

ASSEMBLY, No. 5926

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JUNE 24, 2021

Sponsored by:

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

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District 19 (Middlesex)

SYNOPSIS

"Virtual Currency and Blockchain Regulation Act."

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning virtual currency and blockchain, and amending
2 and supplementing various parts of the statutory law.

3

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

6

7 1. (New section) This act shall be known and may be cited as
8 the "Virtual Currency and Blockchain Regulation Act."

9

10 2. (New section) As used in P.L. , c. (C.)(pending
11 before the Legislature as this bill):

12 "Affiliate" means any person that directly or indirectly controls,
13 is controlled by, or is under common control with, another person.

14 "Blockchain" means a digital ledger or database which is
15 chronological, consensus-based, decentralized and mathematically
16 verified in nature.

17 "Commissioner" means the Commissioner of Banking and
18 Insurance.

19 "Consumptive" means a circumstance when a token is
20 exchangeable for, or provided for the receipt of, services, software,
21 content or real or tangible personal property, including rights of
22 access to services, content or real or tangible personal property.

23 "Department" means the Department of Banking and Insurance.

24 "Developer" means the person primarily responsible for creating
25 an open blockchain token or otherwise designing the token,
26 including by executing the technological processes necessary to
27 create the token.

28 "Digital asset" means a representation of economic, proprietary
29 or access rights that is stored in a computer readable format, and
30 includes digital consumer assets, digital securities and virtual
31 currency. As used in P.L. , c. (C.)(pending before the
32 Legislature as this bill), the terms digital consumer asset, digital
33 security, and virtual currency shall be mutually exclusive.

34 "Digital consumer asset" means a digital asset that is used or
35 bought primarily for consumptive, personal or household purposes
36 and includes:

37 (1) An open blockchain token constituting intangible personal
38 property as otherwise provided by law; and

39 (2) Any other digital asset which is not virtual currency or a
40 digital security.

41 "Digital security" means a digital asset which constitutes a
42 security, as defined in P.L.1967, c.93 (C.49:3-49), but shall exclude
43 digital consumer assets and virtual currency.

44 "Facilitator" means a person who, as a business, makes open
45 blockchain tokens pursuant to subsection a. of section 2 of P.L. ,

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 c. (C.) (pending before the Legislature as this bill) available
2 for resale to the public after a token has been purchased by an initial
3 buyer.

4 "Financial investment" means a contract, transaction or
5 arrangement where a person invests money in a common enterprise
6 and is led to expect profits solely from the efforts of a promoter or a
7 third party.

8 "Open blockchain token" means a digital unit that is:

9 (1) created:

10 (a) in response to the verification or collection of a specified
11 number of transactions relating to a digital ledger or database;

12 (b) by deploying computer code to a digital ledger or database,
13 which may include a blockchain, that allows for the creation of
14 digital tokens or other units; or

15 (c) using a combination of the methods specified in paragraphs
16 (a) and (b) of this paragraph.

17 (2) recorded to a digital ledger or database, which may include a
18 blockchain; and

19 (3) capable of being traded or transferred between persons
20 without an intermediary or custodian of value.

21 "Open blockchain token" shall not include virtual currency or
22 digital security as those terms are defined in this section.

23 "Person" means any individual, partnership, corporation,
24 association, trust, or other business combination or entity, however
25 organized.

26 "Seller" means a person who makes an open blockchain token
27 available for purchase to an initial buyer.

28 "Virtual currency" means a digital asset that is:

29 (1) used as a medium of exchange, unit of account or store of
30 value; and

31 (2) not recognized as legal tender by the United States
32 government.

33

34 3. (New section) a. An open blockchain token shall be
35 intangible personal property if it meets the following
36 characteristics:

37 (1) the predominant purpose of the token is consumptive;

38 (2) the developer or seller did not market the token to the initial
39 buyer as a financial investment; and

40 (3) at least one of the following is satisfied:

41 (a) the developer or seller reasonably believed that it sold the
42 token to the initial buyer for a consumptive purpose;

43 (b) the token has a consumptive purpose that is available at or
44 near the time of sale and can be used at or near the time of sale for a
45 consumptive purpose;

46 (c) the initial buyer of the token is prohibited by the developer or
47 seller of the token from reselling the token until the token is
48 available to be used for a consumptive purpose; or

- 1 (d) the developer or seller takes other reasonable precautions to
2 prevent an initial buyer from purchasing the token as a financial
3 investment.
- 4 b. Before making an open blockchain token available for sale,
5 the developer or seller of a token, or the registered agent of the
6 developer or seller, shall electronically file a notice of intent with
7 the Department of the Banking and Insurance and pay a filing fee of
8 \$1,000. The notice of intent shall contain the name of the person
9 acting as a developer or seller, the contact information of the
10 person, or the registered agent of the person and comprehensive
11 details, to be determined by the Commissioner of Banking and
12 Insurance, on the open blockchain token made available for sale. A
13 form shall be made available by the department for this purpose,
14 which shall include a secure electronic form conspicuously posted
15 on the department's Internet website. A developer, seller and the
16 registered agent of these persons, if applicable, shall have a
17 continuing duty to update the contact information provided on a
18 notice of intent as long as the open blockchain token associated
19 with the notice is actively being sold.
- 20 c. A facilitator shall:
- 21 (1) before making any token available for resale to the public,
22 confirm with the department that a notice of intent has been filed
23 pursuant to subsection b. of this section;
- 24 (2) at all times, have a reasonable and good faith belief that a
25 token subject to resale conforms to the requirements of subsection
26 a. of this section; and
- 27 (3) take reasonably prompt action to terminate the resale of a
28 token that does not conform to the requirements of subsection a. of
29 this section.
- 30 d. A willful failure by a developer, seller or facilitator to
31 comply with the duties imposed by P.L. , c. (C.)(pending
32 before the Legislature as this bill) shall constitute an unlawful
33 practice under P.L.1960, c.39 (C.56:8-1 et seq.), and shall be
34 subject to all remedies and penalties available pursuant to P.L.1960,
35 c.39 (C.56:8-1 et seq.) in addition to any other remedies or penalties
36 provided by law. A developer, seller or facilitator is subject to all
37 applicable criminal statutes.
- 38 e. The commissioner may refer the following to appropriate
39 State or federal agencies for investigation, criminal prosecution,
40 civil penalties and other appropriate enforcement actions:
- 41 (1) suspected violations of this section; and
- 42 (2) the developer, seller or facilitator of either an open
43 blockchain token which conforms to the requirements of this
44 section or another digital asset which substantially resembles an
45 open blockchain token, but which, in the determination of the
46 commissioner, is being sold for financial investment or fraudulent
47 purposes.

1 4. (New section) a. Digital assets shall be classified in the
2 following manner:

3 (1) Digital consumer assets are intangible personal property and
4 shall be considered general intangibles, as defined in N.J.S.12A:9-
5 102;

6 (2) Digital securities are intangible personal property and shall
7 be considered securities, as defined in N.J.S.12A:8-102, and
8 investment property, as defined in N.J.S.12A:9-102; and

9 (3) Virtual currency is intangible personal property and shall be
10 considered money, notwithstanding N.J.S.12A:1-201.

11 b. Consistent with N.J.S.12A:8-102, a digital asset may be
12 treated as a financial asset, pursuant to a written agreement with the
13 owner of the digital asset. If treated as a financial asset, the digital
14 asset shall remain intangible personal property.

15 c. Classification of digital assets under this section shall be
16 construed in a manner to give the greatest effect to P.L. ,

17 c. (C.)(pending before the Legislature as this bill), but shall
18 not be construed to apply to any other asset.

19

20 5. (New section) a. Notwithstanding the financing statement
21 requirement specified by N.J.S.12A:9-310, perfection of a security
22 interest in a digital asset may be achieved through control, as
23 defined in subsection e. of this section. A security interest held by a
24 secured party having control of a digital asset has priority over a
25 security interest held by a secured party that does not have control
26 of the asset.

27 b. Before a secured party may take control of a digital asset
28 under this section, the secured party shall enter into a control
29 agreement with the debtor. A control agreement may also set forth
30 the terms under which a secured party may pledge its security
31 interest in the digital asset as collateral for another transaction.

32 c. A secured party may file a financing statement with the
33 Division of Revenue and Enterprise Services, including to perfect a
34 security interest in proceeds from a digital asset pursuant to
35 N.J.S.12A:9-315.

36 d. Notwithstanding any law, rule, or regulation to the contrary,
37 a transferee shall take a digital asset free of any security interest
38 two years after the transferee takes the asset for value and does not
39 have actual notice of an adverse claim. This subsection shall only
40 apply to a security interest perfected by a method other than control.

41 e. Perfection by control creates a possessory security interest in
42 a digital asset and does not require physical possession. For
43 purposes of this section, a digital asset is located within the State if
44 the asset is held by a custodian, debtor or secured party that is
45 physically located within the State.

46 f. As used in this section:

47 "Control" means:

1 (1) a secured party, or an agent, custodian, fiduciary or trustee
2 of the party, has the exclusive legal authority to conduct a
3 transaction relating to a digital asset, including by means of a
4 private key or the use of a multi signature arrangement authorized
5 by the secured party; or

6 (2) a smart contract created by a secured party which has the
7 exclusive legal authority to conduct a transaction relating to a
8 digital asset.

9 "Multi signature arrangement" means a system of access control
10 relating to a digital asset for the purposes of preventing
11 unauthorized transactions relating to the asset, in which two or
12 more private keys are required to conduct a transaction, or any
13 substantially similar analogue.

14 "Private key" means a unique element of cryptographic data, or
15 any substantially similar analogue, which is:

16 (1) held by a person;

17 (2) paired with a unique, publicly available element of
18 cryptographic data; and

19 (3) associated with an algorithm that is necessary to carry out an
20 encryption or decryption required to execute a transaction.

21 "Smart Contract" means:

22 (1) an automated transaction conducted or performed, in whole
23 or in part, by electronic means or electronic records, in which the
24 acts or records of one or both parties are not reviewed by an
25 individual in the ordinary course in forming a contract, performing
26 under an existing contract or fulfilling an obligation required by the
27 transaction; or

28 (2) any substantially similar analogue, which is comprised of
29 code, script or programming language that executes the terms of an
30 agreement, and which may include taking custody of and
31 transferring an asset, or issuing executable instructions for these
32 actions, based on the occurrence or nonoccurrence of specified
33 conditions.

