

Title 34.
Chapter 1B.
Part XVI.
New Jersey
Economic
Recovery Act of
2020
§§1-78, 80-86, 88,
90, 92-105
C.34:1B-269 to
34:1B-369
§79 C.52:27D-520
§§87, 89
C.52:18A-262 and
52:18A-263
§91 C.52:34-27
§106
C.54:10A-5.47
§107 C.54A:4-21
§127 Approp.

P.L. 2020, CHAPTER 156, *approved January 7, 2021*
Assembly, No. 4 (First Reprint)

1 **AN ACT** concerning State economic development policy, and
2 amending and supplementing various parts of the statutory law,
3 and making an appropriation.
4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*
7
8 1. (New section) P.L. , c. (C.) (pending before the
9 Legislature as this bill) shall be known and may be cited as the
10 "New Jersey Economic Recovery Act of 2020."
11
12 2. (New section) Sections 2 through 8 of P.L. , c. (C.)
13 (pending before the Legislature as this bill) shall be known and may
14 be cited as the "Historic Property Reinvestment Act."
15
16 3. (New section) As used in sections 2 through 8 of P.L. ,
17 c. (C.) (pending before the Legislature as this bill):
18 "Authority" means the New Jersey Economic Development
19 Authority established pursuant to section 4 of P.L.1974, c.80
20 (C.34:1B-4).

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

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
¹Assembly AAP committee amendments adopted December 17, 2020.

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

4 "Cost of rehabilitation" means the consideration given, valued in
5 money, whether given in money or otherwise, for the materials and
6 services which constitute the rehabilitation.

7 "Director" means the Director of the Division of Taxation in the
8 Department of the Treasury.

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

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

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

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

21 "Project financing gap" means the part of the total cost of
22 rehabilitation, including reasonable and appropriate return on
23 investment, that remains to be financed after all other sources of
24 capital have been accounted for, including, but not limited to,
25 developer contributed capital, which shall not be less than 20
26 percent of the total cost of rehabilitation, and investor or financial
27 entity capital or loans for which the developer, after making all
28 good faith efforts to raise additional capital, certifies that additional
29 capital cannot be raised from other sources.

30 "Property" means a structure, including its site improvements
31 and landscape features, assessed as real property, and used for: a
32 commercial purpose; a residential rental purpose, provided the
33 structure contains at least four dwelling units; or any combination
34 thereof.

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

37 (a) (i) individually listed, or located in a district listed on
38 the National Register of Historic Places in accordance with the with
39 the provisions of chapter 3021 of Title 54, United States Code (54
40 U.S.C. s.302101 et seq), or on the New Jersey Register of Historic
41 Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.), or
42 individually designated, or located in a district designated, by the
43 Pinelands Commission as a historic resource of significance to the
44 Pinelands in accordance with the Pinelands comprehensive
45 management plan adopted pursuant to the "Pinelands Protection
46 Act," P.L.1979, c.111 (C.13:18A-1 et seq.), and

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

4 (b) (i) individually identified or registered, or located in a
5 district composed of properties identified or registered, for
6 protection as significant historic resources in accordance with
7 criteria established by a municipality in which the property or
8 district is located if the criteria for identification or registration has
9 been approved by the officer as suitable for substantially achieving
10 the purpose of preserving and rehabilitating buildings of historic
11 significance within the jurisdiction of the municipality, and

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

14 "Rehabilitation" means the repair or reconstruction of the
15 exterior or interior of a qualified property or transformative project
16 to make an efficient contemporary use possible while preserving the
17 portions or features of the property that have significant historical,
18 architectural, and cultural values.

19 "Rehabilitation of the interior of the qualified property or
20 transformative project" means the repair or reconstruction of the
21 structural or substrate components and electrical, plumbing, and
22 heating components within the interior of a qualified property or
23 transformative project.

24 "Selected rehabilitation period" means a period of 24 months if
25 the beginning of such period is chosen by the business entity during
26 which, or parts of which, a rehabilitation is occurring, or a period of
27 60 months if a rehabilitation is reasonably expected to be completed
28 in distinct phases set forth in written architectural plans and
29 specifications completed before or during the physical work on the
30 rehabilitation.

31 "Transformative project" means a property that is:

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

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

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

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

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

24 (2) The prevailing wage requirements ¹~~shall~~ apply to projects
25 that are allowed a tax credit in excess of \$500,000, and ¹~~shall~~
26 apply at a qualified property or transformative project during the
27 selected rehabilitation period. In the event a qualified property or
28 transformative project, or the aggregate of all qualified properties
29 and transformative projects approved for awards under the program,
30 constitute a lease of more than ¹~~55~~ 35¹ percent of a facility, the
31 prevailing wage requirements shall apply to the entire facility.

32 (3) Prior to approval of an application by the authority, the
33 Department of Labor and Workforce Development, the Department
34 of Environmental Protection, and the Department of the Treasury
35 shall each report to the authority whether the business entity is in
36 substantial good standing with the respective department ¹~~or~~ in
37 lieu of submitting certificates of good standing for the business
38 entity, the business entity may demonstrate that it¹ has entered into
39 an agreement with the respective department that includes a
40 practical corrective action plan for the business entity. The
41 authority may also contract with an independent third party to
42 perform a background check on the business entity. Following
43 approval of an application by the authority, but prior to the start of
44 any construction or rehabilitation at the qualified property or
45 transformative project, the authority shall enter into a rehabilitation
46 agreement with the business entity. The authority shall negotiate
47 the terms and conditions of the rehabilitation agreement on behalf

1 of the State ¹], but the terms shall require the business entity to
2 consent to the disclosure of tax expenditure information as
3 described in paragraph (8) of subsection b. of section 1 of
4 P.L.2009, c.189 (C.52:27B-20a)]¹.

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

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

10 (b) a project financing gap exists.

11 b. A business entity may claim a credit under this section
12 during the accounting or privilege period: (1) in which it makes the
13 final payment for the cost of the rehabilitation if the business entity
14 has chosen a selected rehabilitation period of 24 months; or (2) in
15 which a distinct project phase of the rehabilitation is completed if
16 the business entity has chosen a selected rehabilitation period of 60
17 months. The credit may be claimed against any State tax, listed in
18 paragraph (1) of subsection a. of this section, liability otherwise due
19 after any other credits permitted pursuant to law have been applied.
20 The amount of credit claimed in an accounting or privilege period
21 that cannot be applied for that accounting or privilege period due to
22 limitations in this section may be transferred pursuant to section 5
23 of P.L. , c. (C.) (pending before the Legislature as this bill) or
24 carried over, if necessary, to the nine accounting or privilege
25 periods following the accounting or privilege period for which the
26 credit was allowed.

27 c. A business entity shall submit to the authority satisfactory
28 evidence of the actual cost of rehabilitation, as certified by a
29 certified public accountant, evidence of completion of the
30 rehabilitation or phase, and a certification that all information
31 provided by the business entity to the authority is true, including
32 information contained in the application, the rehabilitation
33 agreement, any amendment to the rehabilitation agreement, and any
34 other information submitted by the business entity to the authority
35 pursuant to sections 2 through 8 of P.L. , c. (C.) (pending
36 before the Legislature as this bill). The business entity, or an
37 authorized agent of the business entity, shall certify under the
38 penalty of perjury that the information provided pursuant to this
39 subsection is true.

40
41 5. (New section) a. The authority shall, in cooperation with
42 the director, establish and administer a corporation business tax
43 credit transfer certificate program and an insurance premiums tax
44 credit transfer certificate program to enable business entities with
45 unused, otherwise allowable amounts of tax credits issued pursuant
46 to sections 2 through 8 of P.L. , c. (C.) (pending before the
47 Legislature as this bill) to exchange these credits, in whole or in

1 part, for private financial assistance prior to the expiration of the tax
2 credit.

3 A certificate issued by the director 'and the authority' shall
4 include a statement waiving the rights of the business entity to
5 which the tax credit has been granted to claim any amount of
6 remaining credit against any tax liability.

7 b. A business entity holding an unused, otherwise allowable tax
8 credit issued pursuant to sections 2 through 8 of P.L. ,

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

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

- 40 (1) the name of the transferor;
41 (2) the name of the transferee;
42 (3) the value of the tax credit transfer certificate;
43 (4) the State tax against which the transferee may apply the tax
44 credit; and
45 (5) the consideration received by the transferor.

46
47 6. (New section) a. The authority shall, in consultation with
48 the officer and the director, promulgate rules and regulations in

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

25 b. For every tax credit allowed pursuant to section 4 of P.L. ,
26 c. (C.) (pending before the Legislature as this bill), the
27 authority, in consultation with the officer, shall certify to the
28 director: the total cost of rehabilitation; that the property meets the
29 definition of qualified property or transformative project, as
30 applicable; and that the rehabilitation has been completed in
31 substantial compliance with the requirements of the Secretary of the
32 Interior's Standards for Rehabilitation pursuant to section 67.7 of
33 Title 36, Code of Federal Regulations. The business entity shall
34 attach the certification to the tax return on which the business entity
35 claims the credit.

36 c. (1) The total amount of credits approved by the authority
37 pursuant to sections 2 through 8 of P.L. , c. (C.) (pending
38 before the Legislature as this bill) shall not exceed the limitations
39 set forth in section 98 of P.L. , c. (C.) (pending before the
40 legislature as this bill). **1.** If the authority approves less than the
41 total amount of tax credits authorized pursuant to this subsection in
42 a fiscal year, the remaining amount, plus any amounts remaining
43 from previous fiscal years, shall be added to the limit of subsequent
44 fiscal years until that amount of tax credits are claimed or allowed.
45 Any unapproved, uncertified, or recaptured portion of tax credits
46 during any fiscal year may be carried over and reallocated in
47 succeeding years.

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

14 The authority, in consultation with the officer, shall devise
15 criteria for allocating tax credit amounts if the approved amounts
16 combined exceed the total amount in each fiscal year, including
17 rules that allocate over multiple fiscal years a single credit amount
18 granted in excess of \$2,000,000. The criteria shall include a
19 project's historic importance, positive impact on the surrounding
20 neighborhood, economic sustainability, geographic diversity, and
21 consistency with Statewide growth and development policies and
22 plans.

23

24 7. (New section) a. The authority, in collaboration with the
25 director, shall adopt rules for the recapture of an entire or partial tax
26 credit amount allowed under sections 2 through 8 of P.L. ,
27 c. (C.) (pending before the Legislature as this bill). The
28 rules shall require the authority to notify the director of the
29 recapture of an entire or partial tax credit amount. ¹【The recapture
30 of funds shall be subject to the State Uniform Tax Procedure Law,
31 R.S.54:48-1 et seq. and recaptured】 Recaptured¹ funds shall be
32 deposited in the General Fund of the State.

33 b. If, before the end of five full years after the completion of
34 the rehabilitation of the qualified property or transformative project,
35 a developer that has received a tax credit pursuant to section 4 of
36 P.L. , c. (C.) (pending before the Legislature as this bill)
37 modifies the qualified property or transformative project so that it
38 ceases to meet the requirements for the rehabilitation of a qualified
39 property or transformative project as defined under the program or
40 ceases to meet the requirement of the rehabilitation agreement then
41 the tax credit allowed under the program shall be recaptured in
42 accordance with the rules adopted pursuant to subsection a. of this
43 section.

44 c. In the case of a business entity that has chosen a selected
45 rehabilitation period of 60 months, if the architectural plans change
46 in the course of the phased rehabilitation project so that the
47 rehabilitation of the qualified property or transformative project
48 would, upon the rehabilitation's completion, no longer qualify for a

1 tax credit pursuant to the requirements of sections 2 through 8 of
2 P.L. , c. (C.) (pending before the Legislature as this bill),
3 then the business entity's tax liability for that accounting or
4 privilege period shall be increased by the full amount of the tax
5 credit that the authority had previously granted upon the completion
6 of a distinct prior project phase that the business entity has applied
7 against its tax liability in a prior accounting or privilege period.
8 Any portion of the tax credit that the business entity has not yet
9 used at the time of the disallowance by the officer shall be deemed
10 void.

11

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

32

33 9. (New section) Sections 9 through 19 of P.L. , c. (C.)
34 (pending before the Legislature as this bill) shall be known and may
35 be cited as the "Brownfields Redevelopment Incentive Program
36 Act."

37

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

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

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

45 "Brownfield site" means any former or current commercial or
46 industrial site that is currently vacant or underutilized and on which
47 there has been, or there is suspected to have been, a discharge of a

1 contaminant or on which there is **'[a]'** contaminated building
2 **'material'**¹.

3 "Contaminated building **'material'**" means **'components of'** a
4 structure **'[upon which] where'** abatement or removal of asbestos,
5 **'[polychlorinated biphenyls, contaminated wood or paint, or other**
6 **infrastructure remedial activities is necessary] or remediation of**
7 **materials containing hazardous substances defined pursuant to**
8 **section 3 of P.L.1976, 12 c.141 (C.58:10-23.11b), is required by**
9 **applicable federal, state, or local rules or regulations'**¹.

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

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

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

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

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

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

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

42 "Redevelopment agreement" means an agreement between the
43 authority and a developer under which the developer agrees to
44 perform any work or undertaking necessary for the remediation of a
45 contaminated site located at the site of the redevelopment project,
46 and for the clearance, development or redevelopment, construction,
47 **'reconstruction,'**¹ or rehabilitation of any structure or improvement

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

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

12 "Remediation" or "remediate" means all necessary actions to
13 investigate and clean up or respond to any known, suspected, or
14 threatened discharge of contaminants, including, as necessary, the
15 preliminary assessment, site investigation, remedial investigation,
16 and remedial action, ¹or any portion thereof,¹ as those terms are
17 defined in section 23 of P.L.1993, c.139 (C.58:10B-1); ¹and
18 hazardous materials abatement; hazardous materials or waste
19 disposal; building and structural remedial activities, including, but
20 not limited to, demolition, asbestos abatement, polychlorinated
21 biphenyl removal, contaminated wood or paint removal, or other
22 infrastructure remedial activities;¹ provided, however,
23 "remediation" or "remediate" shall not include the payment of
24 compensation for damage to, or loss of, natural resources.

25 "Remediation costs" means all reasonable costs associated with
26 the remediation of a contaminated site, except any costs incurred in
27 financing the remediation.

