of new vineyards and wineries.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 2/24/2020)

1 AN ACT concerning vineyards and wineries and supplementing  
2 P.L.1974, c.80 (C.34:1B-1 et seq.), P.L.1945, c.162 (C.54:10A-1  
3 et seq.), and Title 54A of the New Jersey Statutes.

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

7  
8 1. a. The New Jersey Economic Development Authority, in  
9 consultation with the Department of Agriculture, shall develop a  
10 10-year pilot program to provide low interest loans to farmers for  
11 qualified costs associated with the installation of new vineyards in  
12 eligible counties. The purpose of the pilot program shall be to  
13 increase the acreage of commercial vineyards in those counties.

14 b. A person seeking to obtain a loan pursuant to this section  
15 shall apply to the authority, in a form and manner as determined by  
16 the authority, and shall include such information as the authority  
17 deems relevant. The authority shall review a completed application  
18 and approve the application within 30 days if it meets the  
19 requirements established by the authority pursuant to subsection f.  
20 of this section.

21 c. A loan made pursuant to this section may include up to 100  
22 percent of an applicant's qualified costs, shall bear interest of not  
23 more than five percent per year, and shall be for a term of not more  
24 than 10 years. The loan shall be made pursuant to a loan agreement  
25 with the authority, which shall contain terms and conditions deemed  
26 appropriate by the authority. No loan shall be made after expiration  
27 of the pilot program.

28 d. The authority may, in its discretion, require a person that  
29 receives a loan pursuant to this section to submit an audited  
30 financial statement to the authority in order to ensure the continued  
31 viability of the person's farming operation.

32 e. The authority may, either through the adoption of rules and  
33 regulations, or through the terms and conditions of the loan  
34 agreement made pursuant to subsection c. of this section, establish  
35 terms and conditions governing the incidence of default by a person  
36 that receives a loan under the pilot program.

37 f. The authority, in cooperation with the department, shall  
38 submit to the Governor and, pursuant to section 2 of P.L.1991,  
39 c.164 (C.52:14-19.1), the Legislature, annually until expiration of  
40 the pilot program, a report summarizing each loan made pursuant to  
41 this section, and detailing the effectiveness of the pilot program in  
42 increasing the acreage of commercial vineyards in eligible counties.

43 g. The authority, in consultation with the department, shall  
44 adopt, pursuant to the "Administrative Procedure Act," P.L.1968,  
45 c.410 (C.52:14B-1 et seq.), rules and regulations necessary to  
46 effectuate the purposes of this section, including, but not limited to,  
47 criteria and procedures for the awarding of loans pursuant to this  
48 section and a list of qualified costs.

1 h. As used in this section:

2 “Authority” means the New Jersey Economic Development  
3 Authority created pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.).

4 “Department” means the Department of Agriculture.

5 “Eligible county” means a county classified as a county of the  
6 fifth class pursuant to section N.J.S.40A:6-1, and that contains at  
7 least three wineries.

8 “Qualified cost” means the cost of preparing land for plant  
9 installation, purchasing vines and trees, and purchasing equipment  
10 and supplies for those purposes, as determined by the authority  
11 pursuant to subsection g. of this section. “Qualified cost” shall not  
12 include the cost of tractors, pick-up trucks, or wine-making  
13 equipment.

14 “Vineyard” means agricultural lands consisting of at least one  
15 contiguous acre dedicated to the growing of grapes that are used or  
16 are intended to be used in the production of wine by a winery in the  
17 State, as well as any plants or other improvements located thereon.

18 “Winery” means a commercial farm where the owner or operator  
19 of the commercial farm has been issued and is operating in  
20 compliance with a plenary winery license or farm winery license  
21 pursuant to R.S.33:1-10.

22

23 2. a. For privilege periods beginning on or after January 1,  
24 2017, but before January 1, 2027, a taxpayer shall be allowed a  
25 credit against the tax imposed pursuant to section 5 of P.L.1945,  
26 c.162 (C.54:10A-5), in an amount equal to 25 percent of the  
27 qualified capital expenses, as certified by the Department of  
28 Agriculture pursuant to subsection b. of this section, incurred by the  
29 taxpayer in connection with:

30 (1) the establishment of a new vineyard or winery in an eligible  
31 county; or

32 (2) capital improvements made to an existing vineyard or  
33 winery in an eligible county.

34 b. To obtain a tax credit pursuant to this section, a taxpayer  
35 shall apply for a certification from the department that certifies: (1)  
36 that the taxpayer’s expenses are qualified capital expenses pursuant  
37 to this section; and (2) the amount of the tax credit. The application  
38 shall be made in a form and manner as determined by the  
39 department, and include such information as the department deems  
40 relevant. Upon certification, the Secretary of Agriculture shall  
41 submit a copy thereof to the taxpayer and the director. When filing  
42 a tax return that includes a claim for a credit pursuant to this  
43 section, the taxpayer shall include a copy of the certification issued  
44 by the secretary.