34

35 6. (New section) a. A bank may provide custodial services
36 consistent with this section upon providing 60 days written notice to
37 the Commissioner of the Department of Banking and Insurance.
38 The provisions of this section are cumulative and not exclusive as
39 an optional framework for enhanced supervision of digital asset
40 custody. If a bank elects to provide custodial services under this
41 section, it shall comply with all provisions of this section.

42 b. A bank may serve as a qualified custodian under federal
43 Securities and Exchange Commission rules established pursuant to
44 17 C.F.R. s.275.206(4). In performing custodial services under this
45 section, a bank shall:

46 (1) implement all accounting, account statement, internal
47 control, notice and other standards specified by applicable state or
48 federal law and regulations for custodial services;

- 1 (2) maintain information technology best practices relating to
2 digital assets held in custody. The commissioner may specify
3 required best practices by rule;
- 4 (3) fully comply with applicable federal anti-money laundering,
5 customer identification and beneficial ownership requirements; and
- 6 (4) take other actions necessary to carry out this section, which
7 may include exercising fiduciary powers similar to those permitted
8 to national banks and ensuring compliance with federal law
9 governing digital assets classified as commodities.
- 10 c. A bank providing custodial services shall enter into an
11 agreement with an independent public accountant to conduct an
12 examination conforming to the requirements of 17 C.F.R.
13 s.275.206(4) 2(a)(4) and (6), at the cost of the bank. The
14 accountant shall transmit the results of the examination to the
15 commissioner within 120 days of the examination and may file the
16 results with the federal Securities and Exchange Commission as its
17 rules may provide. Material discrepancies in an examination shall
18 be reported to the commissioner within one business day. The
19 commissioner shall review examination results upon receipt within
20 a reasonable time and during any regular examination conducted
21 pursuant to P.L.1948, c.67 (C.17:9A-260).
- 22 d. Digital assets held in custody pursuant to this section shall
23 not be depository liabilities or assets of the bank. A bank, or a
24 subsidiary, may register as an investment adviser, investment
25 company or broker dealer as necessary. A bank shall maintain
26 control over a digital asset while in custody. A customer shall elect,
27 pursuant to a written agreement with the bank, one of the following
28 relationships for each digital asset held in custody:
- 29 (1) Custody under a bailment as a nonfungible or fungible asset.
30 Assets held under this paragraph shall be strictly segregated from
31 other assets; or
- 32 (2) Custody under a bailment pursuant to subsection e. of this
33 section.
- 34 e. If a customer makes an election under subsection d. of this
35 section, the bank may, based only on customer instructions,
36 undertake transactions with the digital asset. A bank maintains
37 control pursuant to subsection d. of this section by entering into an
38 agreement with the counterparty to a transaction which contains a
39 time for return of the asset. The bank shall not be liable for any loss
40 suffered with respect to a transaction under this subsection, except
41 for liability consistent with fiduciary and trust powers as a
42 custodian under this section.
- 43 f. A bank and a customer shall agree in writing regarding the
44 source code version the bank will use for each digital asset, and the
45 treatment of each asset under chapter 8 of Title 12A of the New
46 Jersey Statutes. Any ambiguity under this subsection shall be
47 resolved in favor of the customer.

- 1 g. A bank shall provide clear, written notice to each customer,
2 and require written acknowledgement, of the following:
- 3 (1) prior to the implementation of any updates, material source
4 code updates relating to digital assets held in custody, except in
5 emergencies which may include security vulnerabilities;
- 6 (2) the heightened risk of loss from transactions under
7 subsection e. of this section;
- 8 (3) that some risk of loss as a pro rata creditor exists as the
9 result of custody as a fungible asset or custody under paragraph (2)
10 of subsection d. of this section;
- 11 (4) that custody under paragraph (2) of subsection d. of this
12 section may not result in the digital assets of the customer being
13 strictly segregated from other customer assets; and
- 14 (5) that the bank is not liable for losses suffered under
15 subsection e. of this section, except for liability consistent with
16 fiduciary and trust powers as a custodian under this section.
- 17 h. A bank and a customer shall agree in writing to a time
18 period within which the bank shall return a digital asset held in
19 custody under this section. If a customer makes an election under
20 paragraph (2) of subsection d. of this section, then the bank and the
21 customer may also agree in writing to the form in which the digital
22 asset shall be returned.
- 23 i. All ancillary or subsidiary proceeds relating to digital assets
24 held in custody under this section shall accrue to the benefit of the
25 customer, except as specified by a written agreement with the
26 customer. The bank shall not collect ancillary or subsidiary
27 proceeds, unless the collection is disclosed in writing. A customer
28 who makes an election under paragraph (1) of subsection d. of this
29 section may withdraw the digital asset in a form that permits the
30 collection of the ancillary or subsidiary proceeds.
- 31 j. A bank shall not authorize or permit rehypothecation of
32 digital assets under this section. The bank shall not engage in any
33 activity to use or exercise discretionary authority relating to a
34 digital asset except based on customer instructions.
- 35 k. A bank shall not take any action under this section which
36 would likely impair the solvency or the safety and soundness of the
37 bank, as determined by the commissioner after considering the
38 nature of custodial services customary in the banking industry.
- 39 l. As used in this section:
- 40 "Bank" has the meaning ascribed to it in P.L.1948, c.67
41 (C.17:9A-1).
- 42 "Custodial services" means the safekeeping and management of
43 customer currency and digital assets through the exercise of
44 fiduciary and trust powers under this section as a custodian, and
45 includes fund administration and the execution of customer
46 instructions.

1 7. Section 2 of P.L.1998, c.14 (C.17:15C-2) is amended to read
2 as follows:

3 2. As used in **【this act】** P.L.1998, c.14 (C.17:15C-1 et seq.):

4 "Applicant" means a person filing an application for a license
5 under **【this act】** P.L.1998, c.14 (C.17:15C-1 et seq.).

6 "Authorized delegate" means an entity authorized by the licensee
7 pursuant to the provisions of section 17 of **【this act】** P.L.1998, c.14
8 (C.17:15C-17) to sell or issue payment instruments or engage in the
9 business of transmitting money on behalf of a licensee.

10 "Commissioner" means the Commissioner of Banking and
11 Insurance.

12 "Control" means ownership of, or the power to vote, 25 percent
13 or more of the outstanding voting securities of a licensee or
14 controlling person. For purposes of determining the percentage of a
15 licensee controlled by any person, there shall be aggregated with
16 the person's interest the interest of any other person controlled by
17 that person or by any spouse, parent, or child of that person.

18 "Controlling person" means any person in control of a licensee.

19 "Department" means the Department of Banking and Insurance.

20 "Executive officer" means the licensee's president, chairman of
21 the executive committee, senior officer responsible for the
22 licensee's business in this State, chief financial officer and any other
23 person who performs similar functions.

24 "Foreign money transmitter" means a person who engages, in
25 this State, only in the business of the receipt of money for
26 transmission or transmitting money to locations outside of the
27 United States by any and all means, including but not limited to
28 payment instrument, wire, facsimile, electronic transfer, or
29 otherwise for a fee, commission or other benefit.

30 "Key shareholder" means any person, or group of persons acting
31 in concert, who is the owner of 25 percent or more of any voting
32 class of an applicant's stock.

33 "Licensee" means a person licensed under **【this act】** P.L.1998,
34 c.14 (C.17:15C-1 et seq.).

35 "Location" means a place of business at which activities
36 regulated by **【this act】** P.L.1998, c.14 (C.17:15C-1 et seq.) occur.

37 "Material litigation" means any litigation that, according to
38 generally accepted accounting principles, is deemed significant to
39 any applicant's or licensee's financial health and would be required
40 to be referenced in that entity's annual audited financial statements,
41 report to shareholders or similar documents.

42 "Money" means a medium of exchange authorized or adopted by
43 the United States or a foreign government as a part of its currency
44 and that is customarily used and accepted as a medium of exchange
45 in the country of issuance.

46 "Money transmitter" means a person who engages in this State in
47 the business of:

1 (1) the sale or issuance of payment instruments for a fee,
2 commission or other benefit;

3 (2) the receipt of money for transmission or transmitting money
4 within the United States or to locations abroad by any and all
5 means, including but not limited to payment instrument, wire,
6 facsimile, electronic transfer, or otherwise for a fee, commission or
7 other benefit; or

8 (3) the receipt of money for obligors for the purpose of paying
9 obligors' bills, invoices or accounts for a fee, commission or other
10 benefit paid by the obligor.

11 "Outstanding payment instrument" means any payment
12 instrument issued by the licensee which has been sold in the United
13 States directly by the licensee or any payment instrument issued by
14 the licensee which has been sold by an authorized delegate of the
15 licensee in the United States, which has been reported to the
16 licensee as having been sold, and which has not yet been paid by or
17 for the licensee.

18 "Payment instrument" means any check, draft, money order,
19 travelers check or other instrument or written order for the
20 transmission or payment of money, sold or issued to one or more
21 persons, whether or not the instrument is negotiable. The term
22 "payment instrument" does not include any credit card voucher, any
23 letter of credit or any instrument which is redeemable by the issuer
24 in goods or services.

25 "Permissible investments" means:

26 (1) cash;

27 (2) certificates of deposit or other debt obligations of a bank,
28 savings bank, savings and loan association, or credit union, either
29 domestic or foreign;

30 (3) bills of exchange or time drafts drawn on and accepted by a
31 commercial bank, otherwise known as bankers' acceptances, which
32 are eligible for purchase by member banks of the Federal Reserve
33 System;

34 (4) any investment which is rated in one of the three highest
35 rating categories by a nationally recognized statistical rating
36 organization;

37 (5) investment securities that are obligations of the United
38 States, its agencies or instrumentalities, or obligations that are
39 guaranteed fully as to principal and interest by the United States, or
40 any obligations of any state, municipality or any political
41 subdivision thereof which is rated in one of the three highest rating
42 categories by a nationally recognized statistical rating organization;

43 (6) shares in a money market mutual fund, interest-bearing bills,
44 notes or bonds, debentures or stock traded on any national securities
45 exchange or on a national over-the-counter market, or mutual funds
46 primarily composed of those securities or a fund composed of one
47 or more permissible investments as set forth in this section;

1 (7) demand borrowing agreements made to a corporation or a
2 subsidiary of a corporation whose capital stock is listed on a
3 national exchange;

4 (8) receivables which are due to a licensee from its authorized
5 delegates pursuant to a contract described in section 17 of **[this act]**
6 P.L.1998, c.14 (C.17:15C-17), which are not past due or doubtful of
7 collection; or

8 (9) any other investments or security device which the
9 commissioner may authorize by rule.