28

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

1 12. (New section) a. A developer seeking a tax credit for a
2 redevelopment project shall submit an application to the authority
3 and the department in a form and manner prescribed in regulations
4 adopted by the authority, in consultation with the department,
5 pursuant to the provisions of the "Administrative Procedure Act,"
6 P.L.1968, c.410 (C.52:14B-1 et seq.).

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

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

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

17 (3) without the tax credit, the redevelopment project is not
18 economically feasible;

19 (4) a project financing gap exists;

20 (5) the developer has obtained and submitted to the authority a
21 letter evidencing support for the redevelopment project from the
22 governing body of the municipality in which the redevelopment
23 project is located; and

24 (6) each worker employed to perform remediation, or
25 construction at the redevelopment project shall be paid not less than
26 the prevailing wage rate for the worker's craft or trade, as
27 determined by the Commissioner of Labor and Workforce
28 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.).
29 The prevailing wage requirements shall apply ¹**to redevelopment**
30 **projects that are allowed a tax credit in excess of \$500,000**¹ for
31 construction work through the completion of the redevelopment
32 project. In the event a redevelopment project, or the aggregate of
33 all redevelopment project approved for an award under the program,
34 constitute a lease of more than ¹**[55]** 35¹ percent of a facility, the
35 prevailing wage requirements shall apply to the entire facility.

36 c. A redevelopment project that received a reimbursement
37 pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26
38 through 58:10B-31) shall not be eligible to apply for a tax credit
39 under the program. If the authority receives an application and
40 supporting documentation for approval of a reimbursement pursuant
41 to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through
42 58:10B-31) prior to the effective date of sections 9 through 19 of
43 P.L. , c. (C.) (pending before the Legislature as this bill),
44 then the authority may consider the application and award a tax
45 credit to a developer, provided that the authority shall take final
46 action on all applications for approval of a reimbursement pursuant
47 to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through
48 58:10B-31) no later than July 1, 2019. No applications shall be

1 submitted pursuant to sections 34 through 39 of P.L.1997, c.278
2 (C.58:10B-26 through 58:10B-31) after the effective date sections 9
3 through 19 of P.L. , c. (C.) (pending before the Legislature
4 as this bill).

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

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

28 e. The authority, in consultation with the department, shall
29 conduct a review of the applications through a competitive
30 application process whereby the authority and the department shall
31 evaluate all applications submitted by a date certain, as if all
32 received applications were submitted on that date. In addition to
33 the eligibility criteria set forth in subsection b. of this section, the
34 authority ¹, in consultation with the department,¹ may consider
35 additional factors that may include, but shall not be limited to: the
36 economic feasibility of the ¹**【remediation】 redevelopment**¹ project;
37 the benefit of the ¹**【remediation】 redevelopment**¹ project to the
38 community in which the remediation project is located; the degree
39 to which the ¹**【remediation】 redevelopment**¹ project enhances and
40 promotes job creation and economic development and ¹**【addresses**
41 **environmental concerns of communities that have been historically**
42 **and disproportionately impacted by environmental hazards】 reduces**
43 **environmental or public health stressors in an overburdened**
44 **community as those terms are defined by section 2 of P.L.**
45 **(C.13:1D-157) and attendant department regulations**¹; and, if the
46 developer has a board of directors, the extent to which that board of
47 directors is diverse and representative of the community in which

1 the ¹['remediation] redevelopment¹ project is located. The
2 authority, in consultation with the department, shall submit
3 applications that comply with the eligibility criteria set forth in this
4 section, fulfill the additional factors considered by the authority
5 pursuant to this subsection, satisfy the submission requirements,
6 and provide adequate information for the subject application, to the
7 board for final approval.

8 f. The authority shall award tax credits to redevelopment
9 projects until either the available tax credits are exhausted or all
10 redevelopment projects that are eligible for a tax credit pursuant to
11 the provisions of sections 9 through 19 of P.L. , c. (C.)
12 (pending before the Legislature as this bill) receive a tax credit,
13 whichever occurs first. If insufficient funding exists to allow a tax
14 credit to a developer in accordance with the provisions of
15 subsection a. of section 16 of P.L. , c. (C.) (pending before
16 the Legislature as this bill), the authority may offer the developer a
17 value of the tax credit below the amount provided for in subsection
18 a. of section 16 of P.L. , c. (C.) (pending before the
19 Legislature as this bill).

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

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

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

33 j. A developer that has commenced remediation or clean up at
34 the site ¹have known¹ the extent of the site contamination when the
35 developer of a redevelopment project prior to application may still
36 apply for a tax credit under the program, if the developer certifies to
37 the authority, under the penalty of perjury, that the developer ¹['was
38 unaware of] could not reasonably¹ commenced the redevelopment
39 project.

40
41 13. (New section) a. Following approval of an application by
42 the board, but prior to the start of any remediation or clean up at the
43 site of the redevelopment project, the authority shall enter into a
44 redevelopment agreement with the developer. The chief executive
45 officer of the authority shall negotiate the terms and conditions of
46 the redevelopment agreement on behalf of the State.

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

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

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

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

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

32 d. The authority shall not enter into a redevelopment agreement
33 ¹【with a developer who is liable, pursuant to paragraph (1) of
34 subsection c. of section 8 of P.L.1976, c.141 (C.58:10-23.11g), for
35 the contamination at the brownfield site proposed to be in the
36 redevelopment agreement】 unless the developer demonstrates, to
37 the satisfaction of the Department of Environmental Protection, that
38 the developer did not discharge a hazardous substance at the
39 brownfield site proposed to be in the redevelopment agreement, is
40 not in any way responsible for the hazardous substance, and is not a
41 corporate successor to the discharger or to any person in any way
42 responsible for the hazardous substance or to anyone liable for
43 cleanup and removal costs pursuant to section 8 of P.L.1976, c.141
44 (C.58:10-23.11g)¹.

45 e. (1) Except as provided in paragraph (2) of this
46 subsection, the authority shall not enter into a redevelopment
47 agreement for a redevelopment project that includes at least one

1 retail establishment that will have more than 10 employees, or at
2 least one distribution center that will have more than 20 employees,
3 unless the redevelopment agreement includes a precondition that
4 any business that serves as the owner or operator of the retail
5 establishment or distribution center enters into a labor harmony
6 agreement with a labor organization or cooperating labor
7 organizations which represent retail or distribution center
8 employees in the State.

9 (2) A labor harmony agreement shall be required only if the
10 State has a proprietary interest in the redevelopment project and
11 shall remain in effect for as long as the State acts as a market
12 participant in the redevelopment project. The authority may enter
13 into a redevelopment agreement with a developer without the labor
14 harmony agreement required under paragraph (1) of this subsection
15 only if the authority determines that the redevelopment project
16 would not be feasible if a labor harmony agreement is required.
17 The authority shall support the determination by a written finding,
18 which provides the specific basis for the determination.

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

44 f. The redevelopment agreement shall provide that issuance of
45 a tax credit under the program shall be conditioned upon the
46 subrogation to the department of all rights of the developer to
47 recover remediation costs from any other person who discharges a
48 hazardous substance or is in any way responsible, pursuant to

1 section 8 of P.L.1976, c.141 (C.58:10-23.11g), for a hazardous
2 substance that was discharged at the brownfield site.

3 g. A developer may seek a revision to the redevelopment
4 agreement if the developer cannot complete the remediation on or
5 before the date set forth in the redevelopment agreement. A
6 developer's ability to change the date on which the developer shall
7 complete the remediation shall be subject to the availability of tax
8 credits in the year of the revised date of completion.

9 h. A developer shall submit to the authority satisfactory
10 evidence of the actual remediation costs, as certified by a certified
11 public accountant, evidence of completion of the remediation, and a
12 certification that all information provided by the developer to the
13 authority is true, including information contained in the application,
14 the redevelopment agreement, any amendment to the redevelopment
15 agreement, and any other information submitted by the developer to
16 the authority pursuant to sections 9 through 19 of P.L. ,
17 c. (C.) (pending before the Legislature as this bill). The
18 developer, or an authorized agent of the developer, shall certify
19 under the penalty of perjury that the information provided pursuant
20 to this subsection is true.

21 i. The redevelopment agreement shall include a requirement
22 that the chief executive officer of the authority receive annual
23 reports from the Department of Environmental Protection, the
24 Department of Labor and Workforce Development, and the
25 Department of the Treasury that demonstrating the developer, and
26 each contractors and subcontractor performing work on the
27 redevelopment project, is in substantial good standing with the
28 respective department, or has entered into an agreement with the
29 respective department that includes a practical corrective action
30 plan for the developer. The redevelopment agreement shall also
31 include a provision allowing authority to recapture the tax credits
32 for any year in which any such report is not received. The
33 redevelopment agreement shall also require a developer to engage
34 in on-site consultations with the Division of Workplace Safety and
35 Health in the Department of Health.

36
37 14. (New section) To qualify for a tax credit under the program,
38 a developer shall:

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

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

46
47 15. (New section) Commencing with the date six months
48 following the date the authority and a developer execute a

1 redevelopment agreement and every six months thereafter until
2 completion of the project, the developer shall submit an update of
3 the status of the redevelopment project to the authority and to the
4 department, including the remediation costs incurred by the
5 developer for the remediation of the contaminated property located
6 at the site of the redevelopment project. Unless the authority
7 determines that extenuating circumstances exist, the authority's
8 approval of a tax credit shall expire if the authority, the department,
9 or both, do not timely receive the status update required under this
10 section. The authority may rescind an award of tax credits under
11 the program if a redevelopment project fails to advance in
12 accordance with the redevelopment agreement.

13

14 16. (New section) a. Upon completion of the redevelopment
15 project, the developer shall seek certification from the department
16 that:

17 (1) the redevelopment project is complete;

18 (2) the developer complied with the requirements of section 15
19 of P.L. , c. (C.) (pending before the Legislature as this
20 bill), including the requirements of any memorandum of agreement
21 or other oversight document that the developer may have executed
22 with the Commissioner of Environmental Protection pursuant to
23 that section; and

24 (3) the remediation costs were actually and reasonably incurred.

25 Upon receipt of certification, and confirmation by the authority
26 that the developer's obligations under the redevelopment agreement
27 have been met, a developer shall be awarded a credit against the tax
28 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in
29 an amount not to exceed 40 percent of the actual remediation costs,
30 or 40 percent of the projected remediation costs as set forth in the
31 redevelopment agreement, or \$4,000,000, whichever is least. The
32 developer, or an authorized agent of the developer, shall certify that
33 the information provided to the department and the authority
34 pursuant to this subsection is true under the penalty of perjury.

35 b. When filing an application for certification pursuant to
36 subsection a. of this section, the developer shall submit to the
37 **'[director] department'** the total remediation costs incurred by the
38 developer for the remediation of the subject property located at the
39 site of the redevelopment project as provided in the redevelopment
40 agreement and certified by a certified public accountant,
41 information concerning the occupancy rate of the buildings or other
42 work areas located on the property subject to the redevelopment
43 agreement, and such other information as the **'[director]**
44 **department'** deems necessary in order to make the certifications and
45 findings pursuant to this section.

46 c. A developer shall apply the credit awarded against the
47 developer's liability for the tax imposed pursuant to section 5 of
48 P.L.1945, c.162 (C.54:10A-5) for the privilege period during which

1 the '【director】 department' awards the developer a tax credit
2 pursuant to subsection a. of this section. A developer shall not
3 carry forward any unused credit. '【Credits awarded to a
4 partnership shall be passed through to the partners, members, or
5 owners, respectively, pro-rata, or pursuant to an executed agreement
6 among the partners, members, or owners documenting an alternate
7 distribution method provided to the director accompanied by any
8 additional information as the director may prescribe.】'

9 d. The director shall prescribe the order of priority of the
10 application of the credit awarded under this section and any other
11 credits allowed by law against the tax imposed under section 5 of
12 P.L.1945, c.162 (C.54:10A-5). The amount of the credit applied
13 under this section against the tax imposed pursuant to section 5 of
14 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with
15 any other credits allowed by law, shall not reduce the tax liability to
16 an amount less than the statutory minimum provided in subsection
17 (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).
18

19 17. (New section) a. A developer may apply to the director and
20 the chief executive officer of the authority for a tax credit transfer
21 certificate, during the privilege period in which the director awards
22 the developer a tax credit pursuant to section 16 of P.L. ,
23 c. (C.) (pending before the Legislature as this bill), in lieu of
24 the developer being allowed to apply any amount of the tax credit
25 against the developer's State tax liability. The tax credit transfer
26 certificate, upon receipt thereof by the developer from the director
27 and the chief executive officer of the authority, may be sold or
28 assigned, in the privilege period during which the developer
29 receives the tax credit transfer certificate from the director, to
30 another person, who may apply the credit against a tax liability
31 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) , sections 2
32 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1
33 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The tax credit
34 transfer certificate provided to the developer shall include a
35 statement waiving the developer's right to claim the credit that the
36 developer has elected to sell or assign.

37 b. The developer shall not sell or assign a tax credit transfer
38 certificate allowed under this section for consideration received by
39 the developer of less than 85 percent of the transferred credit
40 amount before considering any further discounting to present value
41 which shall be permitted, except a developer of a residential project
42 consisting of newly-constructed residential units that has received
43 federal low income housing tax credits under 26 U.S.C.
44 s.42(b)(2)(B)(i) may assign a tax credit transfer certificate for
45 consideration of no less than 75 percent subject to the submission of
46 a plan to the authority and the New Jersey Housing and Mortgage
47 Finance Agency to use the proceeds derived from the assignment of
48 tax credits to complete the residential project.. The tax credit

1 transfer certificate issued to a developer by the director shall be
2 subject to any limitations and conditions imposed on the application
3 of State tax credits pursuant to section 16 of P.L. , c. (C.)
4 (pending before the Legislature as this bill) and any other terms and
5 conditions that the director may prescribe.