45 c. The order of priority of the application of the credit allowed  
46 pursuant to this section and any other credits allowed against the tax  
47 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for  
48 a privilege period shall be as prescribed by the director. The

1 amount of the credit applied pursuant to this section against the tax  
2 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),  
3 shall not reduce a taxpayer's tax liability for a privilege period to an  
4 amount less than the statutory minimum provided in subsection (e)  
5 of section 5 of P.L.1945, c.162 (C.54:10A-5). Any credit shall be  
6 valid in the privilege period in which the certification is approved  
7 and any unused portion thereof may be carried forward into the next  
8 15 privilege periods or until depleted, whichever is earlier.

9 d. The secretary, in consultation with the director, shall adopt,  
10 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
11 (C.52:14B-1 et seq.), rules and regulations necessary to carry out  
12 the provisions of this section, including, but not limited to, criteria  
13 and procedures for the certifications and issuance of tax credits  
14 pursuant to this section and a list of qualified capital expenses.

15 e. The secretary shall submit a report to the Governor, the State  
16 Treasurer, and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-  
17 19.1), the Legislature, annually until expiration of the tax credit, on  
18 the effectiveness of the tax credit in increasing the acreage of  
19 commercial vineyards and the number of wineries in eligible  
20 counties.

21 f. As used in this section:

22 "Department" means the Department of Agriculture.

23 "Eligible county" means a county classified as a county of the  
24 fifth class pursuant to N.J.S.40A:6-1, and that contains at least three  
25 wineries.

26 "Qualified capital expense" means any expenditure made by the  
27 taxpayer for the purchase and installation of equipment or  
28 agricultural materials for use in the production of agricultural  
29 products at a vineyard, or in a winery, as designated by the  
30 secretary pursuant to subsection d. of this section.

31 "Secretary" means the Secretary of Agriculture.

32 "Vineyard" means agricultural lands consisting of at least one  
33 contiguous acre dedicated to the growing of grapes that are used or  
34 are intended to be used in the production of wine by a winery in the  
35 State, as well as any plants or other improvements located thereon.

36 "Winery" means a commercial farm where the owner or operator  
37 of the commercial farm has been issued and is operating in  
38 compliance with a plenary winery license or farm winery license  
39 pursuant to R.S.33:1-10.

40

41 3. a. For taxable years beginning on or after January 1, 2017,  
42 but before January 1, 2027, a taxpayer shall be allowed a credit  
43 against the New Jersey gross income tax due pursuant to  
44 N.J.S.54A:1-1 et seq., in an amount equal to 25 percent of the  
45 qualified capital expenses, as certified by the Department of  
46 Agriculture pursuant to subsection b. of this section, incurred by the  
47 taxpayer in connection with:

- 1 (1) the establishment of a new vineyard or winery in an eligible  
2 county; or
- 3 (2) capital improvements made to an existing vineyard or  
4 winery in an eligible county.
- 5 b. To obtain a tax credit pursuant to this section, a taxpayer  
6 shall apply for a certification from the department that certifies: (1)  
7 that the taxpayer's expenses are qualified capital expenses pursuant  
8 to this section; and (2) the amount of the tax credit. The application  
9 shall be made in a form and manner as determined by the  
10 department, and include such information as the department deems  
11 relevant. Upon certification, the Secretary of Agriculture shall  
12 submit a copy thereof to the taxpayer and the director. When filing  
13 a tax return that includes a claim for a credit pursuant to this  
14 section, the taxpayer shall include a copy of the certification issued  
15 by the secretary.
- 16 c. The order of priority of the application of the credit allowed  
17 pursuant to this section and any other credits allowed against the tax  
18 imposed pursuant to N.J.S.54A:1-1 et seq. for a taxable year shall  
19 be as prescribed by the director. The amount of the credit applied  
20 pursuant to this section against the tax imposed pursuant to  
21 N.J.S.54A:1-1 et seq., shall not reduce a taxpayer's tax liability for  
22 a taxable year to an amount less than zero. Any credit shall be valid  
23 in the taxable year in which the certification is approved and any  
24 unused portion thereof may be carried forward into the next 15  
25 taxable years or until depleted, whichever is earlier.
- 26 d. A business entity that is classified as a partnership for  
27 federal income tax purposes shall not be allowed the credit directly  
28 under N.J.S.54A:1-1 et seq., but the amount of credit of the  
29 taxpayer in respect of a distributive share of partnership income  
30 shall be determined by allocating to the taxpayer that proportion of  
31 the credit acquired by the partnership that is equal to the taxpayer's  
32 share, whether or not distributed, of the total distributive income or  
33 gain of the partnership for its taxable year ending within or with the  
34 taxpayer's taxable year.
- 35 A taxpayer that is a New Jersey S corporation shall not be  
36 allowed the credit directly under N.J.S.54A:1-1 et seq., but the  
37 amount of credit of a taxpayer in respect of a pro rata share of S  
38 corporation income shall be determined by allocating to the  
39 taxpayer that proportion of the credit acquired by the New Jersey S  
40 corporation that is equal to the taxpayer's share, whether or not  
41 distributed, of the total pro rata share of S corporation income of the  
42 New Jersey S corporation for its taxable year ending within or with  
43 the taxpayer's taxable year.
- 44 e. The secretary, in consultation with the director, shall adopt,  
45 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
46 (C.52:14B-1 et seq.), rules and regulations necessary to carry out  
47 the provisions of this section, including, but not limited to, criteria

1 and procedures for the certifications and issuance of tax credits  
2 pursuant to this section and a list of qualified capital expenses.