10 “Virtual currency” means any type of digital representation that:

11 (1) is used as a medium of exchange, unit of account or store of
12 value; and

13 (2) is not recognized as legal tender by the United States
14 government.

15 (cf: P.L.1998, c.14, s.2)

16

17 8. Section 3 of P.L.1998, c.14 (C.17:15C-3) is amended to read
18 as follows:

19 3. a. **[This act]** P.L.1998, c.14 (C.17:15C-1 et seq.) shall not
20 apply to:

21 (1) The United States or any department, agency, or
22 instrumentality thereof;

23 (2) The United States Postal Service;

24 (3) The State or any political subdivision thereof;

25 (4) Banks, bank holding companies, credit unions, building and
26 loan associations, savings and loan associations, savings banks or
27 mutual banks organized under the laws of any state or the United
28 States, provided that they do not issue or sell payment instruments
29 through authorized delegates who are not banks, bank holding
30 companies, credit unions, building and loan associations, savings
31 and loan associations, savings banks or mutual banks;

32 (5) The provision of electronic transfer of government benefits
33 for any federal, state or county agency as defined in Regulation E,
34 12 C.F.R. s.205.1 et seq., by a contractor for and on behalf of the
35 United States or any department, agency or instrumentality thereof,
36 or any state or political subdivision thereof; **[and]**

37 (6) A person licensed to conduct business as a debt adjuster
38 pursuant to P.L.1979, c.16 (C.17:16G-1 et seq.), when acting within
39 the scope of activities regulated by that license; and

40 (7) Buying, selling, issuing, or taking custody of payment
41 instruments or stored value in the form of virtual currency or
42 receiving virtual currency for transmission to a location within or
43 outside the United States.

44 b. Authorized delegates of a licensee, acting within the scope
45 of authority conferred by a written contract as described in section
46 17 of **[this act]** P.L.1998, c.14 (C.17:15C-17) shall not be required

1 to obtain a license pursuant to **[this act]** P.L.1998, c.14 (C.17:15C-
2 1 et seq.).

3 (cf: P.L.1998, c.14, s.3)

4

5 9. (New section) As used in sections 9 through 21 of P.L. ,
6 c. (C.)(pending before the Legislature as this bill):

7 "Blockchain" means a digital ledger or database which is
8 chronological, consensus-based, decentralized and mathematically
9 verified in nature.

10 "Decentralized autonomous organization" means a limited
11 liability company organized under P.L. , c. (C.)(pending
12 before the Legislature as this bill).

13 "Digital asset" means a representation of economic, proprietary
14 or access rights that is stored in a computer readable format and is
15 either a digital consumer asset, digital security or virtual currency

16 "Limited liability autonomous organization" or "LAO" means a
17 decentralized autonomous organization.

18 "Majority of the members," means the approval of more than 50
19 percent of participating membership interests in a vote for which a
20 quorum of members is participating. A person dissociated as a
21 member as set forth in section 46 of P.L.2012, c.50 (C.42:2C-46)
22 shall not be included for the purposes of calculating the majority of
23 the members;

24 "Membership interest" means a member's ownership share in a
25 member managed decentralized autonomous organization, which
26 may be defined in the entity's articles of organization, smart
27 contract or operating agreement. A membership interest may also be
28 characterized as either a digital security or a digital consumer asset,
29 if designated as such in the organization's articles of organization or
30 operating agreement.

31 "Open blockchain" means a blockchain that is publicly
32 accessible and its ledger of transactions is transparent.

33 "Quorum" means a minimum requirement on the sum of
34 membership interests participating in a vote for that vote to be
35 valid.

36 "Smart Contract" means:

37 (1) an automated transaction conducted or performed, in whole
38 or in part, by electronic means or electronic records, in which the
39 acts or records of one or both parties are not reviewed by an
40 individual in the ordinary course in forming a contract, performing
41 under an existing contract or fulfilling an obligation required by the
42 transaction; or

43 (2) any substantially similar analogue, which is comprised of
44 code, script or programming language that executes the terms of an
45 agreement, and which may include taking custody of and
46 transferring an asset, or issuing executable instructions for these
47 actions, based on the occurrence or nonoccurrence of specified
48 conditions.

1 10. (New section) a. The "Revised Uniform Limited Liability
2 Company Act," P.L.2012, c.50 (C.42:2C-1 et seq.) shall apply to
3 decentralized autonomous organizations to the extent not
4 inconsistent with the provisions of P.L. , c. (C.)(pending
5 before the Legislature as this bill).

6 b. P.L. , c. (C.)(pending before the Legislature as this
7 bill) shall not repeal or modify any statute or rule of law that applies
8 to a limited liability company that is organized under P.L.2012, c.50
9 (C.42:2C-1 et seq.) that does not elect to become a decentralized
10 autonomous organization.

11
12 11. (New section) a. A decentralized autonomous organization
13 is a limited liability company the articles of organization of which
14 contain a statement that the company is a decentralized autonomous
15 organization as described in subsection c. of this section.

16 b. A limited liability company formed under P.L.2012, c.50
17 (C.42:2C-1 et seq.) may convert to a decentralized autonomous
18 organization by amending its articles of organization to include the
19 statement required by subsections a. and c. of this section and
20 section 13 of P.L. , c. (C.)(pending before the Legislature as
21 this bill).

22 c. A statement in substantially the following form shall appear
23 conspicuously in the articles of organization or operating
24 agreement, if applicable, in a decentralized autonomous
25 organization:

26
27 **NOTICE OF RESTRICTIONS ON DUTIES AND TRANSFERS**

28
29 The rights of members in a decentralized autonomous organization
30 may differ materially from the rights of members in other limited
31 liability companies. New Jersey's decentralized autonomous
32 organization law, underlying smart contracts, articles of
33 organization and operating agreement, if applicable, of a
34 decentralized autonomous organization may define, reduce or
35 eliminate fiduciary duties and may restrict transfer of ownership
36 interests, withdrawal or resignation from the decentralized
37 autonomous organization, return of capital contributions and
38 dissolution of the decentralized autonomous organization.

39
40 d. The registered name for a decentralized autonomous
41 organization shall include wording or abbreviation to denote its
42 status as a decentralized autonomous organization, specifically
43 "DAO", "LAO", or "DAO LLC."

44 e. A statement in the articles of organization may define the
45 decentralized autonomous organization as either a member managed
46 decentralized autonomous organization or an algorithmically
47 managed decentralized autonomous organization. If the type of
48 decentralized autonomous organization is not otherwise provided

1 for, the limited liability company will be presumed to be a member
2 managed decentralized autonomous organization.

3

4 12. (New section) a. Any person may form a decentralized
5 autonomous organization, which shall have one or more members
6 by signing and delivering one original and one exact or conformed
7 copy of the articles of organization to the filing office for filing.
8 The person forming the decentralized autonomous organization
9 need not be a member of the organization.

10 b. A decentralized autonomous organization shall have and
11 continuously maintain in this State a registered agent as provided in
12 section 14 of P.L.2012, c.50 (C.42:2C-14).

13 c. A decentralized autonomous organization may form and
14 operate for any lawful purpose, regardless of whether for profit.

15 d. An algorithmically managed decentralized autonomous
16 organization may only form under P.L. , c. (C.)(pending
17 before the Legislature as this bill) if the underlying smart contracts
18 are able to be updated, modified or otherwise upgraded.

19

20 13. (New section) a. The articles of organization of a
21 decentralized autonomous organization shall include a statement
22 that the organization is a decentralized autonomous organization,
23 pursuant to section 11 of P.L. , c. (C.)(pending before the
24 Legislature as this bill) and section 18 of P.L.2012, c.50 (C.42:2C-
25 18).

26 b. In addition to the requirements of subsection a. of this
27 section the articles of organization shall include a publicly available
28 identifier of any smart contract directly used to manage, facilitate or
29 operate the decentralized autonomous organization.

30 c. Except as otherwise provided in P.L. ,
31 c. (C.)(pending before the Legislature as this bill), the articles
32 of organization and the smart contracts for a decentralized
33 autonomous organization shall govern all of the following:

34 (1) relations among the members and between the members and
35 the decentralized autonomous organization;

36 (2) rights and duties under P.L. , c. (C.)(pending before
37 the Legislature as this bill) of a person in the person's capacity as a
38 member;

39 (3) activities of the decentralized autonomous organization and
40 the conduct of those activities;

41 (4) means and conditions for amending the operating agreement;

42 (5) rights and voting rights of members;

43 (6) transferability of membership interests;

44 (7) withdrawal of membership;

45 (8) distributions to members prior to dissolution;

46 (9) amendment of the articles of organization;

47 (10) procedures for amending, updating, editing or changing
48 applicable smart contracts; and

1 (11) all other aspects of the decentralized autonomous
2 organization.

3 d. Articles of organization shall be amended when:

4 (1) there is a change in the name of the decentralized
5 autonomous organization;

6 (2) there is a false or erroneous statement in the articles of
7 organization; or

8 (3) the decentralized autonomous organization's smart contracts
9 have been updated or changed.

10

11 14. (New section) To the extent the articles of organization or
12 smart contract do not otherwise provide for a matter described in
13 section 13 of P.L. , c. (C.)(pending before the Legislature as
14 this bill), the operation of a decentralized autonomous organization
15 may be supplemented by an operating agreement.

16

17 15. (New section) Management of a decentralized autonomous
18 organization shall be vested in its members, if member managed, or
19 the smart contract, if algorithmically managed, unless otherwise
20 provided in the articles of organization or operating agreement.