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

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

12 (1) the name of the transferor;

13 (2) the name of the transferee;

14 (3) the value of the tax credit transfer certificate;

15 (4) the State tax against which the transferee may apply the tax
16 credit; and

17 (5) the consideration received by the transferor.
18

19 18. (New section) Beginning the year next following the year in
20 which sections 9 through 19 of P.L. , c. (C.) (pending
21 before the Legislature as this bill) take effect and every two years
22 thereafter, a State college or university established pursuant to
23 chapter 64 of Title 18A of the New Jersey Statutes shall, pursuant
24 to an agreement executed between the State college or university
25 and the authority, prepare a report on the implementation of the
26 program, and submit the report to the authority, the Governor, and,
27 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the
28 Legislature. Each biennial report required under this section shall
29 include a description of each redevelopment project receiving a tax
30 credit under the program, a detailed analysis of the consideration
31 given in each project to the factors set forth in sections 12 and 13 of
32 P.L. , c. (C.) (pending before the Legislature as this bill),
33 the return on investment for incentives awarded, the redevelopment
34 project's impact on the State's economy, and any other metrics the
35 State college or university determines are relevant based upon
36 national best practices. The authority shall prepare a written
37 response to the report, which the authority shall submit to the
38 Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
39 19.1), to the Legislature.
40

41 19. (New section) Notwithstanding the provisions of the
42 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
43 seq.), to the contrary, the chief executive officer of the authority, in
44 consultation with the Commissioner of Environmental Protection,
45 may adopt, immediately upon filing with the Office of
46 Administrative Law, regulations that the chief executive officer and
47 commissioner deem necessary to implement the provisions of
48 sections 9 through 19 of P.L. , c. (C.) (pending before the

1 Legislature as this bill), which regulations shall be effective for a
2 period not to exceed 180 days from the date of the filing. The chief
3 executive officer, in consultation with the Commissioner of
4 Environmental Protection, shall thereafter amend, adopt, or readopt
5 the regulations in accordance with the requirements of P.L.1968,
6 c.410 (C.52:14B-1 et seq.). The rules shall require annual reporting
7 by developers that receive tax credits pursuant to the program, in
8 addition to the regular progress updates **'[and]'** . Developers shall
9 obtain certifications by the Department of Labor and Workforce
10 Development, the Department of Environmental Protection, and the
11 Department of the Treasury stating that the developer is in
12 substantial good standing with the respective department, or has
13 entered into an agreement with the respective department that
14 includes a practical corrective action plan. The rules and
15 regulations adopted pursuant to this section shall also include a
16 provision to require that developers forfeit all tax credits awarded in
17 any year in which any such report is not received, and to allow the
18 authority to extend, in individual cases, the deadline for any annual
19 reporting or certification requirement established pursuant to this
20 section.

21
22 20. (New section) Sections 20 through 34 of P.L. ,
23 c. (C.) (pending before the Legislature as this bill) shall be
24 known and may be cited as the "New Jersey Innovation Evergreen
25 Act."

26
27 21. (New section) As used in sections 20 through 34 of P.L. ,
28 c. (C.) (pending before the Legislature as this bill):

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

31 "Director" means the Director of the Division of Taxation in the
32 Department of the Treasury.

33 "Follow-on investment" means a subsequent investment made by
34 an investor who has a previous investment in a New Jersey high-
35 growth business.

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

39 "High-growth business" means a business that is growing
40 significantly faster than the average growth rate of the economy or
41 is a start-up company that is investing in developing a product or
42 new business model that will allow it to grow significantly faster
43 than the average growth rate of the economy within the next three
44 to five years.

45 "Incentive area" means an area in this State: (1) designated
46 pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-
47 196 et seq.), as Planning Area 1 (Metropolitan); or (2) that has been

1 designated as a qualified opportunity zone pursuant to 26 U.S.C.
2 s.1400Z-1.

3 "Innovation ecosystem" means funding, programs, and events
4 that support the establishment and expansion of high-growth
5 companies in targeted sectors. Examples of such funding,
6 programs, and events include: mentoring programs for start-ups,
7 meet-up or networking events, funding for locating a business in a
8 collaborative workspace, programs that provide businesses services,
9 and entrepreneurial education to companies.

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

14 "Principal business operations" means at least 50 percent of the
15 business's employees, who are not primarily engaged in retail sales,
16 reside in the State, or at least 50 percent of the business's payroll
17 for employees not primarily engaged in retail sales is paid to
18 individuals living in this State.

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

22 "Purchaser" means an entity registered to do business in this
23 State with the Director of the Division of Revenue and Enterprise
24 Services in the Department of the Treasury that purchases an
25 allocation of tax credits under the program.

26 "Qualified business" means a business that, at the time of the
27 first qualified investment in the business and throughout the period
28 of the qualified investment under the program, is registered to do
29 business in this State with the Director of the Division of Revenue
30 and Enterprise Services in the Department of the Treasury; has its
31 principal business operations located in the State and intends to
32 maintain its principal business operations in the State after
33 receiving a qualified investment under the program; is engaged in a
34 targeted industry; and employs fewer than 250 persons at the time
35 of the qualified investment

36 "Qualified investment" means the direct investment of money by
37 the fund in a qualified business for the purchase of shares of stock,
38 with an 'option to make an' additional investment in an option or
39 warrant or a follow-on investment, in the discretion of the authority,
40 all of which is matched by an investment by a qualified venture
41 firm.

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

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

1 "Targeted industry" means any industry identified from time to
2 time by the authority which shall initially include advanced
3 transportation and logistics, advanced manufacturing, aviation,
4 autonomous vehicle and zero-emission vehicle research or
5 development, clean energy, life sciences, hemp processing,
6 information and high technology, finance and insurance,
7 professional services, film and digital media, **'[and]'** non-retail
8 food and beverage businesses **'[,]'** including food innovation **'.'**
9 and other innovative industries that disrupt current technologies or
10 business models.

11 "Venture firm" means a partnership, corporation, trust, or limited
12 liability company that invests cash in a business during the early or
13 expansion stages of a business in exchange for an equity stake in
14 the business in which the investment is made. Venture firm may
15 include a venture capital fund, a family office fund, or a corporate
16 investor fund, provided that a professional manager administers the
17 venture firm.

18

19 22. (New section) The New Jersey Innovation Evergreen
20 Program is established as a program under the jurisdiction of the
21 New Jersey Economic Development Authority. The purpose of the
22 program is to invest in innovation as a catalyst for economic growth
23 and to advance the competitiveness of the State's businesses in the
24 global economy. Beginning on the effective date of sections 20
25 through 34 of P.L. , c. (C.) (pending before the Legislature
26 as this bill), the authority shall auction up to \$300,000,000 in tax
27 credits in annual amounts not to exceed the limitations set forth in
28 section 98 of P.L. , c. (C.) (pending before the legislature as
29 this bill). The authority shall not undertake an auction if, exclusive
30 of reserves, including the reserve set aside for follow-on
31 investments pursuant to subsection d. of section 23 of P.L. ,
32 c. (C.) (pending before the Legislature as this bill), more
33 than \$15,000,000 is available to the authority, from moneys
34 received from any prior auction of tax credits pursuant to the
35 program, to allocate to qualified venture firms.

36

37 23. (New section) a. The authority shall establish and maintain
38 a dedicated fund to be known as the "New Jersey Innovation
39 Evergreen Fund." The authority shall use the money in the fund to
40 carry out the purposes enumerated in subsections b. and c. of this
41 section. The authority shall credit the fund with money paid by
42 purchasers; distributions from payments or repayments made to the
43 authority in accordance with subsection c. of section 31 of P.L. ,
44 c. (C.) (pending before the Legislature as this bill); earnings
45 received, if any, from the investment or reinvestment of money
46 credited to the fund; and any money which, from time to time, may
47 otherwise become available for the purposes of the fund.

1 b. The authority shall allocate the money in the fund to
2 qualified venture firms to make qualified investments of capital in
3 qualified businesses through a special purpose vehicle in
4 accordance with section 30 of P.L. , c. (C.) (pending before
5 the Legislature as this bill) and to pay the administrative, legal, and
6 auditing expenses of the authority incurred in the administration of
7 the program. In addition, the authority shall use 75 basis points of
8 the total amounts deposited in the fund, calculated on an annual
9 basis, for programs administered by the authority that create an
10 innovation ecosystem that supports and promotes high-growth
11 businesses in the State.

12 c. The authority shall deposit into the fund dividends and
13 returns on investments paid to the authority by or on behalf of a
14 qualified business. Upon the fund holding total deposits of
15 \$500,000,000 and thereafter upon a qualified investment in a
16 qualified business achieving a return on investment of twice the
17 original and follow-on investment, 50 percent of any return on
18 investment in excess of twice the original and follow-on investment
19 shall be paid to the General Fund of the State.

20 d. The authority shall account for and calculate reserves for
21 follow-on investments, programs that support the State's innovation
22 ecosystem, and administrative, legal, and auditing expenses of the
23 authority in administering the program. The authority shall not
24 include these reserves when calculating the amount in the fund
25 available for new qualified investments.

26

27 24. (New section) a. The authority shall sell the tax credits
28 authorized pursuant to section 22 of P.L. , c. (C.) (pending
29 before the Legislature as this bill) to purchasers through a
30 competitive auction process.

31 b. The authority shall determine the form and manner in which
32 potential purchasers may bid for tax credits available under the
33 program. To be awarded a tax credit under the program, a potential
34 purchaser shall:

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

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

40 (3) commit to serve on the New Jersey Innovation Evergreen
41 Advisory Board, established pursuant to section 32 of P.L. ,
42 c. (C.) (pending before the Legislature as this bill), and to
43 otherwise provide mentorship, networking, and collaboration
44 opportunities to qualified businesses that receive funding under the
45 program; and

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

1 c. Prior to an auction, the authority shall establish and disclose
2 to bidders the weighted criteria the authority will utilize, which the
3 authority shall base on the price offered to purchase the tax credits
4 and the quality of the mentorship and networking opportunities and
5 other support of the State's innovation ecosystem offered by a
6 purchaser in its bid. The authority may pro rate the amount of tax
7 credits allocated to each purchaser. A potential purchaser that
8 submits a bid for tax credits under this section shall receive a
9 written notice from the authority indicating whether the authority
10 has approved it as a purchaser of tax credits and, if so, the amount
11 of tax credits approved.

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

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

18
19 25. (New section) a. A purchaser that submits a successful bid
20 for the purchase of tax credits pursuant to section 24 of P.L. ,
21 c. (C.) (pending before the Legislature as this bill) shall enter
22 into a contract with the authority that includes payment information
23 and the commitments made by the purchaser in its auction bid. A
24 purchaser that submits a successful bid for the purchase of tax
25 credits pursuant to section 24 of P.L. , c. (C.) (pending
26 before the Legislature as this bill) shall pay by wire transfer the
27 amount specified in its auction bid to the authority for deposit into
28 the fund. Upon receipt thereof, the chief executive officer shall
29 notify the director to issue tax credits in the amount approved.
30 Failure by the purchaser to pay the amount agreed upon on time
31 may disqualify the purchaser from purchasing the tax credits and
32 the authority may reassign the right to purchase the credits to
33 another bidder. Failure by the purchaser to adhere to the
34 commitments made in its auction bid may disqualify the purchaser
35 from participating in future auctions and may result in the recapture
36 of a portion of the tax credits.

37 b. The authority shall credit to the fund any money paid to the
38 authority by a purchaser for an allocation of tax credits under the
39 program.

40 c. The authority shall ensure that no undue financial advantage
41 shall inure to a purchaser that also is: managing a qualified venture
42 firm; beneficially owning, through rights, options, convertible
43 interests, or otherwise, more than 15 percent of the voting securities
44 or other voting ownership interests of a qualified venture firm; or
45 controlling the direction of investments for a qualified venture firm.
46 The chief executive officer of the authority shall certify that the
47 authority is monitoring the activities of such purchasers and has

1 taken appropriate steps to ensure no undue financial advantage
2 inures to the purchasers.

3
4 26. (New section) a. A purchaser shall apply a credit awarded
5 pursuant to sections 20 through 34 of P.L. , c. (C.)
6 (pending before the Legislature as this bill) against the State tax
7 liability due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5)
8 of the purchaser for the current privilege period as of the date of the
9 credit's approval. A purchaser may carry forward an unused credit
10 resulting from the limitations of subsection b. of this section, if
11 necessary, for use in the seven privilege periods next following the
12 privilege period for which the credit is awarded.

13 b. The director shall prescribe the order of priority of the
14 application of the credits awarded under sections 20 through 34 of
15 P.L. , c. (C.) (pending before the Legislature as this bill)
16 and any other credits allowed by law. The amount of a credit
17 applied under sections 20 through 34 of P.L. , c. (C.)
18 (pending before the Legislature as this bill) against the tax imposed
19 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for a
20 privilege period, together with any other credits allowed by law,
21 shall not reduce the tax liability of the purchaser to an amount less
22 than the statutory minimum provided in subsection (e) of section 5
23 of P.L.1945, c.162 (C.54:10A-5).

24
25 27. (New section) a. A purchaser may apply to the authority
26 and the director for a tax credit transfer certificate, in the privilege
27 period during which the director allows the purchaser a tax credit
28 pursuant to sections 20 through 34 of P.L. , c. (C.)
29 (pending before the Legislature as this bill), in lieu of the purchaser
30 being allowed to apply any amount of the tax credit against the
31 purchaser's State tax liability. A tax credit may be sold or assigned,
32 in full or in part, to another person that may have a tax liability
33 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). The tax
34 credit transfer certificate provided to the purchaser shall include a
35 statement waiving the purchaser's right to claim the credit that the
36 purchaser has elected to sell or assign.

37 b. The purchaser shall not sell or assign a tax credit transfer
38 certificate allowed under this section for consideration received by
39 the purchaser of less than 85 percent of the transferred credit
40 amount before considering any further discounting to present value
41 which shall be permitted. The tax credit transfer certificate issued
42 to a purchaser by the director shall be subject to any limitations and
43 conditions imposed on the application of State tax credits pursuant
44 to section 26 of P.L. , c. (C.) (pending before the
45 Legislature as this bill) and any other terms and conditions that the
46 director may prescribe.

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

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

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

- 11 (1) the name of the transferor;
12 (2) the name of the transferee;
13 (3) the value of the tax credit transfer certificate;
14 (4) the State tax against which the transferee may apply the tax
15 credit; and
16 (5) the consideration received by the transferor.
17

18 28. (New section) a. The authority shall establish an
19 application process and determine the form and manner through
20 which a venture firm may make and file an application for
21 certification as a qualified venture firm. The authority may accept
22 applications on a rolling basis or on a date set by the authority.