3 f. The secretary shall submit a report to the Governor, the State  
4 Treasurer, and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-  
5 19.1), the Legislature, annually until expiration of the tax credit, on  
6 the effectiveness of the tax credit in increasing the acreage of  
7 commercial vineyards and the number of wineries in eligible  
8 counties.

9 g. As used in this section:

10 "Department" means the Department of Agriculture.

11 "Eligible county" means a county classified as a county of the  
12 fifth class pursuant to N.J.S.40A:6-1, and that contains at least three  
13 wineries.

14 "Qualified capital expense" means any expenditure made by the  
15 taxpayer for the purchase and installation of equipment or  
16 agricultural materials for use in the production of agricultural  
17 products at a vineyard, or in a winery, as designated by the  
18 secretary pursuant to subsection e. of this section.

19 "Secretary" means the Secretary of Agriculture.

20 "Vineyard" means agricultural lands consisting of at least one  
21 contiguous acre dedicated to the growing of grapes that are used or  
22 are intended to be used in the production of wine by a winery in the  
23 State, as well as any plants or other improvements located thereon.

24 "Winery" means a commercial farm where the owner or operator  
25 of the commercial farm has been issued and is operating in  
26 compliance with a plenary winery license or farm winery license  
27 pursuant to R.S.33:1-10.

28

29 4. This act shall take effect immediately.

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#### STATEMENT

33

34 This bill would establish a loan program and provide tax credits  
35 to persons for the establishment of new vineyards and wineries.

36 Specifically, under the bill, the New Jersey Economic  
37 Development Authority (authority), in consultation with the  
38 Department of Agriculture, would develop a 10-year pilot program  
39 to provide low interest loans to farmers for qualified costs  
40 associated with the installation of new vineyards in eligible  
41 counties. Qualified costs include the cost of preparing land for  
42 plant installation, purchasing vines or trees, and purchasing  
43 equipment and supplies for those purposes. It would not include the  
44 cost of tractors, pick-up-trucks, or wine-making equipment. An  
45 eligible county is a county of the fifth class that contains at least  
46 three wineries. Currently, Atlantic County, Monmouth County, and  
47 Ocean County are fifth class counties.

1 A loan made under the bill would include up to 100 percent of  
2 the applicant's qualified costs, would bear interest of not more than  
3 five percent per year, and would be for a term of not more than 10  
4 years. The loan would be made pursuant to a loan agreement with  
5 the authority, which would contain terms and conditions deemed  
6 appropriate by the authority. The authority could require a person  
7 that receives a loan to submit an audited financial statement to the  
8 authority in order to ensure the continued viability of the person's  
9 farming operation, and may, either by regulation or through the  
10 terms and conditions of the loan agreement, establish terms and  
11 conditions governing the incidence of default by a person that  
12 receives a loan.

13 The authority would be required to submit a report, annually, to  
14 the Governor and the Legislature summarizing each loan made  
15 pursuant to the bill, and detailing the effectiveness of the pilot  
16 program in increasing the acreage of commercial vineyards in  
17 eligible counties.

18 In addition, for privilege periods and taxable years beginning on  
19 or after January 1, 2017, but before January 1, 2027, a taxpayer  
20 would be allowed a tax credit against either the corporation  
21 business tax or the gross income tax in an amount equal to 25  
22 percent of the qualified capital expenses incurred by the taxpayer in  
23 connection with: (1) the establishment of a new vineyard or winery  
24 in an eligible county; or (2) capital improvements made to an  
25 existing vineyard or winery in an eligible county. A qualified  
26 capital expense is any expenditure made by the taxpayer for the  
27 purchase and installation of equipment or agricultural materials for  
28 use in the production of agricultural products at a vineyard or in a  
29 winery, as specified in regulations.

30 To obtain a tax credit under the bill, a taxpayer would be  
31 required to apply for a certification from the Department of  
32 Agriculture that certifies: (1) that the taxpayer's expenses are  
33 qualified capital expenses; and (2) the amount of the tax credit.  
34 Upon certification, the Secretary of Agriculture (secretary) would  
35 submit a copy of the application to the taxpayer and the Director of  
36 the Division of Taxation. When filing a tax return that includes a  
37 claim for a credit under the bill, a taxpayer would include a copy of  
38 the certification issued by the secretary. Credits would be valid in  
39 the privilege period or taxable year in which the certification is  
40 approved, and any unused portions could be carried forward into the  
41 next 15 privilege periods or taxable years.

42 The secretary would be required to issue a report to the  
43 Governor, State Treasurer, and the Legislature, annually, on the  
44 effectiveness of the tax credit in increasing the acreage of  
45 commercial vineyards and the number of wineries in eligible  
46 counties.