21

22 16. (New section) Unless otherwise provided for in the articles
23 of organization or operating agreement, no member of a
24 decentralized autonomous organization shall have any fiduciary
25 duty to the organization or any member except that the members
26 shall be subject to the implied contractual covenant of good faith
27 and fair dealing.

28

29 17. (New section) a. For purposes of this section and section 18
30 of P.L. , c. (C.)(pending before the Legislature as this bill)
31 and unless otherwise provided for in the articles of organization,
32 smart contract or operating agreement:

33 (1) membership interests in a member managed decentralized
34 autonomous organization shall be calculated by dividing a member's
35 contribution of digital assets to the organization divided by the total
36 amount of digital assets contributed to the organization at the time
37 of a vote;

38 (2) if members do not contribute digital assets to an organization
39 as a prerequisite to becoming a member, each member shall possess
40 one membership interest and be entitled to one vote;

41 (3) a quorum shall require not less than a majority of
42 membership interests entitled to vote.

43 b. Members shall have no right to separately inspect or copy
44 records of a decentralized autonomous organization and the
45 organization shall have no obligation to furnish any information
46 concerning the organization's activities, financial condition or other
47 circumstances to the extent the information is available on an open
48 blockchain.

1 18. (New section) a. A member may only withdraw from a
2 decentralized autonomous organization in accordance with the
3 terms set forth in the articles of organization, the smart contracts or,
4 if applicable, the operating agreement.

5 b. A member of a decentralized autonomous organization shall
6 not have the organization dissolved for a failure to return the
7 members' contribution to capital.

8 c. Unless the organization's articles of organization, smart
9 contracts or operating agreement provide otherwise, a withdrawn
10 member forfeits all membership interests in the decentralized
11 autonomous organization, including any governance or economic
12 rights.

13

14 19. (New section) a. A decentralized autonomous organization
15 organized under P.L. , c. (C.)(pending before the Legislature
16 as this bill) shall be dissolved upon the occurrence of any of the
17 following events:

18 (1) the period fixed for the duration of the organization expires;

19 (2) by vote of the majority of members of a member managed
20 decentralized autonomous organization;

21 (3) at the time or upon the occurrence of events specified in the
22 underlying smart contracts or as specified in the articles of
23 organization or operating agreement;

24 (4) the decentralized autonomous organization has failed to
25 approve any proposals or take any actions for a period of one year;

26 (5) by order of the Division of Revenue and Enterprise Services
27 if the decentralized autonomous organization is deemed to no
28 longer perform a lawful purpose.

29 b. As soon as possible following the occurrence of any of the
30 events specified in subsection a. of this section causing the
31 dissolution of a decentralized autonomous organization, the
32 organization shall execute a statement of intent to dissolve in the
33 form prescribed by the Division of Revenue and Enterprise
34 Services.

35

36 20. (New section) The articles of organization and the operating
37 agreement of a decentralized autonomous organization are effective
38 as statements of authority. Where the underlying articles of
39 organization and operating agreement are in conflict, the articles of
40 organization shall preempt any conflicting provisions. Where the
41 underlying articles of organization and smart contract are in
42 conflict, the smart contract shall preempt any conflicting provisions
43 of the articles of organization, except as it relates to section 11 of
44 P.L. , c. (C.)(pending before the Legislature as this bill) and
45 subsections a. and b. of section 13 of P.L. , c. (C.)(pending
46 before the Legislature as this bill).

1 21. (New section) The Division of Revenue and Enterprise
2 Services shall not issue a certificate of authority for a foreign
3 decentralized autonomous organization.

4
5 22. (New section) a. Not later than December 31, 2022, the
6 Division of Revenue and Enterprise Services shall develop and
7 implement a filing system through which all required filings may be
8 submitted. The division shall endeavor to use blockchain
9 technology and include an application programming interface as
10 components of the filing system, as well as robust security measures
11 and other components determined by the division to be best
12 practices or which are likely to increase the effective and efficient
13 administration of the laws of this State. The division may create a
14 blockchain for the purposes of this section or contract for the use of
15 a privately created blockchain.

16 b. The division may:

17 (1) consult with all interested parties before developing the
18 filing system specified in this section, including businesses,
19 registered agents, attorneys, law enforcement and other interested
20 persons; and

21 (2) if possible, partner with technology innovators and private
22 companies to develop necessary components of the system.

23 c. The division shall promulgate such rules and regulations as
24 the division determines are necessary to effectuate the provisions of
25 P.L. , c. (C.) (pending before the Legislature as this bill).

26 d. As used in this section:

27 “Application programming interface” means a computer software
28 intermediary which allows two distinct software applications to
29 interact.

30 “Blockchain” means a digital ledger or database which is
31 chronological, consensus-based, decentralized and mathematically
32 verified in nature.

33 “Division” means the Division of Revenue and Enterprise
34 Services in the New Jersey Department of the Treasury.

35 “Required filings” means all documents, reports, data and other
36 information required by law to be filed with the division.

37
38 23. (New section) a. The articles of incorporation or bylaws of
39 a corporation may specify that all or a portion of the shares of the
40 corporation may be represented by share certificates in the form of
41 certificate tokens. The electronic message, command or transaction
42 that transmits the certificate tokens to the data address to which a
43 certificate token was issued shall be authorized at the time of
44 issuance by one or more messages, commands or transactions
45 signed with the network signatures of two officers designated in the
46 bylaws or by the board of directors of the corporation.

47 b. Notwithstanding any law, rule, or regulation to the contrary,
48 as used in chapter 7 of Title 14A of the New Jersey Statutes, any

1 reference to share certificate, share, stock, or words of similar
2 import shall be construed to include a certificate token.

3 c. Notwithstanding any law, rule, or regulation to the contrary,
4 the information required by subsection a. of this section shall satisfy
5 any other requirement of chapter 7 of Title 14A of the New Jersey
6 Statutes to include information on a share certificate.

7 d. Notwithstanding any law, rule, or regulation to the contrary,
8 as used in chapter 7 of Title 14A of the New Jersey Statutes, any
9 reference to certificated shares or words of similar import shall be
10 construed to include shares represented by certificate tokens, and
11 any reference to the delivery or deposit of these shares to the
12 corporation shall be construed to refer to any method of granting
13 control of the tokens to the corporation.

14 e. Notwithstanding any law, rule, or regulation to the contrary,
15 as used in chapter 7 of Title 14A of the New Jersey Statutes, any
16 reference to a certificate being duly endorsed or words of similar
17 import shall be construed to mean that the transaction authorizing
18 transfer of control of the certificate token was signed by the lawful
19 holder of the token with the network signature corresponding to the
20 lawful holder's data address to which the certificate token was
21 issued or last lawfully transferred.

22 f. As used in this section:

23 "Blockchain" means a digital ledger or database which is
24 chronological, consensus based, decentralized and mathematically
25 verified in nature;

26 "Certificate token" means a representation of shares that is stored
27 in an electronic format which contains information pursuant to
28 N.J.S.14A:7-11, and this information is:

29 (1) entered into a blockchain or other secure, auditable database;

30 (2) linked to or associated with the certificate token; and

31 (3) able to be transmitted electronically to the issuing
32 corporation, the person to whom the certificate token was issued
33 and any transferee.

34 "Network signature" means a string of alphanumeric characters
35 that, when broadcast by a person to the data address's corresponding
36 distributed or other electronic network or database, provides
37 reasonable assurances to a recipient that the broadcasting person
38 has knowledge or possession of the private key uniquely associated
39 with the data address.

40

41 24. N.J.S.14A:7-11 is amended to read as follows:

42 (1) The shares of a corporation shall be represented by
43 certificates or, in accordance with subsection 14A:7-11(6), shall be
44 uncertificated shares. Certificates shall be signed by, or in the name
45 of the corporation by, the chairman or vice-chairman of the board,
46 or the president or a vice-president, and may be countersigned by
47 the treasurer or an assistant treasurer, or the secretary or an assistant
48 secretary of the corporation and may be sealed with the seal of the

1 corporation or a facsimile thereof. Any or all signatures upon a
2 certificate may be a facsimile. In case any officer, transfer agent or
3 registrar who has signed or whose facsimile signature has been
4 placed upon such certificate, shall have ceased to be such officer,
5 transfer agent, or registrar before such certificate is issued, it may
6 be issued by the corporation with the same effect as if he were such
7 officer, transfer agent or registrar at the date of its issue.

8 (2) Every share certificate delivered after the effective date of
9 this act by a corporation which is authorized to issue shares of more
10 than one class shall set forth upon the face or back of the certificate,
11 a full statement

12 (a) Of the designations, relative rights, preferences and
13 limitations of the shares of each class and series authorized to be
14 issued, so far as the same have been determined, and

15 (b) Of the authority of the board to divide the shares into classes
16 or series and to determine and change the relative rights,
17 preferences and limitations of any class or series, or shall set forth
18 that the corporation will furnish to any shareholder, upon request
19 and without charge, such a full statement.

20 (3) Each certificate representing shares shall state upon the face
21 thereof

22 (a) That the corporation is organized under the laws of this State;

23 (b) The name of the person to whom issued; **and**

24 (c) The number and class of shares, and the designation of the
25 series, if any, which such certificate represents, and

26 (d) In the case of a certificate token pursuant to section 23 of
27 P.L. , c. (C.) (pending before the Legislature as this bill),
28 the data address to whom which the token was issued; .

29 (4) No certificate shall be issued for any share until such share is
30 fully paid.

31 (5) A card which is punched, magnetically coded or otherwise
32 treated so as to facilitate machine or automatic processing, may be
33 used as a share certificate if it otherwise complies with the
34 provisions of this section.

35 (6) The board may provide that some or all of the shares of any
36 class or series shall be represented by uncertificated shares. Within
37 a reasonable time after the issuance or transfer of uncertificated
38 shares, the corporation shall send to the registered owner thereof a
39 written notice containing the information required to be set forth or
40 stated on certificates by subsections 14A:7-11(2) and 14A:7-11(3),
41 and if required, 14A:7-12(2). Except as otherwise expressly
42 provided by law, the rights and obligations of the holders of
43 uncertificated shares and the rights and obligations of the holders of
44 certificates representing shares of the same class and series shall be
45 identical.