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

- 28 (1) the management structure of the applicant, including:
29 (a) quality of the leadership, including willingness to work with
30 the authority to support targeted industries and the innovation
31 ecosystem in the State, and to locate in the State;
32 (b) the investment experience of the principals with qualified
33 businesses;
34 (c) the knowledge, experience, and capabilities of the applicant
35 in subject areas relevant to high-growth businesses in the State;
36 (d) the tenure and turnover history of principals and senior
37 investment professionals of the applicant;
38 (e) whether the State's investment with the applicant under this
39 program would exceed 15 percent of the total invested in the
40 applicant by all investors, including investments in any special
41 purpose vehicles;
42 (f) the applicant's stage of fundraising; and
43 (g) whether fees, expenses, and the remuneration of the general
44 partner or manager are similar to those of peer investors;
45 (2) the applicant's investment strategy, including:
46 (a) the applicant's track record of investing in high-growth
47 businesses;

1 (b) whether the investment strategy of the applicant is focused
2 on high-growth businesses, including the percentage of the
3 investment identified to be invested in New Jersey or surrounding
4 geographic areas; and

5 (c) the performance history of the general partner or fund
6 manager based on a review of investment returns on individual
7 funds on an absolute basis and relative to peers; and

8 (3) The location of the applicant's venture firm and the
9 proposed structure of the applicant venture firm's investments in
10 qualified businesses, with preference given to applicant venture
11 firms that are located in incentive areas and to applicant venture
12 firms that agree to dedicate a greater portion of qualified
13 investments into qualified businesses located within incentive areas.

14
15 29. (New section) a. The authority shall certify or refuse to
16 certify a venture firm as a qualified venture firm based on the
17 criteria for certification set forth in section 28 of P.L. ,
18 c. (C.) (pending before the Legislature as this bill), and
19 subsections b. and c. of this section.

20 b. The authority shall not certify a venture firm as a qualified
21 venture firm if the venture firm has: (1) an equity capitalization, net
22 assets, or written commitments of less than \$10,000,000 in the form
23 of cash or cash equivalents on the date the determination for
24 certification is made; or (2) fewer than two principals or persons
25 employed to direct the qualified investment of capital with at least
26 five years of money management experience in the venture capital
27 or private equity sectors on the date the determination for
28 certification is made. The authority may adopt, pursuant to the
29 provisions of the "Administrative Procedure Act," P.L.1968, c.410
30 (C.52:14B-1 et seq.), rules setting forth additional disqualifying
31 criteria and adjusting the minimum equity capitalization, net assets,
32 or written commitments of a qualified venture firm.

33 c. Prior to certifying a venture firm as a qualified venture firm,
34 the Department of Labor and Workforce Development, the
35 Department of Environmental Protection, and the Department of the
36 Treasury shall each report to the chief executive officer of the
37 authority whether the venture firm is in substantial good standing
38 with the respective department, or has entered into an agreement
39 with the respective department that includes a practical corrective
40 action plan for the venture firm. The authority may also contract
41 with an independent third party to perform a background check on
42 the venture firm.

43 d. The authority shall provide written notification to each
44 venture firm that is certified as a qualified venture firm by the
45 authority and shall provide written notification to each venture firm
46 that the authority refuses to certify as a qualified venture firm,
47 communicating in detail the grounds for the authority's refusal.
48 The authority shall review each qualified venture firm annually for

1 the disqualifying criteria set forth in subsection b. of this section or
2 other reasonable industry-accepted standards as determined by the
3 authority. The authority may decertify a qualified venture firm at
4 any time pursuant to the disqualifying criteria set forth in
5 subsection b. of this section. Decertification shall not affect any
6 previously made qualified investment or the fund's commitment to
7 make a follow-on investment in a qualified business.

8
9 30. (New section) a. (1) The authority is authorized to allocate
10 money credited to the fund to one or more qualified venture firms
11 for qualified investments at the times, in the amounts, and subject to
12 the terms and conditions that the authority shall determine to be
13 necessary and appropriate to effectuate the purposes of sections 20
14 through 34 of P.L. , c. (C.) (pending before the Legislature
15 as this bill); provided that no more than two qualified investments
16 shall be made with each qualified venture firm in a calendar year.

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

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

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

34 (5) Within one year of the effective date of P.L. ,
35 c. (C.) (pending before the Legislature as this bill), the
36 authority shall undertake a disparity study of investment by venture
37 firms in women- and minority-owned business enterprises in this
38 State. Based on the finding of the disparity study, the authority,
39 following board approval, may institute a set-aside plan to ensure
40 that fund money allocated to qualified venture firms is reserved for
41 investment in women- and minority-owned business enterprises in
42 this State.

43 b. The authority shall make and enter into an agreement with
44 each qualified venture firm to which the authority allocates money
45 under the program. The agreement shall include provisions that
46 require the qualified venture firm to:

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

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

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

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

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

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

25 (7) consent to the authority publicly disclosing the qualified
26 venture firm on the list of qualified investment firms participating
27 in the program; and

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

31 c. A qualified venture firm that has made and entered into an
32 agreement with the authority in accordance with subsection b. of
33 this section is authorized to make qualified investments of capital in
34 one or more qualified businesses from fund money allocated to the
35 qualified venture firm by the authority at the times, in the amounts,
36 and subject to the terms and conditions that the qualified venture
37 firm determines to be necessary and appropriate. The authority may
38 limit the amount of allocated fund money that a qualified venture
39 firm invests in a qualified business based upon the size of
40 investments the qualified business has received, the source of the
41 investments, and the industry in which the qualified business is
42 engaged.

43
44 31. (New section) a. A qualified venture firm shall annually
45 report to the authority:

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

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

5 (3) for any qualified investment in which the qualified venture
6 firm no longer has a position as of the end of the calendar year, the
7 number of employees of the business as of the date the investment
8 was terminated;

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

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

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

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

39 d. A qualified venture firm shall, as required at the discretion
40 of the authority, submit to the authority satisfactory evidence
41 supporting the information detailed in the annual report and
42 certifying that all information provided by the qualified venture
43 firm to the authority is true, including information contained in the
44 application for certification, the agreement between the qualified
45 venture firm and authority, any amendment to that agreement, and
46 any other information submitted by the qualified venture firm to the
47 authority pursuant to sections 20 through 34 of P.L. ,
48 c. (C.) (pending before the Legislature as this bill). The

1 qualified venture firm, or an authorized agent of the qualified
2 venture firm, shall certify under the penalty of perjury that the
3 information provided pursuant to this section is true.
4

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

17 33. (New section) Beginning the year next following the year in
18 which sections 20 through 34 of P.L. , c. (C.) (pending
19 before the Legislature as this bill) take effect and every two years
20 thereafter, the authority shall prepare a report on the
21 implementation of the program, and submit the report to the
22 Governor, and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
23 19.1), to the Legislature. Each biennial report required under this
24 section shall include the names and locations of qualified
25 businesses receiving capital; the amount of each qualified
26 investment; a report by a certified public accountant, who is
27 licensed in accordance with the "Accountancy Act of 1997,"
28 P.L.1997, c.259 (C.45:2B-42 et seq.), or licensed in accordance
29 with the laws of another state, of the consolidated performance of
30 the fund; the cumulative amount of capital committed by
31 purchasers; the rate and amount of fees charged by each qualified
32 venture firm, including performance-based earnings and carried
33 interest; the classification of each qualified business, according to
34 the industrial sector and the size of the qualified business; the
35 State's return on investment; the total number of jobs created in the
36 State by the qualified business after the qualified investment; the
37 average wages paid for the jobs; and any other metrics the authority
38 determines are relevant based upon national best practices.
39

40 34. (New section) Notwithstanding the provisions of the
41 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
42 seq.), to the contrary, the chief executive officer of the authority
43 may adopt, immediately, upon filing with the Office of
44 Administrative Law, regulations that the chief executive officer
45 deems necessary to implement the provisions of sections 20 through
46 34 of P.L. , c. (C.) (pending before the Legislature as this
47 bill), which regulations shall be effective for a period not to exceed
48 180 days from the date of the filing. The chief executive officer

1 shall thereafter amend, adopt, or readopt the regulations in
2 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
3 et seq.).

4
5 35. (New section) Sections 35 through 42 of P.L. ,
6 c. (C.) (pending before the Legislature as this bill) shall be
7 known and may be cited as the "Food Desert Relief Act."

8
9 36. (New section) a. The Legislature finds and declares that:
10 (1) there are certain areas of the State, known as "food desert"
11 communities, in which residents are unable to obtain reasonable and
12 adequate access to nutritious foods and, in particular, to fresh fruits
13 and vegetables; (2) the inaccessibility of nutritious food in food
14 desert communities has been attributed, in large part, to the absence
15 of supermarkets and grocery stores in those communities; (3) low-
16 income families are more likely than others to live in food desert
17 communities and to lack the transportation or financial resources
18 necessary to reach distant wholesome markets; and (4) the
19 establishment of financial incentives to supermarkets, grocery
20 stores, mid-sized food retailers, and small food retailers is a
21 reasonable means by which to ensure that residents of food desert
22 communities in the State are provided with reasonable access to
23 nutritious, fresh, and delicious produce, and are afforded the
24 opportunity thereby to make healthier eating choices for themselves
25 and for their families.

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

34
35 37. (New section) As used in sections 35 through 42 of P.L. ,
36 c. (C.) (pending before the Legislature as this bill):

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

40 "Department" means the Department of Agriculture.

41 "Eligible equipment costs" means expenditures for the
42 procurement of such equipment as is needed to allow a
43 ¹supermarket, grocery store, ¹ mid-sized food retailer ¹, ¹ or small
44 food retailer to store, refrigerate, ¹transport, ¹ or otherwise maintain
45 nutritious foods, including fresh fruits and vegetables, for retail
46 purposes, but within a standard range based upon industry
47 standards, as determined by the authority.

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

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

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

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

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

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

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

45 “Small food retailer” means a small retail outlet, with less than
46 2,500 square feet, that sells a limited selection of foods and other
47 products, such as a bodega, convenience store, corner store,
48 neighborhood store, small grocery, or small-scale store.

1 "Supermarket or grocery store" means a retail outlet with at least
2 16,000 square feet, of which at least 90 percent is occupied by food
3 and related products.

4
5 38. (New section) a. (1) There is established the Food Desert
6 Relief Program to be administered by the New Jersey Economic
7 Development Authority. The program shall include tax credit
8 components, as provided in sections 39 and 40 of P.L. ,
9 c. (C. and C.) (pending before the Legislature as this
10 bill), in order to incentivize businesses to establish and retain new
11 supermarkets and grocery stores in food desert communities.

12 (2) The total value of tax credits approved by the authority
13 pursuant to sections 39 and 40 of P.L. , c. (C. and C.)
14 (pending before the Legislature as this bill) shall not exceed the
15 limitations set forth in section 98 of P.L. , c. (C.) (pending
16 before the legislature as this bill). **1[.]**

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

40 c. To receive a tax credit under section 39 or 40 of P.L. ,
41 c. (C. or C.) (pending before the Legislature as this bill),
42 a taxpayer shall submit an application to the authority in the form
43 and manner prescribed by the authority and in accordance with
44 criteria established by the authority ¹, which at minimum will
45 include a commitment to accept benefits from federal nutrition
46 assistance programs, such as the Supplemental Nutrition Assistance
47 Program (SNAP) and the Special Supplemental Nutrition Program
48 for Women, Infants, and Children (WIC)¹. Following the approval

1 of an application, the authority may, pursuant to an award
2 agreement, award tax credits to an eligible taxpayer that:

3 (1) develops and opens for business to the public the first or
4 second supermarket or grocery store in a designated food desert
5 community; or

6 (2) owns and operates the first or second supermarket or grocery
7 store in a designated food desert community.

8 d. (1) The authority may sell all or a portion of the tax credits
9 made available in a fiscal year pursuant to subsection a. of this
10 section and dedicate the proceeds from such sale to provide grants
11 and loans to qualifying supermarkets, grocery stores, mid-sized
12 food retailers, and small food retailers. The amount of any grant or
13 loan provided pursuant to this subsection shall be in accordance
14 with the need of the supermarket, grocery store, mid-sized food
15 retailer, or small food retailer, as determined by the authority. The
16 authority shall sell tax credits pursuant to this section in the manner
17 determined by the authority; provided, however, the authority shall
18 not sell tax credits for less than 85 percent of the tax credit amount.
19 Grants and loans made available pursuant to this subsection shall be
20 awarded to entities that:

21 (a) are eligible for tax credits under subsection c. of this section
22 in lieu of tax credits; or

23 (b) own and operate a mid-sized food retailer or small food
24 retailer that commits to selling nutritious foods, including fresh
25 fruits and vegetables, in a designated food desert community.

26 (2) A ¹supermarket, grocery store,¹ mid-sized food retailer^{1, 1} or
27 small food retailer shall submit an application to the authority to
28 receive a grant or loan pursuant to this subsection. The application
29 shall be submitted in the form and manner prescribed by the
30 authority and in accordance with criteria established by the
31 authority. An entity eligible for a grant or loan under subparagraph
32 (a) of paragraph (1) of this subsection shall not be required to
33 submit a separate application to the authority for the grant or loan,
34 provided that the entity has submitted an application to the authority
35 pursuant to subsection c. of this section.

36 (3) Prior to awarding a grant or loan to ¹**[a]** an applicant
37 supermarket, grocery store,¹ mid-sized food retailer^{1, 1} or small food
38 retailer pursuant to this subsection, the Department of Labor and
39 Workforce Development, the Department of Environmental
40 Protection, and the Department of the Treasury shall each report to
41 the chief executive officer of the authority whether ¹**[a** qualifying
42 mid-sized food retailer or small food retailer**]** the applicant¹ is in
43 substantial good standing with the respective department, or has
44 entered into an agreement with the respective department that
45 includes a practical corrective action plan for the ¹**[**mid-sized food
46 retailer or small food retailer**]** applicant¹. The authority may also

1 contract with an independent third party to perform a background
2 check on the entity.

3 (4) **1[A]** An applicant supermarket, grocery store,¹ mid-sized
4 food retailer^{1,1} or small food retailer shall, as required at the
5 discretion of the authority, submit to the authority satisfactory
6 information pertaining to the eligible equipment costs and eligible
7 technology costs, as certified by a certified public accountant,
8 certifications that all information provided by the **1[**mid-sized food
9 retailer or small food retailer**]** applicant¹ to the authority is true,
10 including information contained in the application, any agreement
11 pertaining to the award of grants or loans under the program, any
12 amendment to such an agreement, and any other information
13 submitted by the **1[**mid-sized food retailer or small food retailer**]**
14 applicant¹ to the authority pursuant to sections 35 through 42 of
15 P.L. , c. (C.) (pending before the Legislature as this bill),
16 and evidence of the eligible equipment costs and eligible
17 technology costs of the **1[**mid-sized food retailer or small food
18 retailer**]** applicant¹. The **1[**mid-sized food retailer or small food
19 retailer**]** applicant¹, or an authorized agent of the **1[**mid-sized food
20 retailer or small food retailer**]** applicant¹, shall certify under the
21 penalty of perjury that the information provided pursuant to this
22 subsection is true.

23 e. The authority may **1[provide]** establish a¹ technical
24 assistance fund¹ to assist¹ any entity that is eligible for a tax
25 credit, grant, or loan under this section. The technical assistance
26 **1[shall provide instructions]** may make grants to entities¹ to
27 assist¹ qualifying supermarkets, grocery stores, **1[and]**¹ mid-sized
28 food **1[retailer]** retailers,¹ or small food retailers **1[concerning]** in
29 implementation of¹ best practices for¹ increasing the accessibility
30 of nutritious foods in food desert communities. Technical assistance
31 shall be provided either directly by the authority or through a not-
32 for-profit or for-profit entity and¹ made available in English as well
33 as the two most commonly spoken languages in New Jersey other
34 than English. At the discretion of the authority, funds to support¹
35 technical assistance may be provided in addition to, or in lieu of,
36 any tax credit, grant, or loan awarded under sections 35 through 42
37 of P.L. , c. (C.) (pending before the Legislature as this
38 bill).

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

- 43 (a) to mitigate a project financing gap;
- 44 (b) to mitigate the initial operating costs of the supermarket or
- 45 grocery store; or

1 (c) to mitigate the eligible equipment costs or eligible
2 technology costs of the 'supermarket, grocery store,' mid-sized
3 food retailer^{1,1} or small food retailer in order to make nutritious
4 foods more accessible and affordable to residents within food
5 deserts; or

6 (d) to support initiatives to ensure food security of residents in
7 food desert communities.

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

10 (a) in the case of an entity eligible under paragraph (1) of
11 subsection c. of this section, 40 percent of the total project cost for
12 the first supermarket or grocery store in a designated food desert
13 community, and 20 percent of the total project cost for the second
14 supermarket or grocery store in the food desert community; and

15 (b) in the case of an entity eligible under paragraph (2) of
16 subsection c. of this section, the initial operating costs of the first
17 supermarket or grocery store in a designated food desert
18 community, and one-half of the initial operating costs of the second
19 supermarket or grocery store in the food desert community; and

20 (c) in the case of an entity eligible for a grant or loan under
21 subparagraph (b) of paragraph (1) of subsection d. of this section,
22 the eligible equipment costs and eligible technology costs of the
23 'supermarket, grocery store,' mid-sized food retailer^{1,1} or small
24 food retailer.

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

34 h. (1) Except as provided in paragraph (2) of this subsection, a
35 labor harmony agreement shall be required if the State has a
36 proprietary interest in a supermarket or grocery store and the
37 agreement shall remain in effect for as long as the State acts as a
38 market participant in the project. The provisions of this paragraph
39 shall apply to a supermarket or grocery store that will have more
40 than 10 employees.

41 (2) A labor harmony agreement under paragraph (1) of this
42 subsection shall not be required if the authority determines that the
43 supermarket or grocery store would not be feasible if a labor
44 harmony agreement is required. The authority shall support the
45 determination by a written finding, which provides the specific
46 basis for the determination.

47 (3) As used in this subsection, "labor harmony agreement"
48 means an agreement between a business that serves as the owner or

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

23 i. ¹【The award agreement shall require that the recipient
24 consent to the disclosure of tax expenditure information as
25 described in paragraph (8) of subsection b. of section 1 of P.L.2009,
26 c.189 (C.52:27B-20a).】¹ A recipient shall certify that all factual
27 representations made by the recipient in the application or award
28 agreement are true under the penalty of perjury. A material
29 misrepresentation of fact in either the application or award
30 agreement may result in recession and recapture of any grants or tax
31 credits awarded, or acceleration of any loans made, under sections
32 35 through 42 of P.L. , c. (C.) (pending before the
33 Legislature as this bill).

34
35 39. (New section) a. For privilege periods beginning on or after
36 January 1 next following the effective date of sections ¹【25】 35¹
37 through 42 of P.L. , c. (C.) (pending before the Legislature
38 as this bill), a taxpayer eligible under subsection c. of section 38 of
39 P.L. , c. (C.) (pending before the Legislature as this bill)
40 shall be awarded a credit against the tax due pursuant to section 5 of
41 P.L.1945, c.162 (C.54:10A-5). A taxpayer that qualifies for the
42 award of a tax credit under this section may claim 25 percent of the
43 total amount awarded in the privilege period in which the taxpayer
44 establishes and opens the supermarket or grocery store for business,
45 and an additional 25 percent of the total amount awarded in each of
46 the three privilege periods next following the initial opening,
47 provided that the supermarket or grocery store remains in business
48 and open to the public. For a taxpayer to be allowed a tax credit

1 pursuant to this section, the taxpayer shall meet the requirements of
2 this section, and the rules and regulations adopted pursuant to
3 section 41 of P.L. , c. (C.) (pending before the Legislature
4 as this bill).

5 b. The order of priority of the application of the credit allowed
6 pursuant to this section and any other credits allowed against the tax
7 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for
8 a privilege period shall be as prescribed by the Director of the
9 Division of Taxation in the Department of the Treasury ¹], in
10 consultation with the chief executive office of the authority¹. The
11 amount of the credit applied pursuant to this section against the tax
12 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
13 shall not reduce a taxpayer's tax liability for a privilege period to an
14 amount less than the statutory minimum provided in subsection (e)
15 of section 5 of P.L.1945, c.162 (C.54:10A-5). Any credit shall be
16 valid in the privilege period in which the certification is approved
17 and any unused portion thereof may be carried forward into the next
18 10 privilege periods or until exhausted, whichever is earlier.

19 c. The authority shall award tax credits to taxpayers until either
20 the available tax credits are exhausted or all projects that are
21 eligible for a tax credit pursuant to the provisions of sections 35
22 through 42 of P.L. , c. (C.) (pending before the Legislature
23 as this bill) receive a tax credit, whichever occurs first. If
24 insufficient funding exists to allow a tax credit to a taxpayer in
25 accordance with the provisions of subsection a. of section 38 of
26 P.L. , c. (C.) (pending before the Legislature as this bill),
27 the authority may offer the taxpayer a tax credit in an amount less
28 than that provided in subsection a. of this section.

29 d. Prior to awarding a tax credit to a supermarket or grocery
30 store, the Department of Labor and Workforce Development, the
31 Department of Environmental Protection, and the Department of the
32 Treasury shall each report to the chief executive officer of the
33 authority whether a qualifying supermarket or grocery store is in
34 substantial good standing with the respective department, or has
35 entered into an agreement with the respective department that
36 includes a practical corrective action plan for the supermarket or
37 grocery store. The authority may also contract with an independent
38 third party to perform a background check on the developer.

39 e. A supermarket or grocery store shall, as required at the
40 discretion of the authority, submit to the authority satisfactory
41 information pertaining to the project cost, project financing gap,
42 and the initial operating costs, as certified by a certified public
43 accountant, certifications that all information provided by the
44 supermarket or grocery store to the authority is true, including
45 information contained in the application, any agreement pertaining
46 to the award of tax credits under the program, any amendment to
47 such an agreement, and any other information submitted by the
48 supermarket or grocery store to the authority pursuant to sections 35

1 through 42 of P.L. , c. (C.) (pending before the Legislature
2 as this bill), and evidence of the initial opening and continued
3 operation of the supermarket or grocery store. The supermarket or
4 grocery store, or an authorized agent of the supermarket or grocery
5 store, shall certify under the penalty of perjury that the information
6 provided pursuant to this subsection is true.

7
8 40. (New section) a. For taxable years beginning on or after
9 January 1 next following the effective date of sections 35 through
10 42 of P.L. , c. (C.) (pending before the Legislature as this
11 bill), a taxpayer eligible under subsection c. of section 38 of P.L. ,
12 c. (C.) (pending before the Legislature as this bill) shall be
13 awarded a credit against the tax due pursuant to N.J.S.54A:1-1 et
14 seq. A taxpayer that qualifies for the award of a tax credit under
15 this section may claim 25 percent of the total amount awarded in
16 the taxable year in which the taxpayer establishes and opens the
17 supermarket or grocery store for business, and may claim 25
18 percent of the total amount awarded in each of the three taxable
19 years next following the initial opening, provided that the
20 supermarket or grocery store remains in business and open to the
21 public. For a taxpayer to be awarded a tax credit pursuant to this
22 section, the taxpayer shall meet the requirements of this section, and
23 the rules and regulations adopted pursuant to section 41 of P.L. ,
24 c. (C.) (pending before the Legislature as this bill).

25 b. The order of priority of the application of the credit allowed
26 pursuant to this section and any other credits allowed against the tax
27 imposed pursuant to N.J.S.54A:1-1 et seq. for a taxable year shall
28 be as prescribed by the Director of the Division of Taxation in the
29 Department of the Treasury, in consultation with the chief executive
30 officer of the authority. The amount of the credit applied pursuant
31 to this section against the tax imposed pursuant to N.J.S.54A:1-1 et
32 seq. shall not reduce a taxpayer's tax liability for a taxable year to
33 an amount less than zero. Any credit shall be valid in the taxable
34 year in which the certification is approved and any unused portion
35 thereof may be carried forward into the next 10 taxable years or
36 until depleted, whichever is earlier.

37 c. A business entity that is classified as a partnership for
38 federal income tax purposes shall not be allowed the credit directly
39 under N.J.S.54A:1-1 et seq., but the amount of credit of the
40 taxpayer in respect of a distributive share of partnership income
41 shall be determined by allocating to the taxpayer that proportion of
42 the credit acquired by the partnership that is equal to the taxpayer's
43 share, whether or not distributed, of the total distributive income or
44 gain of the partnership for its taxable year ending within or with the
45 taxpayer's taxable year.

46 A taxpayer that is a New Jersey S corporation shall not be
47 allowed the credit directly under N.J.S.54A:1-1 et seq., but the
48 amount of credit of a taxpayer in respect of a pro rata share of S

1 corporation income shall be determined by allocating to the
2 taxpayer that proportion of the credit acquired by the New Jersey S
3 corporation that is equal to the taxpayer's share, whether or not
4 distributed, of the total pro rata share of S corporation income of the
5 New Jersey S corporation for its taxable year ending within or with
6 the taxpayer's taxable year.

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

17 e. Prior to awarding a tax credit to a supermarket or grocery
18 store, the Department of Labor and Workforce Development, the
19 Department of Environmental Protection, and the Department of the
20 Treasury shall each report to the chief executive officer of the
21 authority whether a qualifying supermarket or grocery store, and
22 each contractor and subcontractor performing construction work at
23 the qualifying supermarket or grocery store, is in substantial good
24 standing with the respective department, or has entered into an
25 agreement with the respective department that includes a practical
26 corrective action plan. The authority may also contract with an
27 independent third party to perform a background check on the
28 developer.

29 f. A supermarket or grocery store shall, as required at the
30 discretion of the authority, submit to the authority satisfactory
31 information pertaining to the project cost, project financing gap,
32 and the initial operating costs, as certified by a certified public
33 accountant, certifications that all information provided by the
34 supermarket or grocery store to the authority is true, including
35 information contained in the application, any agreement pertaining
36 to the award of tax credits under the program, any amendment to
37 such an agreement, and any other information submitted by the
38 supermarket or grocery store to the authority pursuant to sections
39 35 through 42 of P.L. , c. (C.) (pending before the
40 Legislature as this bill), and evidence of the initial opening and
41 continued operation of the supermarket or grocery store. The
42 supermarket or grocery store, or an authorized agent of the
43 supermarket or grocery store, shall certify under the penalty of
44 perjury that the information provided pursuant to this subsection is
45 true.

46
47 41. (New section) The authority, in consultation with the
48 department and the Director of the Division of Taxation in the

1 Department of the Treasury, shall adopt, pursuant to the
2 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
3 seq.), rules and regulations necessary to carry out the provisions of
4 sections 35 through 42 of P.L. , c. (C.) (pending before the
5 Legislature as this bill).

6
7 42. (New section) Within one year of the effective date of
8 sections 35 through 42 of P.L. , c. (C.) (pending before the
9 Legislature as this bill), the authority shall annually submit a report
10 to the Governor, the State Treasurer, and, pursuant to section 2 of
11 P.L.1991, c.164 (C.52:14-19.1), the Legislature, on the
12 effectiveness of the program in establishing supermarkets and
13 grocery stores in food desert communities.

14
15 43. (New section) Sections 43 through 53 of P.L. ,
16 c. (C.) (pending before the Legislature as this bill) shall be
17 known and may be cited as the "New Jersey Community-Anchored
18 Development Act."

19
20 44. (New section) The purpose of the New Jersey Community-
21 Anchored Development Act is for the New Jersey Economic
22 Development Authority to facilitate, in partnership with the State's
23 key not-for-profit and governmental anchor institutions, large-scale
24 development projects with desirable employment and geographical
25 characteristics that are to impact a broader community. The
26 Legislature finds that where a broad commonality of goals exists
27 between anchor institutions and the State, the authority can
28 effectively utilize anchor institutions as investors in, and additional
29 overseers of, projects that the authority seeks to incentivize. Under
30 the legislation, anchor institutions in the areas of education, health
31 care, culture, community development, and economic development
32 are provided with the opportunity to act as investors in targeted
33 development, utilizing proceeds from the sale of State tax credits.
34 This approach harnesses the deep experience of the numerous
35 anchor institutions in the State, institutions that enjoy decades-long
36 relationships with communities around the State, making them ideal
37 partners for companies wanting to come to or expand in New
38 Jersey.

39 This legislation seeks to overcome cost-of-occupancy differences
40 between New Jersey and less expensive options in other
41 jurisdictions for specific properties by reducing the cost of
42 occupancy being offered to a targeted company. This legislation
43 represents a shift in State economic development policy from a
44 grant model to an investment model, differing significantly from
45 past award models in that the legislation does not provide a certain
46 dollar amount to private employers based on the number and types
47 of jobs being created or preserved in the State.