46 (cf: P.L.1988, c.94, s.42)

1 25. (New section) a. Receipts from retail sales of energy and
2 utility service to a virtual currency servicer for use or consumption
3 directly and primarily in the creation of virtual currency, including
4 mining, shall be exempt from the tax imposed under the "Sales and
5 Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

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

13 c. For the purposes of this section:

14 "Virtual currency" means a digital asset that is:

15 (1) Used as a medium of exchange, unit of account or store of
16 value; and

17 (2) Not recognized as legal tender by the United States
18 government.

19 "Virtual currency servicer" means

20 (1) any person who, as its primary business, engages in virtual
21 currency creation, including mining;

22 (2) any person who, as its primary business, engages in the
23 provision of a distributed digital verification system; or

24 (3) any person licensed pursuant to P.L. , c. (C.)
25 (pending before the Legislature as Assembly Bill No.2891).

26

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

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

30 "Affiliate" means an entity that directly or indirectly controls, is
31 under common control with, or is controlled by the business.
32 Control exists in all cases in which the entity is a member of a
33 controlled group of corporations as defined pursuant to section 1563
34 of the Internal Revenue Code of 1986 (26 U.S.C.s.1563) or the
35 entity is an organization in a group of organizations under common
36 control as defined pursuant to subsection (b) or (c) of section 414 of
37 the Internal Revenue Code of 1986 (26 U.S.C.s.414). A taxpayer
38 may establish by clear and convincing evidence, as determined by
39 the Director of the Division of Taxation in the Department of the
40 Treasury, that control exists in situations involving lesser
41 percentages of ownership than required by those statutes. An
42 affiliate of a business may contribute to meeting either the qualified
43 investment or full-time employee requirements of a business that
44 applies for a credit under section 3 of P.L.2007, c.346 (C.34:1B-
45 209).

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

1 "Aviation district" means the area within a one-mile radius of the
2 outermost boundary of the "Atlantic City International Airport,"
3 established pursuant to section 24 of P.L.1991, c.252 (C.27:25A-
4 24).

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

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

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

12 a partnership;

13 an S corporation;

14 a limited liability company; or

15 a non-profit corporation.

16 If the business or tenant is a cooperative or part of a cooperative,
17 then the cooperative may qualify for credits by counting the full-
18 time employees and capital investments of its member
19 organizations, and the cooperative may distribute credits to its
20 member organizations. If the business or tenant is a cooperative
21 that leases to its member organizations, the lease shall be treated as
22 a lease to an affiliate or affiliates.

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

26 "Capital investment" in a qualified business facility means
27 expenses by a business or any affiliate of the business incurred after
28 application for:

29 a. site preparation and construction, repair, renovation,
30 improvement, equipping, or furnishing on real property or of a
31 building, structure, facility, or improvement to real property;

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

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

41 d. any of the foregoing.

42 In addition to the foregoing, in a Garden State Growth Zone, the
43 following qualify as a capital investment: any and all development,
44 redevelopment and relocation costs, including, but not limited to,
45 site acquisition if made within 24 months of application to the
46 authority, engineering, legal, accounting, and other professional
47 services required; and relocation, environmental remediation, and
48 infrastructure improvements for the project area, including, but not

1 limited to, on- and off-site utility, road, pier, wharf, bulkhead, or
2 sidewalk construction or repair.

3 In addition to the foregoing, if a business acquires or leases a
4 qualified business facility, the capital investment made or acquired
5 by the seller or owner, as the case may be, if pertaining primarily to
6 the premises of the qualified business facility, shall be considered a
7 capital investment by the business and, if pertaining generally to the
8 qualified business facility being acquired or leased, shall be
9 allocated to the premises of the qualified business facility on the
10 basis of the gross leasable area of the premises in relation to the
11 total gross leasable area in the qualified business facility. The
12 capital investment described herein may include any capital
13 investment made or acquired within 24 months prior to the date of
14 application so long as the amount of capital investment made or
15 acquired by the business, any affiliate of the business, or any owner
16 after the date of application equals at least 50 percent of the amount
17 of capital investment, allocated to the premises of the qualified
18 business facility being acquired or leased on the basis of the gross
19 leasable area of such premises in relation to the total gross leasable
20 area in the qualified business facility made or acquired prior to the
21 date of application.

22 "Commitment period" means the period of time that is 1.5 times
23 the eligibility period.

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

29 "Disaster recovery project" means a project located on property
30 that has been wholly or substantially damaged or destroyed as a
31 result of a federally-declared disaster which, after utilizing all
32 disaster funds available from federal, State, county, and local
33 funding sources, demonstrates to the satisfaction of the authority
34 that access to additional funding authorized pursuant to the "New
35 Jersey Economic Opportunity Act of 2013," P.L.2013,
36 c.161 (C.52:27D-489p et al.), is necessary to complete such
37 redevelopment project, and which is located within the qualified
38 incentive area and has been determined by the authority to be in an
39 area appropriate for development and in need of economic
40 development incentive assistance.

41 "Virtual currency servicer" means the same as defined in section
42 25 of P.L. , c. (C.)(pending before the Legislature as this
43 bill).

44 "Distressed municipality" means a municipality that is qualified
45 to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a
46 municipality under the supervision of the Local Finance Board
47 pursuant to the provisions of the "Local Government Supervision
48 Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality

1 identified by the Director of the Division of Local Government
2 Services in the Department of Community Affairs to be facing
3 serious fiscal distress, a SDA municipality, or a municipality in
4 which a major rail station is located.

5 "Eligibility period" means the period in which a business may
6 claim a tax credit under the Grow New Jersey Assistance Program,
7 beginning with the tax period in which the authority accepts
8 certification of the business that it has met the capital investment
9 and employment requirements of the Grow New Jersey Assistance
10 Program and extending thereafter for a term of not more than 10
11 years, with the term to be determined solely at the discretion of the
12 applicant.

13 "Eligible position" or "full-time job" means a full-time position
14 in a business in this State which the business has filled with a full-
15 time employee.

16 "Full-time employee" means a person:

17 a. who is employed by a business for consideration for at least
18 35 hours a week, or who renders any other standard of service
19 generally accepted by custom or practice as full-time employment,
20 or

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

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

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

42 With respect to a logistics, manufacturing, energy, defense,
43 aviation, or maritime business, excluding primarily warehouse or
44 distribution operations, located in a port district having a container
45 terminal:

46 the requirement that employee health benefits are to be provided
47 shall be deemed to be satisfied if such benefits are provided in

1 accordance with industry practice by a third party obligated to
2 provide such benefits pursuant to a collective bargaining agreement;

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

6 35 hours of employment per week at a qualified business facility
7 shall constitute one "full-time employee," regardless of whether or
8 not the hours of work were performed by one or more persons.

9 For any project located in a Garden State Growth Zone which
10 qualifies under the "Municipal Rehabilitation and Economic
11 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or any
12 project located in the Atlantic City Tourism District as established
13 pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated
14 by the Casino Reinvestment Development Authority, and which
15 will include a retail facility of at least 150,000 square feet, of which
16 at least 50 percent will be occupied by either a full-service
17 supermarket or grocery store, 30 hours of employment per week at a
18 qualified business facility shall constitute one "full-time employee,"
19 regardless of whether or not the hours of work were performed by
20 one or more persons, and the requirement that employee health
21 benefits are to be provided shall be deemed to be satisfied if the
22 employees of the business are covered by a collective bargaining
23 agreement.

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

33 "Garden State Growth Zone" or "growth zone" means the four
34 New Jersey cities with the lowest median family income based on
35 the 2009 American Community Survey from the US Census, (Table
36 708. Household, Family, and Per Capita Income and Individuals,
37 and Families Below Poverty Level by City: 2009); or a municipality
38 which contains a Tourism District as established pursuant to section
39 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino
40 Reinvestment Development Authority.

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

47 "Incentive agreement" means the contract between the business
48 and the authority, which sets forth the terms and conditions under

1 which the business shall be eligible to receive the incentives
2 authorized pursuant to the program.

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

7 "Major rail station" means a railroad station located within a
8 qualified incentive area which provides access to the public to a
9 minimum of six rail passenger service lines operated by the New
10 Jersey Transit Corporation.

11 "Mega project" means:

12 a. a qualified business facility located in a port district housing
13 a business in the logistics, manufacturing, energy, defense, or
14 maritime industries, either:

15 (1) having a capital investment in excess of \$20,000,000, and at
16 which more than 250 full-time employees of such business are
17 created or retained, or

18 (2) at which more than 1,000 full-time employees of such
19 business are created or retained;

20 b. a qualified business facility located in an aviation district
21 housing a business in the aviation industry, in a Garden State
22 Growth Zone, or in a priority area housing the United States
23 headquarters and related facilities of an automobile manufacturer,
24 either:

25 (1) having a capital investment in excess of \$20,000,000, and at
26 which more than 250 full-time employees of such business are
27 created or retained, or

28 (2) at which more than 1,000 full-time employees of such
29 business are created or retained;

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

34 d. a project located in an area designated in need of
35 redevelopment, pursuant to P.L.1992, c.79 (C.40A:12A-1 et al.)
36 prior to the enactment of P.L.2014, c.63 (C.34:1B-251 et al.) within
37 Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester,
38 Ocean, or Salem counties having a capital investment in excess of
39 \$20,000,000, and at which more than 150 full-time employees of a
40 business 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,
2 according to United States Department of Housing and Urban
3 Development or other recognized standards for home ownership
4 and rental costs, and occupied or reserved for occupancy by
5 households with a gross household income equal to more than 50
6 percent but less than 80 percent of the median gross household
7 income for households of the same size within the housing region in
8 which the housing is located.

9 "Municipal Revitalization Index" means the 2007 index by the
10 Office for Planning Advocacy within the Department of State
11 measuring or ranking municipal distress.

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

17 "Other eligible area" means the portions of the qualified
18 incentive area that are not located within a distressed municipality,
19 or the priority area.