1 The legislation affords an opportunity for an anchor institution
2 and the authority to become partners in a project, with the authority
3 receiving a negotiated current or deferred economic return on the
4 tax credit investment made by the anchor institution and ultimately
5 the return of the amount initially invested. Through a competitive
6 application process to the authority, a real estate partnership
7 between an anchor institution and a partner business will make its
8 case for an amount of tax credits necessary for that project to be
9 able to establish occupancy costs at a competitive level.

10 By its inclusion of designated federal opportunity zones and
11 areas eligible to be designated as federal opportunity zones as a
12 separate basis for projects to receive tax credits, the legislation
13 seeks to incentivize anchor institutions to look beyond the borders
14 of their host communities, permitting them to invest in other locales
15 that lack strong anchor institutions, thus expanding their influence
16 and impact by doing so. Simultaneously, such investments will
17 further the objectives of the State in attracting high-value employers
18 and in providing economic stimulus to areas of the State that prior
19 investment cycles have overlooked. The legislation is also
20 expansive enough to permit the addition of other beneficial uses to
21 a qualifying project; including housing, public amenities, parking,
22 mixed uses, and facilities of an anchor institution itself.

23 The tax credits issued by the authority to an applicant anchor
24 institution are to be issued pursuant to a tax credit agreement that
25 sets forth negotiated terms on which the authority has agreed to
26 issue the credits. The tax credit agreement is to include standards
27 relating to the anticipated economic results of the community-
28 anchored project and address accountability in the event that the
29 community-anchored project fails to meet the requirements
30 specified in the tax credit agreement.

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

40

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

43 "Affiliate" means an entity that directly or indirectly controls, is
44 under common control with, or is controlled by an anchor
45 institution 'partner anchor institution.'¹ or a partner business.
46 Control exists in all cases in which the entity is a member of a
47 controlled group of corporations as defined pursuant to section 1563
48 of the federal Internal Revenue Code (26 U.S.C. s.1563) or the

1 entity is an organization in a group of organizations under common
2 control that is subject to the regulations applicable to organizations
3 pursuant to subsection (b) or (c) of section 414 of the federal
4 Internal Revenue Code (26 U.S.C. s.414). A taxpayer may establish
5 by clear and convincing evidence, as determined by the Director of
6 the Division of Taxation in the Department of the Treasury, that
7 control exists in situations involving lesser percentages of
8 ownership than required by the above referenced federal statutes.

9 "Anchor institution" means a governmental entity or nonprofit
10 entity incorporated pursuant to Title 15 of the Revised Statutes or
11 Title 15A of the New Jersey Statutes having a primary mission and
12 specific policy goals that align with those of the authority under the
13 program and that is a comprehensive health care system, a public
14 research university, a private research university, a major cultural
15 scientific, research ¹**[and]** or¹ philanthropic ¹**[institutions]**
16 institution¹, or ¹a¹ public ¹**[colleges]** college¹ which ¹**[are]** is¹
17 separate from public research universities, ¹or an experienced
18 nonprofit or governmental economic or community development
19 entity¹ certified as an anchor institution by the board pursuant to
20 subsection a. of section 46 of P.L. , c. (C.) (pending before
21 the Legislature as this bill).

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

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

27 "Commitment period" means the period of time, which shall be
28 not less than 10 years and no greater than twice the eligibility
29 period that is granted to an anchor institution ¹or, if applicable, a
30 partner anchor institution¹, to distribute to the authority the agreed
31 upon returns on investment for the award of tax credits pursuant to
32 the program; provided, however, at the election of the authority or
33 upon the request of an anchor institution ¹or, if applicable, a partner
34 anchor institution¹ in order to benefit the community-anchored
35 project, and as determined in the sole discretion of the authority, the
36 authority may grant up to two consecutive five-year extensions of
37 the commitment period.

38 "Community-anchored project" means a capital project that is
39 located in an area that is designated as a New Jersey State
40 opportunity zone, an area of the State designated pursuant to the
41 "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as
42 Planning Area 1 (Metropolitan), or a municipality with a Municipal
43 Revitalization Index distress score of at least 50 and for which an
44 anchor institution ¹and, if applicable, any partner anchor
45 institution¹ is to be awarded tax credits by the authority pursuant to
46 a tax credit agreement which establishes the award of tax credits as
47 an investment by the authority in the project, provided that the

1 project will result in a capital investment of at least \$10,000,000 in
2 a New Jersey State opportunity zone or in any other area of the
3 State, but a project that is not located in a New Jersey State
4 opportunity zone is to be primarily designed to result in the
5 economic expansion of a targeted industry in this State.

6 "Comprehensive health care system" means an entity in this State
7 with the primary purpose of offering comprehensive health care
8 services. ¹["Comprehensive health care system" shall not include
9 any business that manages or offers one or more health benefits
10 plans.]"

11 "Comprehensive health care services" means the basic health
12 care services provided under a health benefits plan, including
13 medical and surgical services provided by licensed health care
14 providers who may include, but are not limited to, family
15 physicians, internists, cardiologists, psychiatrists, rheumatologists,
16 dermatologists, orthopedists, obstetricians, gynecologists,
17 neurologists, endocrinologists, radiologists, nephrologists,
18 emergency services physicians, ophthalmologists, pediatricians,
19 pathologists, general surgeons, osteopathic physicians, physical
20 therapists and chiropractors. Basic benefits may also include
21 inpatient or outpatient services rendered at a licensed hospital,
22 covered services performed at an ambulatory surgical facility, and
23 ambulance services. "Comprehensive health care services" shall
24 include only services provided by licensed health care providers.

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

27 "Eligibility period" means the period in which an anchor
28 institution ¹or, if applicable, a partner anchor institution¹ may
29 claim, sell, transfer, or otherwise use a tax credit under the New
30 Jersey Community-Anchored Development Program, beginning
31 with the tax period in which the authority accepts certification of
32 the business that it has met the capital investment requirements of
33 the program and extending thereafter for a term of not more than 10
34 years.

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

39 "Experienced nonprofit or governmental economic or community
40 development entity" means a nonprofit entity incorporated pursuant
41 to Title 15 of the Revised Statutes or Title 15A of the New Jersey
42 Statutes ¹with a substantial number of years of experience¹ that has
43 a core mission and a community track record of advancing
44 economic or community development in at least one area of the
45 State ¹, that has undertaken multiple successful partnerships with
46 government entities, educational institutions and the private sector
47 in carrying out development projects, that has successfully

1 developed multiple types of mixed-use projects, that owns or
2 controls significant real estate assets,¹ and that has appropriate prior
3 experience in successfully developing mixed-use projects ¹of
4 comparable or greater size, value and complexity to that being
5 proposed, structuring, securing,¹ and utilizing complex financing
6 ¹["arrangements in developing similar types of projects"] in the
7 development of projects of comparable or greater size, value, and
8 complexity to that being proposed,¹ as determined by the board.

9 ¹An experienced nonprofit or governmental economic or
10 community development entity shall not be eligible to participate in
11 the program in connection with a project that is primarily residential
12 or retail.¹

13 "Major cultural institution" means a public or nonsectarian
14 nonprofit institution within this State that engages in the cultural,
15 intellectual, scientific, environmental, educational, or artistic
16 enrichment of the people of this State, and which is designated by
17 the board as a major cultural institution.

18 "New full-time job" means an eligible position created by an
19 anchor institution ¹, partner anchor institution¹ or a partner business
20 at the community-anchored project that did not previously exist in
21 this State. For the purposes of determining a number of new full-
22 time jobs, the eligible positions of an affiliate shall be considered
23 eligible positions of the business.

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

27 ¹"Partner anchor institution" means an anchor institution that
28 partners with one or more anchor institutions to make an equity
29 investment in or to provide a loan or other financial support for a
30 community-anchored project.¹

31 "Partner business" means a corporation, partnership, firm,
32 enterprise, franchise, association, trust, sole proprietorship, or other
33 legal entity, but shall not include a public entity that enters into an
34 agreement with an anchor institution ¹or, if applicable, a partner
35 anchor institution¹ to rent and occupy commercial space within a
36 community-anchored project. Under the program a partner
37 business, subject to agreement with the anchor institution ¹or, if
38 applicable, a partner anchor institution¹, may lease one or more
39 portions of the partner business's space in the community-anchored
40 project to one or more other persons or entities.

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

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

4 "Public research university" means Rutgers, The State University
 5 of New Jersey, Rowan University, the New Jersey Institute of
 6 Technology, and Montclair State University.

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

15 "Targeted industry" means any industry identified from time to
 16 time by the authority which shall initially include advanced
 17 transportation and logistics, advanced manufacturing, aviation,
 18 autonomous vehicle and zero-emission vehicle research or
 19 development, clean energy, life sciences, hemp processing,
 20 information and high technology, finance and insurance,
 21 professional services, film and digital media, ¹**[and]**¹ non-retail
 22 food and beverage businesses ¹**[.]**¹ including food innovation ¹₂¹
 23 and other innovative industries that disrupt current technologies or
 24 business models.

25 "Tax credit agreement" means a tax credit agreement entered into
 26 pursuant to section 50 of P.L. , c. (C.) (pending before the
 27 Legislature as this bill) between the authority and an anchor
 28 institution ¹or, if applicable, a partner anchor institution¹.

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

32
 33 46. (New section) a. The New Jersey Community-Anchored
 34 Development Program is established as a program under the
 35 jurisdiction of the New Jersey Economic Development Authority.
 36 The authority shall administer the program to invest in and
 37 incentivize the expansion of targeted industries in the State and the
 38 continued development of certain areas of the State through the
 39 provision of tax credits to anchor institution ¹and, if applicable,
 40 partner anchor institutions¹. The board shall certify qualified
 41 anchor institution ¹and, if applicable, qualified partner anchor
 42 institutions¹ based on the requirements of sections 43 through 53 of
 43 P.L. , c. (C.) (pending before the Legislature as this bill),
 44 and may approve the award of a tax credit to an anchor institution
 45 pursuant to ¹**[sections 47 and 48]** section 49¹ of P.L. ,
 46 c. (C. ¹**[and C.]**¹) (pending before the Legislature as
 47 this bill). The value of all tax credits approved by the authority to

1 anchor institution ¹and, if applicable, partner anchor institutions¹
 2 under the program shall be subject to the limitations set forth in
 3 section 98 of P.L. , c. (C.) (pending before the Legislature as
 4 this bill).

5 b. (1) The authority shall administer the program to invest in,
 6 and incentivize the establishment of, community-anchored projects
 7 by anchor institution ¹and, if applicable, partner anchor
 8 institutions¹, independently or in collaboration with one or more
 9 partner businesses or governmental entities. The authority's
 10 investment in community-anchored projects shall be in the form of
 11 the award of tax credits to anchor institution ¹and, if applicable,
 12 partner anchor institutions¹.

13 (2) (a) The authority may award a tax credit to an anchor
 14 institution ¹and, if applicable, one or more partner anchor
 15 institutions¹ under the program, which the anchor institution ¹and, if
 16 applicable, each partner anchor institution¹ shall convert into an
 17 investment by the authority in a community-anchored project,
 18 subject to the condition that the anchor institution ¹and, if
 19 applicable, each partner anchor institution¹ either sell and transfer
 20 the tax ¹~~["credit"] credits~~¹, or adopt a plan to use the tax ¹~~["credit"]~~
 21 credits¹ in order to finance the completion of the community-
 22 anchored project, which condition shall be included in the tax credit
 23 agreement entered into pursuant to section 50 of P.L. ,
 24 c. (C.) (pending before the Legislature as this bill). An
 25 anchor institution ¹and, if applicable, each partner anchor
 26 institution¹ receiving tax credits under the program shall use the
 27 proceeds derived from the sale or financing of the tax credits to
 28 make an equity investment in or to provide a loan or other financial
 29 support for the community-anchored project that will permit the
 30 anchor institution, and, if applicable, a partner business, ¹a partner
 31 anchor institution, or both¹ to develop the community-anchored
 32 project and to attract tenants, owners, investors, lenders, partners,
 33 collaborators, and other beneficial parties to the community-
 34 anchored project. A tax credit agreement, entered into pursuant to
 35 section 50 ¹of¹ P.L. , c. (C.) (pending before the
 36 Legislature as this bill) shall detail the terms by which an anchor
 37 institution ¹and, if applicable, each partner anchor institution¹ will
 38 convert the award of tax credits into an investment by the authority
 39 into the community-anchored project, subject to potential returns on
 40 investment to the authority based on an agreed-upon formula for the
 41 distribution of returns, including upon the sale of a community-
 42 anchored project or at the end of the commitment period. For
 43 community-anchored projects financed solely by governmental and
 44 nonprofit entity investments, the authority shall negotiate an agreed
 45 upon formula which shall include, but not be limited to, the
 46 potential recapture of the value of the tax credits awarded. For

1 community-anchored projects that are not financed solely by
2 governmental and nonprofit entity investments, the authority shall
3 negotiate an agreed upon formula which shall include, but not be
4 limited to, the potential recapture of the value of the tax credits
5 awarded and additional returns on investment. The tax credit
6 agreement shall, however, specify that the authority's interest in the
7 community-anchored project shall be subordinate to the investments
8 made by an anchor institution ¹and, if applicable, each partner
9 anchor institution¹ and partner businesses. References to
10 investments and returns in sections 43 through 53 of P.L. ,
11 c. (C.) (pending before the Legislature as this bill) shall also
12 include loans and other financial support and their corresponding
13 returns.

14 (b) Consistent with an applicable tax credit agreement, a tax
15 credit awarded to an anchor institution ¹and, if applicable, each
16 partner anchor institution¹ for conversion into an authority
17 investment, as provided pursuant to subparagraph (a) of this
18 paragraph, may be applied against tax liability otherwise due
19 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to
20 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),
21 pursuant to section 1 of P.L.1950, c.231 (C.17:32-15), or pursuant
22 to N.J.S.17B:23-5.

23 (3) The authority shall develop protocols for assumptions testing
24 relating to projected and actual returns on investment under the
25 program and regularly analyze the returns on investment received
26 by the authority under the program, and shall evaluate future
27 applications and projections considering the results of the
28 assumptions testing and analysis.