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

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

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

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

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

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

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

45 c. are the proposed site of a disaster recovery project, a
46 qualified incubator facility, a highlands development credit
47 receiving area or redevelopment area, a tourism destination project,
48 or transit oriented development; or

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

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

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

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
38 Meadowlands Commission pursuant to subsection (i) of section 6 of
39 P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan
40 adopted by the New Jersey Meadowlands Commission pursuant to
41 section 20 of 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, town, village, or a
48 military and federal installation area designated in the

1 comprehensive management plan prepared and adopted by the
2 Pinelands Commission pursuant to the "Pinelands Protection Act,"
3 P.L.1979, c.111 (C.13:18A-1 et seq.);

4 (5) located within the planning area of the Highlands Region as
5 defined in section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands
6 development credit receiving area or redevelopment area;

7 (6) located within a Garden State Growth Zone;

8 (7) located within land approved for closure under any federal
9 Commission on Base Realignment and Closure action; or

10 (8) located only within the following portions of the areas
11 designated pursuant to the "State Planning Act," P.L.1985, c.398
12 (C.52:18A-196 et al.), as Planning Area 4A (Rural Planning Area),
13 Planning Area 4B (Rural/Environmentally Sensitive) or Planning
14 Area 5 (Environmentally Sensitive) if Planning Area 4A (Rural
15 Planning Area), Planning Area 4B (Rural/Environmentally
16 Sensitive) or Planning Area 5 (Environmentally Sensitive) is
17 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
21 State 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 40A:12A-
26 6) or in need of rehabilitation pursuant to section 14 of P.L.1992,
27 c.79 (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 such expansion otherwise
31 complies with all applicable federal, State, county, and local
32 permits 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
35 development 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
3 which, because of a potential relocation by the business, is at risk of
4 being lost to another state or country, or eliminated. For the
5 purposes of determining a number of retained full-time jobs, the
6 eligible positions of an affiliate shall be considered eligible
7 positions of the business. For the purposes of the certifications and
8 annual reports required in the incentive agreement pursuant to
9 subsection e. of section 4 of P.L.2011, c.149 (C.34:1B-245), to the
10 extent an eligible position that was the basis of the award no longer
11 exists, a business shall include as a retained full-time job a new
12 eligible position that is filled by a full-time employee provided that
13 the position is included in the order of date of hire and is not the
14 basis for any other incentive award. For a project located in a
15 Garden State Growth Zone which qualified for the "Municipal
16 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
17 (C.52:27BBB-1 et al.), retained full-time job shall include any
18 employee previously employed in New Jersey and transferred to the
19 new location in the Garden State Growth Zone which qualified for
20 the "Municipal Rehabilitation and Economic Recovery Act,"
21 P.L.2002, c.43 (C.52:27BBB-1 et al.).

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

24 "SDA municipality" means a municipality in which an SDA
25 district is situate.

26 "Targeted industry" means any industry identified from time to
27 time by the authority including initially, a transportation,
28 manufacturing, defense, energy, logistics, life sciences, technology,
29 health, and finance business, but excluding a primarily warehouse
30 or distribution business. "Targeted industry" shall include the
31 virtual currency industry and shall include a virtual currency
32 servicer.

33 "Technology startup company" means a for profit business that
34 has been in operation fewer than five years and is developing or
35 possesses a proprietary technology or business method of a high-
36 technology or life science-related product, process, or service which
37 the business intends to move to commercialization. "Technology
38 startup company" shall include a company that is a virtual currency
39 servicer, regardless of the number of years the business has been in
40 operation.

41 "Tourism destination project" means a qualified non-gaming
42 business facility that will be among the most visited privately
43 owned or operated tourism or recreation sites in the State, and
44 which is located within the qualified incentive area and has been
45 determined by the authority to be in an area appropriate for
46 development and in need of economic development incentive
47 assistance, including a non-gaming business within an established

1 Tourism District with a significant impact on the economic viability
2 of that District.

3 "Transit oriented development" means a qualified business
4 facility located within a 1/2-mile radius, or one-mile radius for
5 projects located in a Garden State Growth Zone, surrounding the
6 mid-point of a New Jersey Transit Corporation, Port Authority
7 Transit Corporation, or Port Authority Trans-Hudson Corporation
8 rail, bus, or ferry station platform area, including all light rail
9 stations.

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

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

23 (cf: P.L.2014, c.63, s.2)

24

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

27 5. a. The total amount of tax credit for an eligible business for
28 each new or retained full-time job shall be as set forth in
29 subsections b. through f. of this section. The total tax credit amount
30 shall be calculated and credited to the business annually for each
31 year of the eligibility period. Notwithstanding any other provisions
32 of P.L.2013, c.161 (C.52:27D-489p et al.), a business may assign its
33 ability to apply for the tax credit under this subsection to a non-
34 profit organization with a mission dedicated to attracting investment
35 and completing development and redevelopment projects in a
36 Garden State Growth Zone. The non-profit organization or
37 organization operating a qualified incubator facility may make an
38 application on behalf of a business which meets the requirements
39 for the tax credit, or a group of non-qualifying businesses or
40 positions, located at a qualified business facility, that shall be
41 considered a unified project for the purposes of the incentives
42 provided under this section. For any project located in a Garden
43 State Growth Zone that qualifies under the "Municipal
44 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
45 (C.52:27BBB-1 et al.), or any project located in a Garden State
46 Growth Zone which contains a Tourism District as established
47 pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated
48 by the Casino Reinvestment Development Authority, and which

1 will include a retail facility of at least 150,000 square feet, of which
2 at least 50 percent will be occupied by either a full-service
3 supermarket or grocery store, a business may assign its ability to
4 apply for the tax credit under this subsection to the developer of the
5 facility. The developer may make an application on behalf of the
6 business which meets the requirements for the tax credit, or a group
7 of non-qualifying businesses located at the business facility, that
8 shall be considered a unified project for the purposes of the
9 incentives provided under this section, and the developer may apply
10 for tax credits available based on the number of jobs provided by
11 the business or businesses and the total capital investment of the
12 business or businesses and the developer.

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

15 (1) for a qualified business facility located within an urban
16 transit hub municipality or Garden State Growth Zone or is a mega
17 project, \$5,000 per year;

18 (2) for a qualified business facility located within a distressed
19 municipality but not qualifying under paragraph (1) of this
20 subsection, \$4,000 per year;

21 (3) for a project in a priority area, \$3,000 per year; and

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

23 c. In addition to the base amount of the tax credit, the amount
24 of the tax credit to be awarded for each new or retained full-time
25 job shall be increased if the qualified business facility meets any of
26 the following priority criteria or other additional or replacement
27 criteria determined by the authority from time to time in response to
28 evolving economic or market conditions:

29 (1) for a qualified business facility located in a deep poverty
30 pocket or in an area that is the subject of a Choice Neighborhoods
31 Transformation Plan funded by the federal Department of Housing
32 and Urban Development, an increase of \$1,500 per year;

33 (2) for a qualified business facility located in a qualified
34 incubator facility, an increase of \$500 per year;

35 (3) for a qualified business facility located in a mixed-use
36 development that incorporates sufficient moderate income housing
37 on site to accommodate a minimum of 20 percent of the full-time
38 employees of the business, an increase of \$500 per year;

39 (4) for a qualified business facility located within a transit
40 oriented development, an increase of \$2,000 per year;

41 (5) for a qualified business facility, other than a mega project, at
42 which the capital investment in industrial premises for industrial
43 use by the business is in excess of the minimum capital investment
44 required for eligibility pursuant to subsection b. of section 3 of
45 P.L.2011, c.149 (C.34:1B-244), an increase of \$1,000 per year for
46 each additional amount of investment that exceeds the minimum
47 amount required for eligibility by 20 percent, with a maximum
48 increase of \$3,000 per year;

1 (6) for a business with new full-time jobs and retained full-time
2 jobs at the project with an average salary in excess of the existing
3 average salary for the county in which the project is located, or, in
4 the case of a project in a Garden State Growth Zone, a business that
5 employs full-time positions at the project with an average salary in
6 excess of the average salary for the Garden State Growth Zone, an
7 increase of \$250 per year during the commitment period for each 35
8 percent by which the project's average salary levels exceeds the
9 county or Garden State Growth Zone average salary, with a
10 maximum increase of \$1,500 per year;

11 (7) for a business with large numbers of new full-time jobs and
12 retained full-time jobs during the commitment period, the increases
13 shall be in accordance with the following schedule:

14 (a) if the number of new full-time jobs and retained full-time
15 jobs is between 251 and 400, \$500 per year;

16 (b) if the number of new full-time jobs and retained full-time
17 jobs is between 401 and 600, \$750 per year;

18 (c) if the number of new full-time jobs and retained full-time
19 jobs is between 601 and 800, \$1000 per year;

20 (d) if the number of new full-time jobs and retained full-time
21 jobs is between 801 and 1,000, \$1,250 per year;

22 (e) if the number of new full-time jobs and retained full-time
23 jobs is in excess of 1,000, \$1,500 per year;

24 (8) for a business in a targeted industry, an increase of \$500 per
25 year, except in the case of a business in a targeted industry that is a
26 virtual currency servicer, an increase of \$5,000 per year;

27 (9) for a qualified business facility exceeding the Leadership in
28 Energy and Environmental Design's "Silver" rating standards or
29 completes substantial environmental remediation, an additional
30 increase of \$250 per year;

31 (10) for a mega project or a project located within a Garden
32 State Growth Zone at which the capital investment in industrial
33 premises for industrial use by the business is in excess of the
34 minimum capital investment required for eligibility pursuant to
35 subsection b. of section 3 of P.L.2011, c.149 (C.34:1B-244), an
36 increase of \$1,000 per year for each additional amount of
37 investment that exceeds the minimum amount by 20 percent, with a
38 maximum increase of \$5,000 per year;

39 (11) for a project in which a business retains at least 400 jobs
40 and is located within the municipality in which it was located
41 immediately prior to the filing of the application hereunder and is
42 the United States headquarters of an automobile manufacturer, an
43 increase of \$1,500 per year;

44 (12) for a project located in a municipality in Atlantic,
45 Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean,
46 and Salem counties with a 2007 Municipality Revitalization Index
47 greater than 465, an increase of \$1,000 per year;

1 (13) for a project located within a half-mile of any light rail
2 station constructed after the effective date of P.L.2013, c.161
3 (C.52:27D-489p et al.), an increase of \$1,000 per year;

4 (14) for a marine terminal project in a municipality located
5 outside the Garden State Growth Zone, but within the geographical
6 boundaries of the South Jersey Port District, an increase of \$1,500
7 per year;

8 (15) for a project located within an area determined to be in
9 need of redevelopment pursuant to sections 5 and 6 of P.L.1992,
10 c.79 (C.40A:12A-5 and C.40A:12A-6), and which is located within
11 a quarter mile of at least one United States Highway and at least
12 two New Jersey State Highways, an increase of \$1,500 per year;

13 (16) for a project that generates solar energy on site for use
14 within the project of an amount that equals at least 50 percent of the
15 project's electric supply service needs, an increase of \$250 per year;
16 and

17 (17) for a qualified business facility that includes a vacant
18 commercial building having over 1,000,000 square feet of office or
19 laboratory space available for occupancy for a period of over one
20 year, an increase of \$1,000 per year.

21 d. The gross amount of the tax credit for an eligible business
22 for each new or retained full-time job shall be the sum of the base
23 amount as set forth pursuant to subsection b. of this section and the
24 various additional bonus amounts for which the business is eligible
25 pursuant to subsection c. of this section, subject to the following
26 limitations:

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

30 (2) for a qualified business facility located within an urban
31 transit hub municipality, the gross amount for each new or retained
32 full-time job shall not exceed \$12,000 per year;

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

36 (4) for a qualified business facility in other priority areas, the
37 gross amount for each new or retained full-time job shall not exceed
38 \$10,500 per year;

39 (5) for a qualified business facility in other eligible areas, the
40 gross amount for each new or retained full-time job shall not exceed
41 \$6,000 per year; and

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

44 Notwithstanding anything to the contrary set forth herein and in
45 the provisions of subsections a. through f. of this section, but
46 subject to the provisions of paragraph (1) of subsection f. of this
47 section, for a project located within a Garden State Growth Zone
48 which qualifies for the "Municipal Rehabilitation and Economic

1 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), which
2 creates 35 or more full-time jobs new to the municipality, the total
3 tax credit shall be:

4 (a) for a project which creates 35 or more full-time jobs new to
5 the municipality and makes a capital investment of at least
6 \$5,000,000, the total tax credit amount per full-time job shall be the
7 greater of: (i) the total tax credit amount for a qualifying project in
8 a Garden State Growth Zone as calculated pursuant to subsections
9 a. through f. of this section; or (ii) the total capital investment of the
10 project divided by the total number of full-time jobs at that project
11 but not greater than \$2,000,000 per year over the grant term of ten
12 years;

13 (b) for a project which creates 70 or more full-time jobs new to
14 the municipality and makes a capital investment of at least
15 \$10,000,000, the total tax credit amount per full-time job shall be
16 the greater of: (i) the total tax credit amount for a qualifying project
17 in a Garden State Growth Zone as calculated pursuant to
18 subsections a. through f. of this section; or (ii) the total capital
19 investment of the project divided by the total number of full-time
20 jobs at that project but not greater than \$3,000,000 per year over the
21 grant term of ten years;

22 (c) for a project which creates 100 or more full-time jobs new to
23 the municipality and makes a capital investment of at least
24 \$15,000,000, the total tax credit amount per full-time job shall be
25 the greater of: (i) the total tax credit amount for a qualifying project
26 in a Garden State Growth Zone as calculated pursuant to
27 subsections a. through f. of this section; or (ii) the total capital
28 investment of the project divided by the total number of full-time
29 jobs at that project but not greater than \$4,000,000 per year over the
30 grant term of ten years;

31 (d) for a project which creates 150 or more full-time jobs new to
32 the municipality and makes a capital investment of at least
33 \$20,000,000, the total tax credit amount per full-time job shall be
34 the greater of: (i) the total tax credit amount for a qualifying project
35 in a Garden State Growth Zone as calculated pursuant to
36 subsections a. through f. of this section; or (ii) the total capital
37 investment of the project divided by the total number of full-time
38 jobs at that project but not greater than \$5,000,000 per year over the
39 grant term of ten years; or

40 (e) for a project which creates 250 or more full-time jobs new to
41 the municipality and makes a capital investment of at least
42 \$30,000,000, the total tax credit amount per full-time job shall be
43 the greater of: (i) the total tax credit amount for a qualifying project
44 in a Garden State Growth Zone as calculated pursuant to
45 subsections a. through f. of this section; or (ii) the total capital
46 investment of the project divided by the total number of full-time
47 jobs as defined herein at that project divided by the ten-year grant
48 term.

1 e. After the determination by the authority of the gross amount
2 of tax credits for which a business is eligible pursuant to subsection
3 d. of this section, the final total tax credit amount shall be
4 calculated as follows: (1) for each new full-time job, the business
5 shall be allowed tax credits equaling 100 percent of the gross
6 amount of tax credits for each new full-time job; and (2) for each
7 retained full-time job, the business shall be allowed tax credits
8 equaling the lesser of 50 percent of the gross amount of tax credits
9 for each retained full-time job, or one-tenth of the capital
10 investment divided by the number of retained and new full-time
11 jobs per year over the grant term of ten years, unless the jobs are
12 part of a mega project which is the United States headquarters of an
13 automobile manufacturer located within a priority area or in a
14 Garden State Growth Zone, in which case the business shall be
15 entitled to tax credits equaling 100 percent of the gross amount of
16 tax credits for each retained full-time job, or unless the new
17 qualified business facility would replace a facility that has been
18 wholly or substantially damaged as a result of a federally-declared
19 disaster, in which case the business shall be entitled to tax credits
20 equaling 100 percent of the gross amount of tax credits for each
21 retained full-time job.

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

26 (1) \$35,000,000 and provides a net benefit to the State as
27 provided herein with respect to a qualified business facility in a
28 Garden State Growth Zone which qualifies under the "Municipal
29 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
30 (C.52:27BBB-1 et al.), or which contains a Tourism District as
31 established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and
32 regulated by the Casino Reinvestment Development Authority;

33 (2) \$30,000,000 and provides a net benefit to the State as
34 provided herein with respect to a mega project or a qualified
35 business facility in a Garden State Growth Zone;

36 (3) \$10,000,000 and provides a net benefit to the State as
37 provided herein with respect to a qualified business facility in an
38 urban transit hub municipality;

39 (4) \$8,000,000 and provides a net benefit to the State as
40 provided herein with respect to a qualified business facility in a
41 distressed municipality;

42 (5) \$4,000,000 and provides a net benefit to the State as
43 provided herein with respect to a qualified business facility in other
44 priority areas, but not more than 90 percent of the withholdings of
45 the business from the qualified business facility; and

46 (6) \$2,500,000 and provides a net benefit to the State as
47 provided herein with respect to a qualified business facility in other

1 eligible areas, but not more than 90 percent of the withholdings of
2 the business from the qualified business facility.

3 Under paragraphs (1) through (6) of this subsection, with the
4 exception of a project located within a Garden State Growth Zone
5 which qualifies for the "Municipal Rehabilitation and Economic
6 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.) , or which
7 contains a Tourism District as established pursuant to section 5 of
8 P.L.2011, c.18 (C.5:12-219) and regulated by the Casino
9 Reinvestment Development Authority, that divides the total capital
10 investment of the project by the total number of full-time jobs at
11 that project, for each application for tax credits in excess of
12 \$4,000,000 annually, the amount of tax credits available to be
13 applied by the business annually shall be the lesser of the maximum
14 amount under the applicable subsection or an amount determined by
15 the authority necessary to complete the project, with such
16 determination made by the authority's utilization of a full economic
17 analysis of all locations under consideration by the business; all
18 lease agreements, ownership documents, or substantially similar
19 documentation for the business's current in-State locations, as
20 applicable; and all lease agreements, ownership documents, or
21 substantially similar documentation for the potential out-of-State
22 location alternatives, to the extent they exist. Based on this
23 information, and any other information deemed relevant by the
24 authority, the authority shall independently verify and confirm the
25 amount necessary to complete the project.

26 (cf: P.L.2014, c.63, s.4)

27

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

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

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

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

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

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

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

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

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

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

19 "Virtual currency" means a digital asset that is:

20 (1) used as a medium of exchange, unit of account or store of
21 value; and

22 (2) not recognized as legal tender by the United States
23 government.

24 (cf: P.L.1996, c.2, s.1)

25

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

30

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

35

36

37

STATEMENT

38

39 This bill, the "Virtual Currency and Blockchain Regulation Act,"
40 establishes a regulatory framework for virtual currency businesses
41 to operate in New Jersey, creates provisions governing the use of
42 blockchain with certain business entities, and creates certain
43 incentives for virtual currency businesses to locate in the State.

44

Provisions on open blockchain tokens

45 This bill provides that certain open blockchain tokens are
46 intangible personal property rather than securities. An open
47

1 blockchain token is to be considered intangible personal property
2 under the bill if it meets the following characteristics:

3 (1) the predominant purpose of the token is consumptive;

4 (2) the developer or seller did not market the token to the initial
5 buyer as a financial investment; and

6 (3) at least one of the following subparagraphs is satisfied:

7 (a) the developer or seller reasonably believed that it sold the
8 token to the initial buyer for a consumptive purpose;

9 (b) the token has a consumptive purpose that is available at or
10 near the time of sale and can be used at or near the time of sale for a
11 consumptive purpose;

12 (c) the initial buyer of the token is prohibited by the developer or
13 seller of the token from reselling the token until the token is
14 available to be used for a consumptive purpose; or

15 (d) the developer or seller takes other reasonable precautions to
16 prevent an initial buyer from purchasing the token as a financial
17 investment.

18 The bill requires that, before making an open blockchain token
19 available for sale, the developer or seller of a token, or the
20 registered agent of the developer or seller, is to electronically file a
21 notice of intent with the Department of Banking and Insurance and
22 pay a filing fee of \$1,000. The notice of intent is to contain the
23 name of the person acting as a developer or seller, the contact
24 information of the person, or the registered agent of the person and
25 comprehensive details, to be determined by the Commissioner of
26 Banking and Insurance, on the open blockchain token made
27 available for sale. A form is to be made available by the
28 department for this purpose, and is to include a secure electronic
29 form conspicuously posted on the department's Internet website. A
30 developer, seller and the registered agent of these persons, if
31 applicable, is to have a continuing duty to update the contact
32 information provided on a notice of intent as long as the open
33 blockchain token associated with the notice is actively being sold.