29 c. The authority shall engage in program evaluation and
30 assumptions testing to ensure that the authority at least recaptures
31 the value of the tax credits awarded to all anchor institutions ¹and,
32 if applicable, partner anchor institutions¹ and realizes additional
33 returns on investment under the program; provided, however, that
34 for community-anchored projects financed solely by governmental
35 and nonprofit entity investments, the authority may negotiate a
36 potential return on investment, the calculation of which would
37 include, but not be limited to, recapture of the value of the tax
38 credits awarded for those community-anchored projects financed
39 solely by governmental and nonprofit entities.

40 d. Any funds distributed to the authority as a return on
41 investment pursuant to the program shall be deposited into the
42 General Fund of the State.

43

44 47. (New section) a. An anchor institution ¹and, if applicable,
45 each partner anchor institution¹ shall be eligible to receive a tax
46 credit under the program only if the anchor institution ¹and, if
47 applicable, each partner anchor institution¹ submits a program

1 application to the authority that results in completion of a
2 community-anchored project through a capital investment in a New
3 Jersey State opportunity zone or, if the community-anchored project
4 is primarily designed to result in the economic expansion of a
5 targeted industry in this State, in an area of the State designated
6 pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-
7 196 et seq.), as Planning Area 1 (Metropolitan) or in a municipality
8 with a Municipal Revitalization Index distress score of at least 50.

9 b. At the time of application, an anchor institution ¹and, if
10 applicable, each partner anchor institution¹ seeking tax credits
11 pursuant to the program shall demonstrate to the authority:

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

20 (2) the structure and terms of the financial, corporate, and real
21 estate instruments to be utilized to successfully complete and then
22 operate the community-anchored project, including, but not limited
23 to, the proposed economic and business relationship between the
24 anchor institution ¹and, if applicable, each partner anchor
25 institution¹ and any partner business;

26 (3) that the anchor institution ¹and, if applicable, each partner
27 anchor institution¹, along with any partner business ¹and each
28 partner institution¹ participating in a community-anchored project,
29 has not commenced any construction at the site of the community-
30 anchored project prior to submitting an application, unless the
31 authority determines that the community-anchored project would
32 not be completed otherwise or, in the event the community-
33 anchored project is to be undertaken in phases, the requested tax
34 credit covers only phases for which construction has not yet
35 commenced;

36 (4) the value of the tax credit that is necessary in each year of
37 the eligibility period, in order for the anchor institution ¹and, if
38 applicable, each partner anchor institution¹ to finance the
39 establishment of the community-anchored project;

40 (5) the total aggregate value of the tax credit for the entire
41 eligibility period that is necessary in order for the anchor institution
42 ¹and, if applicable, each partner anchor institution¹ to finance the
43 establishment of the community-anchored project;

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

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

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

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

16 (10) ¹that each worker and subcontractor working on
17 construction of the community-anchored project prior to the start of
18 the eligibility period shall be paid not less than \$15 per hour or 120
19 percent of the minimum wage fixed under subsection a. of section 5
20 of P.L.1966, c.113 (C.34:11-56a4), whichever is higher;

21 (11)¹ that during the eligibility period, each worker employed
22 to perform construction work and building services work at the
23 community-anchored project shall be paid not less than the
24 prevailing wage rate for the worker's craft or trade, as determined
25 by the Commissioner of Labor and Workforce Development
26 pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005,
27 c.379 (C.34:11-56.58 et seq.). In the event the community-
28 anchored project constitutes a lease of more than 55 percent of a
29 single facility, these requirements shall apply to ¹construction work
30 and building services work at¹ the entire facility ¹. In the event the
31 community-anchored project constitutes a lease of more than 35
32 percent of a single facility, these requirements shall apply to
33 construction work at the entire facility¹;

34 ¹[(12)] (11)¹ that during the eligibility period, the anchor
35 institution ¹and, if applicable, each partner anchor institution¹ shall
36 partner with one or more local community organizations that
37 provide support and services to Work First New Jersey program
38 recipients, in order to provide work activity opportunities and other
39 appropriate services to Work First New Jersey program recipients,
40 which activities and services may include, but shall not be limited
41 to: work-study programs, internships, sector-based contextualized
42 literacy training, skills-based training in growth industries in the
43 State, and job retention and advancement services;

44 ¹[(13)] (12)¹ the extent to which the community-anchored
45 development will result in the expansion of a targeted industry in
46 this State;

1 ¹[(14)] (13)¹ that the timing of the award and investment of tax
 2 credits under the program shall allow for the successful completion
 3 and operation of the community-anchored project; and

4 ¹[(15)] (14)¹ that the community-anchored project is viable and
 5 that the anchor institution ¹and, if applicable, each partner anchor
 6 institution¹ is a credible partner for completing the community-
 7 anchored project and providing the agreed-upon potential returns to
 8 the authority, as detailed in the tax credit agreement entered into
 9 pursuant to section 50 of P.L. , c. (C.) (pending before the
 10 Legislature as this bill).

11 c. Prior to the board considering an application submitted by an
 12 anchor institution ¹and, if applicable, each partner anchor
 13 institution¹, the Department of Labor and Workforce Development,
 14 the Department of Environmental Protection, and the Department of
 15 the Treasury shall each report to the chief executive officer of the
 16 authority whether the anchor institution ¹and, if applicable, each
 17 partner anchor institution¹ and any partner business is in substantial
 18 good standing with the respective department, or has entered into an
 19 agreement with the respective department that includes a practical
 20 corrective action plan ¹[(anchor institution or partner business)]¹.
 21 The authority may also contract with an independent third party to
 22 perform a background check on an anchor institution ¹and, if
 23 applicable, each partner anchor institution¹ and any partner
 24 business.

25 d. In order to facilitate the creation of new partnerships with
 26 anchor ¹[(institution)] institutions and, if applicable, partner anchor
 27 institutions¹, the authority shall publish on the authority's website a
 28 list of names and contact information for each anchor institution
 29 that has submitted an application pursuant to this section.

30
 31 48. (New section) a. Prior to March 1, 2027, an anchor
 32 institution ¹and, if applicable, each partner anchor institution¹
 33 seeking a tax credit pursuant to the program shall submit an
 34 application to the authority in a form and manner prescribed in
 35 regulations adopted by the authority pursuant to the provisions of
 36 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
 37 seq.). The authority shall accept and certify applications for tax
 38 credits during the award rounds established pursuant to section 49
 39 of P.L. , c. (C.) (pending before the Legislature as this
 40 bill).

41 b. The authority shall not consider an application for a
 42 community-anchored project unless the anchor institution ¹and, if
 43 applicable, each partner anchor institution¹ submits, with the
 44 application, a letter evidencing support for the community-anchored
 45 project from the governing body of the municipality in which the
 46 community-anchored project is located.

1 c. The authority shall review the project costs for a proposed
2 community-anchored project and evaluate and validate the
3 underlying financial structure proposed by the anchor institution
4 ¹and, if applicable, each partner anchor institution¹. The authority
5 shall conduct a State fiscal impact analysis to ensure that the overall
6 value of tax credits provided to the community-anchored project is
7 projected to result in net benefits to the State, taking into account
8 the current and deferred returns to the authority. The authority shall
9 assess the cost of these reviews to the applicant. An anchor
10 institution ¹and, if applicable, each partner anchor institution¹ shall
11 pay to the authority the full amount of the direct costs of an analysis
12 concerning the anchor institution's ¹and, if applicable, each partner
13 ¹anchor institution's¹ application for tax credits that a third party
14 retained by the authority performs, if the authority deems such
15 retention to be necessary.

16 d. If at any time during the eligibility period the authority
17 determines that an anchor institution ¹or a partner anchor
18 ¹institution¹ made a material misrepresentation on the program
19 application, the anchor institution ¹or partner anchor institution¹
20 shall forfeit or repay to the authority the value of tax credits
21 associated with that application.

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

29 b. (1) The authority shall review applications for tax credits
30 submitted to the authority by the deadline date of the award round
31 and shall evaluate each application as if it were received on the
32 deadline date, without providing any preference for early
33 submissions. To determine priority for an award of a tax credit, all
34 applications for community-anchored projects that satisfy the
35 criteria set forth in sections 47 and 48 of P.L. ,
36 c. (C. and) (pending before the Legislature as this bill)
37 in a given award round shall be ranked on the basis of a scoring
38 system developed by the authority through regulations adopted
39 pursuant to the provisions of the "Administrative Procedure Act,"
40 P.L.1968, c.410 (C.52:14B-1 et seq.). Prior to the commencement
41 of an award round, the authority shall determine the minimum score
42 for the award round that an anchor institution ¹or, if applicable,
43 ¹each partner anchor institution¹ is required to attain to be eligible
44 for a tax credit.

45 (2) The authority may establish different criteria for community-
46 anchored projects that are located in a New Jersey State opportunity
47 zone and community-anchored projects that are primarily designed

1 to result in the economic expansion of a targeted industry in this
2 State.

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

7 (1) the amount of tax credit requested by the anchor institution
8 ¹and, if applicable, each partner anchor institution¹ compared to the
9 overall investments required for the completion of the community-
10 anchored project, along with the amount of the potential return on
11 the authority's investment of tax credits to the State by the end of
12 the commitment period, the amount of the tax credit, if any, that is
13 unlikely to be realized as a return on investment to the State, and
14 the proposed terms and structure for the authority's investment in
15 the project, including applicable current and deferred returns;

16 (2) the financial benefit of the community-anchored project to
17 the community in which the community-anchored project will be
18 located;

19 (3) apprenticeships or workforce programs to be offered because
20 of the community-anchored project;

21 (4) the ability of the community-anchored project to absorb and
22 adapt to changing environmental conditions and deliver its
23 objectives;

24 (5) how the community-anchored project will advance State,
25 regional, and local development and planning strategies;

26 (6) the relationship of the community-anchored project to a
27 comprehensive local development strategy, including its relation to
28 other development and redevelopment projects in the municipality;

29 (7) the degree to which the community-anchored project
30 enhances and promotes job creation and economic development;

31 (8) the extent of economic and related social distress in the
32 municipality and the immediate area surrounding the community-
33 anchored project;

34 (9) the extent to which the community-anchored project
35 provides for the development of workforce housing and housing for
36 individuals with special needs;

37 (10) the extent to which the community-anchored project
38 constitutes the expansion of the anchor institution ¹and, if
39 applicable, each partner anchor institution¹ to different areas of the
40 State;

41 (11) the extent to which the community-anchored project
42 provides for infrastructure, parking, retail, green space, or other
43 public amenities creating a mixed-use community-anchored project;

44 (12) the inclusion of a qualified business accelerator or incubator
45 facility as a part of the community-anchored project;

46 (13) the length of the commitment period for the community-
47 anchored project;

1 (14) the quality and number of new full-time jobs that will be
2 created by the anchor institution ¹partner anchor institution¹ or a
3 partner business at the community-anchored project;

4 (15) the quality and number of existing full-time jobs that will be
5 retained by the anchor institution ¹partner anchor institution¹ or a
6 partner business in the State as a result of completing the
7 community-anchored project, with the criteria specifying, in scoring
8 the application, that the retention of an existing full-time job shall
9 be given not more than one-third the weight of a new full-time job
10 of a similar quality; and

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

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

20 e. Prior to the award of a tax credit to an anchor institution ¹or,
21 if applicable, each partner anchor institution¹, to be converted into
22 an authority investment in a community-anchored project, the
23 Department of Labor and Workforce Development, the Department
24 of Environmental Protection, and the Department of the Treasury
25 shall each report to the chief executive officer of the authority as to
26 whether the anchor institution ¹and, if applicable, each partner
27 anchor institution¹, along with any partner business identified in a
28 program application, and each contractor and subcontractor
29 performing work at the community-anchored project, is in
30 substantial good standing with the respective department, or has
31 entered into an agreement with the respective department that
32 includes a practical corrective action plan. Provided that all parties
33 are in substantial good standing, or have entered into such an
34 agreement, the authority shall allocate tax credits to community-
35 anchored projects according to the community-anchored project's
36 score and until either the available tax credits are exhausted or all
37 community-anchored projects obtaining the minimum score receive
38 a tax credit, whichever occurs first. If insufficient funding exists to
39 fully fund all eligible community-anchored projects, a community-
40 anchored project may be offered partial funding.

41 f. Applications that do not receive the minimum score
42 established by the authority for that award round shall not receive
43 further consideration for a tax credit by the authority in that award
44 round; however, an anchor institution ¹or partner anchor institution¹
45 may revise or complete a new application to be submitted in a
46 subsequent award round.

1 g. If an anchor institution ¹or partner anchor institution¹
2 declines a tax credit offered by the authority, the authority shall
3 offer the tax credit to the applicant with the application having the
4 next highest score, and having obtained at least the minimum score
5 in that award round.
6

7 50. (New section) a. Following approval and selection of an
8 application pursuant to sections 48 and 49 of P.L. , c. (C.)
9 (pending before the Legislature as this bill), the authority shall enter
10 into a tax credit agreement with the anchor institution ¹and, if
11 applicable, each partner anchor institution¹. The chief executive
12 officer of the authority shall negotiate the terms and conditions of
13 the tax credit agreement on behalf of the State.

14 b. (1) A tax credit agreement shall specify the amount of the
15 tax credit that the authority shall award to the anchor institution
16 ¹and, if applicable, each partner anchor institution¹ for conversion
17 into an authority investment and specify the duration of the
18 eligibility period, which shall not exceed 10 years. The tax credit
19 agreement shall provide an estimated date of completion for the
20 community-anchored project and include a requirement for periodic
21 progress reports through completion, including the submittal of
22 executed financing commitments and documents or agreements that
23 evidence site control.

24 (2) If, as a result of a default under the tax credit agreement, the
25 authority rescinds a tax credit in the same calendar year in which
26 the authority approved the tax credit, then the authority may assign
27 the tax credit to another applicant that attained the minimum score
28 determined pursuant to section 49 of P.L. , c. (C.) (pending
29 before the Legislature as this bill).