34 The bill makes a willful failure by a developer, seller or
35 facilitator to comply with the duties imposed by the bill an unlawful
36 practice under the Consumer Fraud Act. An unlawful practice
37 under the Consumer Fraud Act is punishable by a monetary penalty
38 of not more than \$10,000 for a first offense and not more than
39 \$20,000 for any subsequent offense. In addition, violations can
40 result in cease and desist orders issued by the Attorney General, the
41 assessment of punitive damages and the awarding of treble damages
42 and costs to the injured party.

43

44 **Provisions on digital assets as property**

45 This bill establishes digital assets as property and allows banks
46 to provide custodial services for digital assets.

47 A digital asset is a representation of an economic, proprietary, or
48 access right that is stored in a computer readable format, and

1 includes digital consumer assets, digital securities, and virtual
2 currency. Under the bill, all digital assets will be classified as
3 property, with digital consumer assets classified as a general
4 intangible property, digital securities classified as a security, and
5 virtual currency classified as money. A digital asset will also be
6 treated as a financial asset under the bill, if a written agreement is
7 entered with the owner of the digital asset classifying the asset as
8 such. If the digital asset is treated as a financial asset, then the
9 digital asset will remain as intangible personal property.

10 Under the bill, a secured party or an agent, custodian, fiduciary
11 or trustee of the party with a security interest in a digital asset will
12 be able to perfect their security interest through control. A secured
13 party holding a security interest in a digital asset through control
14 will have priority over a secured party that has a security interest in
15 the asset but does not have control. Perfection by control will create
16 a possessory security interest in a digital asset and will not require
17 physical possession.

18 Additionally, the bill will allow a bank to provide custodial
19 services of digital assets upon providing 60 days written notice to
20 the Commissioner of the Department of Banking and Insurance. A
21 bank that elects serve as a qualified custodian must follow federal
22 Securities and Exchange Commission rules regarding custodial
23 services and must ensure the following:

24 (1) the implementation of all accounting, account statement,
25 internal control, notice and other standards specified by applicable
26 State or federal laws and regulations for custodial services;

27 (2) maintenance of information technology best practices
28 relating to digital assets held in custody;

29 (3) full compliance with applicable federal anti-money
30 laundering, customer identification and beneficial ownership
31 requirements; and

32 (4) other actions necessary to carry out the aforementioned
33 requirements, which may include exercising fiduciary powers
34 similar to those permitted to national banks and ensuring
35 compliance with federal law governing digital assets classified as
36 commodities.

37 Apart from the requirements above, a bank providing custodial
38 services will also be required to enter into an agreement with an
39 independent public accountant to conduct an examination that
40 conforms to federal regulations concerning custodial services, at the
41 cost of the bank, pursuant to certain rules and requirements.

42 The bill also provides that digital assets held in custody are not
43 depository liabilities or assets of the bank. A bank, or its
44 subsidiary, that holds digital assets in custody will be able to
45 register as an investment adviser, investment company or broker
46 dealer as necessary. Banks holding digital assets in custody must
47 maintain control over a digital asset, with the customer electing,

1 pursuant to a written agreement with the bank, one of the following
2 relationships for each digital asset held in custody:

3 (1) custody under a bailment as a nonfungible or fungible asset.
4 Assets held under this bill will be strictly segregated from other
5 assets; or

6 (2) custody under a bailment that allows the bank, based on the
7 customer's instructions, to undertake transactions with the digital
8 asset.

9 A bank that holds a digital asset in custody under a bailment that
10 allows the bank to undertake transactions with the digital asset will
11 not be liable for any loss suffered with respect to any transactions
12 made, except for liability consistent with fiduciary and trust powers
13 as a custodian.

14 The bill provides that a bank and a customer must agree in
15 writing with regard to the source code that the bank will use for
16 each digital asset, and the treatment of each asset. Any ambiguity
17 within the agreement will be resolved in favor of the customer. A
18 bank will be required to provide clear, written notice to each
19 customer, and require written acknowledgement, of the following:

20 (1) prior to the implementation of any updates, material source
21 code updates relating to digital assets held in custody, except in
22 emergencies which may include security vulnerabilities;

23 (2) the heightened risk of loss from transactions with the digital
24 asset, if the bank is given the instruction from the customer to
25 undertake transactions with the digital asset;

26 (3) that some risk of loss as a pro rata creditor exists as the
27 result of custody as a fungible asset;

28 (4) that custody may not result in the digital assets of the
29 customer being strictly segregated from other customer assets if the
30 bank is allowed to undertake transactions with the asset; and

31 (5) that the bank is not liable for any losses suffered if the bank
32 does transact with the asset, with exception for liability consistent
33 with fiduciary and trust powers as a custodian.

34 A bank and a customer must agree in writing to a time period
35 within which the bank must return a digital asset held in custody. If
36 a customer elects to allow the bank to make transactions with the
37 asset, then the bank and the customer may also agree in writing to
38 the form in which the digital asset will be returned.

39 The bill provides that all ancillary or subsidiary proceeds relating
40 to digital assets held in custody will accrue to the benefit of the
41 customer, except as specified by a written agreement with the
42 customer. The bank may elect not to collect certain ancillary or
43 subsidiary proceeds, as long as the election is disclosed in writing.
44 A customer who elects to custody under a bailment that treats a
45 digital asset as either fungible or nonfungible may withdraw the
46 digital asset in a form that permits the collection of ancillary or
47 subsidiary proceeds.

1 Finally, the bill provides that a bank will be prohibited from
2 authorizing rehypothecation of digital assets. The bank will not
3 engage in any activity to use or exercise discretionary authority
4 relating to a digital asset unless it has the customer's instructions to
5 do so. A bank will also be prohibited from taking any action which
6 would likely impair the solvency or the safety and soundness of the
7 bank, as determined by the commissioner after considering the
8 nature of custodial services customary in the banking industry.

9

10 **Provisions on decentralized autonomous organizations**

11 This bill allows the formation of decentralized autonomous
12 organizations (DAO) under the State's limited liability company
13 law.

14 A DAO is an organization controlled by its members with no
15 central authority. Instead, the organization is governed by a set of
16 smart contracts built on distributed ledger technology or
17 blockchain. The smart contracts automate many of the decision-
18 making processes typically reserved for upper-tier management in a
19 traditional company.

20 The bill permits DAOs to incorporate as limited liability
21 companies, and affords DAOs similar protections as are afforded to
22 limited liability companies under current law.

23 The bill provides a DAO is a limited liability company whose
24 articles of organization contain a statement that the company is a
25 decentralized autonomous organization. The bill requires DAOs to
26 maintain a presence in the State through a registered agent and to
27 include in its name a designation such as "DAO", "DAO LLC" or
28 "LAO". The bill permits limited liability companies in the State
29 currently to convert to DAOs by amending their articles of
30 organization.

31 Under the bill, a DAO may be member managed or
32 algorithmically managed, as set forth in its articles of organization.
33 If algorithmically managed, the underlying smart contract must be
34 able to be updated, modified or otherwise upgraded.

35 The bill provides that the articles of organization or the smart
36 contracts of the DAO will govern aspects of the organization such
37 as relations among the members, rights and duties of each member,
38 voting rights, transferability, distributions and amendments. In
39 addition, unless provided for in the articles of organization or
40 operating agreement, no member has any fiduciary duty to the DAO
41 or any member other than the implied contractual covenant of good
42 faith and fair dealing.

43

44 **Provisions on blockchain filing system**

45 This bill gives the Division of Revenue and Enterprise Services
46 in the New Jersey Department of the Treasury the authority to
47 develop filing system using blockchain through which all required
48 filings may be submitted. The division is to try to use blockchain

1 technology and include an application programming interface as
2 components of the filing system, as well as robust security measures
3 and other components determined by the division to be best
4 practices or which are likely to increase the effective and efficient
5 administration of the laws of this State. The division may create a
6 blockchain or contract for the use of a privately created blockchain.

7 The division may consult with all interested parties, including
8 businesses, registered agents, attorneys, law enforcement and other
9 interested persons, before developing the filing system and if
10 possible, partner with technology innovators and private companies
11 to develop necessary components of the system. The division may
12 also promulgate rules and regulations to effectuate the provisions of
13 the bill.

14

15 **Exemption for virtual currency from money transmitter law**

16 This bill also exempts virtual currency from current law
17 governing money transmitters. "Virtual currency" is added to the
18 law to mean any type of digital representation that: (1) is used as a
19 medium of exchange, unit of account or store of value; and (2) is
20 not recognized as legal tender by the United States government.

21

22 **Authorization for business entity to issue stock as certificate 23 token**

24 This bill authorizes a business entity, such as a corporation or
25 limited liability company, to issue stock certificates in the form of
26 electronic certificate tokens.

27 "Certificate token" is defined as an electronic representation of a
28 share of stock which contains certain information required under
29 existing law for stock certificates and which is entered into a
30 blockchain or other secure, auditable database.

31

32 **Business incentives for virtual currency businesses**

33 The bill also provides certain incentives for virtual currency
34 businesses to locate in New Jersey. The bill exempts receipts from
35 retail sales of energy and utility service to a virtual currency
36 servicer or registrant for use or consumption directly and primarily
37 in the creation of virtual currency, including mining, from the tax
38 imposed under New Jersey's "Sales and Use Tax Act." The bill
39 provides that a virtual currency servicer or registrant may file an
40 application for a sales and use tax exemption with the Director of
41 the Division of Taxation in the Department of the Treasury.

42 The "Grow New Jersey Assistance Act," N.J.S.A.34:1B-242,
43 provides certain business and insurance premiums tax credits for
44 job creation and retention in New Jersey. For the purposes of the
45 "Grow New Jersey Assistance Act," the bill designates virtual
46 currency servicers and registrants registered pursuant to this bill's
47 provisions to be in a "targeted industry" and a "technology startup
48 company." Therefore, in order for a virtual currency servicer to be

1 eligible for that program, the minimum number of new or retained
2 full-time jobs would be a minimum of 10 new or 25 retained full-
3 time jobs, which is less than is required for certain other types of
4 business. Virtual currency servicers and registrants would also be
5 eligible for, in addition to the base amount of the tax credit, an
6 additional \$5,000 for each new or retained full-time job each year.

7

8 **Allowance for virtual currency in payment of State taxes**

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