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

31 (1) provide for a verification of project financing at the time the
32 anchor institution ¹, each partner anchor institution,¹ and any
33 partner business provides executed financing commitments to the
34 authority and a verification of the anchor institution's projected
35 cash flow ¹and each partner anchor institution's cash flow¹ at the
36 time of certification that the project is completed;

37 (2) specify the length of the commitment period for the
38 community-anchored project and the terms by which the anchor
39 institution ¹and, if applicable, each partner anchor institution¹ shall
40 provide to the authority current or deferred returns on investment
41 generated by the community-anchored project and commit to a
42 structure for returns on investment;

43 (3) allow the anchor institution ¹and, if applicable, each partner
44 anchor institution¹ to distribute returns on investment to the
45 authority for the tax credits in the amount specified in the tax credit
46 agreement at any time within the commitment period, but require

- 1 such distribution to occur if the community-anchored project is sold
2 before the end of the commitment period;
- 3 (4) specify amounts of returns to be retained by the anchor
4 institution ¹and, if applicable, each partner anchor institution¹ for
5 capital reserves, programming, or other purposes;
- 6 (5) identify the value of any monetary or financial benefit
7 offered or provided by the anchor institution ¹and, if applicable,
8 each partner anchor institution¹ to any partner business that works
9 with the anchor institution ¹and, if applicable, each partner anchor
10 institution¹ to complete and operate the community-anchored
11 project;
- 12 (6) identify any benefits created by the anchor institution ¹and,
13 if applicable, each partner anchor institution¹ for a partner business
14 through equity investment in or debt-financing of a community-
15 anchored project and specify the formula by which such benefits are
16 passed through to a partner business;
- 17 (7) specify that the authority or the State may purchase tax
18 credits offered for sale by an anchor institution ¹and, if applicable,
19 each partner anchor institution¹ for 90 percent of the stated value of
20 the tax credit before considering any further discounting to present
21 value which shall be permitted;
- 22 (8) at a minimum, require an anchor institution ¹and, if
23 applicable, each partner anchor institution¹ to provide oversight of
24 the community-anchored project through ongoing reporting by a
25 partner business to the anchor institution ¹and, if applicable, each
26 partner anchor institution¹, and subsequent ongoing reporting by the
27 anchor institution ¹and, if applicable, each partner anchor
28 institution¹ to the authority;
- 29 (9) specify other measures through which the authority shall
30 ensure oversight of outstanding tax credit investments, and, in the
31 event that an anchor institution ¹or partner anchor institution¹ fails
32 to meet its obligations under the tax credit agreement or any
33 program requirement, establish the right of the authority to assume
34 direct oversight of any or all projects for which the anchor
35 institution ¹or partner anchor institution¹ has entered into
36 investment agreements and require the anchor institution ¹or partner
37 anchor institution¹ to pursue any remedies it may have against a
38 partner business; ¹and¹
- 39 (10) at a minimum, require that the anchor institution, ¹each
40 partner anchor institution¹, and any partner businesses, adopt
41 specific nondiscrimination policies for the operation of a
42 community-anchored project ¹]; and
- 43 (11) require that any partner business of an anchor institution
44 ¹and, if applicable, any partner business of a partner anchor
45 institution¹ consent to the disclosure of tax expenditure information

1 as described in paragraph (8) of subsection b. of section 1 of
2 P.L.2009, c.189 (C.52:27B-20a)]¹.

3 d. The tax credit agreement shall include a requirement that the
4 chief executive officer of the authority receive annual reports from
5 the anchor institution ¹and, if applicable, each partner institution¹
6 that are to include separate certifications by the Department of
7 Environmental Protection, the Department of Labor and Workforce
8 Development, and the Department of the Treasury demonstrating
9 that the anchor institution ¹and, if applicable, each partner
10 institution¹ any partner business, and each contractor and
11 subcontractor performing work at the community-anchored project
12 is in substantial good standing with that department, or have entered
13 into an agreement with that department that includes a corrective
14 action plan, and the tax credit agreement shall include a provision
15 that the anchor institution ¹and, if applicable, each partner
16 institution¹ shall forfeit the tax credit in any year in which an
17 uncured default exists under the tax credit agreement. The tax
18 credit agreement shall, however, allow the authority to extend, in
19 individual cases, the deadline for any annual reporting or
20 certification requirement.

21 e. An anchor institution ¹and, if applicable, each partner
22 institution¹ shall, as required at the discretion of the authority,
23 submit to the authority satisfactory evidence of actual project costs,
24 as certified by a certified public accountant, evidence of a
25 temporary certificate of occupancy, or other event evidencing
26 project completion. The anchor institution ¹and, if applicable, each
27 partner institution¹, or an authorized agent of the anchor institution
28 ¹or partner institution¹, shall certify under the penalty of perjury
29 that the information provided pursuant to this subsection is true.
30

31 51. (New section) a. Up to the limits established in subsection b.
32 of this section and in accordance with a tax credit agreement,
33 beginning upon the receipt of occupancy permits for any portion of
34 the community-anchored project, or upon any other event
35 evidencing project completion as set forth in the tax credit
36 agreement, an anchor institution ¹and, if applicable, each partner
37 institution¹ of an approved community-anchored project shall be
38 awarded a base tax credit of \$5,000,000 for conversion into an
39 authority investment in the community-anchored project.

40 b. An anchor institution ¹and, if applicable, each partner
41 institution¹ may be allowed a tax credit in excess of the base
42 amount, if approved by the authority, provided, however, the total
43 tax credit allowed per community-anchored project shall not exceed
44 \$75,000,000 and the total investment of all State resources ¹not
45 including rent payments¹ in a community-anchored project shall not
46 exceed 40 percent of the total cost of the project.

1 52. (New section) a. An anchor institution ¹and, if applicable,
2 each partner institution¹ that is awarded a tax credit under sections
3 43 through 53 of P.L. , c. (C.) (pending before the
4 Legislature as this bill) shall, commencing in the year in which the
5 tax credit is awarded, and each year thereafter for the remainder of
6 the eligibility period, submit a report indicating whether the anchor
7 institution ¹and, if applicable, each partner institution¹ is aware of
8 any condition, event, or act that would cause the anchor institution
9 ¹or partner institution¹ not to be in compliance with the tax credit
10 agreement or the provisions of sections 43 through 53 of P.L. ,
11 c. (C.) (pending before the Legislature as this bill) and any
12 additional reporting requirements contained in the tax credit
13 agreement or tax credit certificate. The anchor institution ¹and, if
14 applicable, each partner institution¹, or an authorized agent of the
15 anchor institution ¹or partner institution¹, shall certify under the
16 penalty of perjury that the information provided pursuant to this
17 subsection is true.

18 b. (1) Upon receipt and review of each report submitted
19 during the eligibility period, the authority shall provide to the
20 anchor institution ¹and, if applicable, each partner institution¹ and
21 the Director of the Division of Taxation in the Department of the
22 Treasury a certificate of compliance indicating the amount of tax
23 credits awarded to the anchor institution ¹and, if applicable, each
24 partner institution¹ for conversion into an authority investment in
25 the community-anchored project, that the anchor institution ¹and, if
26 applicable, each partner institution¹ may:

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

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

36 (2) Upon receipt by the director of the certificate of compliance,
37 the director shall coordinate with the anchor institution ¹and, if
38 applicable, each partner institution¹ and the authority to provide the
39 anchor institution ¹and, if applicable, each partner institution¹ with
40 a tax credit transfer certificate, as described in section 53 of P.L. ,
41 c. (C.) (pending before the Legislature as this bill), or a tax
42 credit certificate for the value awarded by the authority for that year
43 that the anchor institution ¹and, if applicable, each partner
44 institution¹ may use as provided in paragraph (1) of this subsection
45 b. and in accordance with the rules adopted pursuant to
46 subparagraph (b) of paragraph (1) of this subsection.

1 53. (New section) a. An anchor institution ¹and, if applicable,
2 each partner institution¹ may apply to the director and the chief
3 executive officer of the authority for a tax credit transfer certificate,
4 covering one or more years. The tax credit transfer certificate, upon
5 receipt thereof by the anchor institution ¹or partner institution¹ from
6 the director and the chief executive officer of the authority, may be
7 sold or assigned, in full or in part, in the privilege period during
8 which the anchor institution ¹or partner institution¹ receives the tax
9 credit transfer certificate from the director, to another person, who
10 may apply the credit against a tax liability pursuant to section 5 of
11 P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132
12 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231
13 (C.17:32-15), or N.J.S.17B:23-5.

14 b. The anchor institution ¹or partner institution¹ shall not sell
15 or assign, including a collateral assignment, a tax credit transfer
16 certificate allowed under this section for consideration received by
17 the anchor institution ¹or partner institution¹ of less than 85 percent
18 of the transferred credit amount before considering any further
19 discounting to present value which shall be permitted. The tax
20 credit transfer certificate issued to an anchor institution ¹or partner
21 institution¹ by the director shall be subject to any limitations and
22 conditions imposed on the application of State tax credits pursuant
23 to sections 43 through 53 of P.L. , c. (C.) (pending before
24 the Legislature as this bill) and any other terms and conditions that
25 the director may prescribe.

26 c. A purchaser or assignee of a tax credit transfer certificate
27 pursuant to this section may make any subsequent transfers,
28 assignments, or sales of a tax credit transfer certificate for an
29 amount to be negotiated with a subsequent purchaser or assignee.

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

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

39
40 54. (New section) Sections 54 through 67 of P.L. ,
41 c. (C.) (pending before the Legislature as this bill) shall be
42 known and may be cited as the "New Jersey Aspire Program Act."
43

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

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

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

6 "Aviation district" means all areas within the boundaries of the
7 Atlantic City International Airport, established pursuant to section
8 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation
9 Administration William J. Hughes Technical Center and the area
10 within a one-mile radius of the outermost boundary of the Atlantic
11 City International Airport and the Federal Aviation Administration
12 William J. Hughes Technical Center.

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

16 "Building services" means any cleaning or routine building
17 maintenance work, including but not limited to sweeping,
18 vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse
19 or trash, window cleaning, securing, patrolling, or other work in
20 connection with the care or securing of an existing building,
21 including services typically provided by a door-attendant or
22 concierge. "Building services" shall not include any skilled
23 maintenance work, professional services, or other public work for
24 which a contractor is required to pay the "prevailing wage" as
25 defined in section 2 of P.L.1963, c.150 (C.34:11-56.26).

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

29 "Collaborative workspace" means coworking, accelerator,
30 incubator, or other shared working environments that promote
31 collaboration, interaction, socialization, and coordination among
32 tenants through the clustering of multiple businesses or individuals.
33 For this purpose, the collaborative workspace shall be the greater
34 of: 2,500 of dedicated square feet or 10 percent of the total property
35 on which the redevelopment project is situated. The collaborative
36 workspace shall include a community manager, be focused on
37 collaboration among the community members, and include
38 regularly scheduled education events for the community members.
39 The collaborative workspace shall also include a physical open
40 space that supports the engagement of its community members.

41 "Commercial project" means a building, which is predominantly
42 commercial and contains 100,000 or more square feet of office and
43 retail space, industrial space, or film studios, professional stages,
44 television studios, recording studios, screening rooms, or other
45 infrastructure for film production, for purchase or lease and may
46 include a parking component.

47 "Developer" means a person who enters or proposes to enter into
48 an incentive award agreement pursuant to the provisions of section

1 ¹**[62]** 60¹ of P.L. , c. (C.) (pending before the Legislature
2 as this bill), including, but not limited, to a lender that completes a
3 redevelopment project, operates a redevelopment project, or
4 completes and operates a redevelopment project.

5 "Director" means the Director of the Division of Taxation in the
6 Department of the Treasury.

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

16 "Economic development incentive" means a financial incentive,
17 awarded by the authority, or agreed to between the authority and a
18 business or person, for the purpose of stimulating economic
19 development or redevelopment in New Jersey, including, but not
20 limited to, a bond, grant, loan, loan guarantee, matching fund, tax
21 credit, or other tax expenditure.

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

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

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

37 "Government-restricted municipality" means a municipality in
38 this State with a municipal revitalization index distress score of at
39 least 7, that met the criteria for designation as an urban aid
40 municipality in the 2019 State fiscal year, and that, on the effective
41 date of P.L. , c. (C.) (pending before the Legislature as this
42 bill), is subject to financial restrictions imposed pursuant to the
43 Municipal Stabilization and Recovery Act ¹**[of 2016]**¹, P.L.2016,
44 c.4 ¹**[(52:27BBBB-1)]** (C.52:27BBBB-1 et seq.)¹, or is restricted in
45 its ability to levy property taxes on property in that municipality as
46 a result of the State of New Jersey owning or controlling property
47 representing at least 25 percent of the total land area of the
48 municipality or as a result of the federal government of the United

1 States owning or controlling at least 50 acres of the total land area
2 of the municipality, which is dedicated as a national natural
3 landmark.

4 "Health care or health services center" means an establishment
5 where patients are admitted for examination and treatment by one or
6 more physicians, dentists, psychologists, or other medical
7 practitioners.

8 "Incentive area" means an area designated pursuant to the "State
9 Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning
10 Area 1 (Metropolitan), Planning Area 2 (Suburban), or a
11 Designated Center, , provided an area designated as Planning Area
12 2 (Suburban) or a Designated Center shall be located within a one-
13 half mile radius of the mid-point, with bicycle and pedestrian
14 connectivity, of a New Jersey Transit Corporation, Port Authority
15 Transit Corporation, or Port Authority Trans-Hudson Corporation
16 rail, bus, or ferry station, including all light rail stations, or a high
17 frequency bus stop as certified by the New Jersey Transit
18 Corporation.

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

24 "Incentive award agreement" means the contract executed
25 between a developer and the authority pursuant to section ¹~~62~~ 60¹
26 of P.L. , c. (C.) (pending before the Legislature as this
27 bill), which sets forth the terms and conditions under which the
28 developer may receive the incentive awards authorized pursuant to
29 the provisions of sections 54 through 67 of P.L. , c. (C.)
30 (pending before the Legislature as this bill).

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

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

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

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

4 ¹"Major rail station" means a railroad station that is located
5 within a qualified incentive area and that provides to the public
6 access to a minimum of six rail passenger service lines operated by
7 the New Jersey Transit Corporation.¹

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

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

23 "Municipal Revitalization Index" means the index by the
24 Department of Community Affairs ranking New Jersey's
25 municipalities according to eight separate indicators that measure
26 diverse aspects of social, economic, physical, and fiscal conditions
27 in each locality.

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

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

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

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

41 "Project cost" means the costs incurred in connection with a
42 redevelopment project by a developer until the issuance of a
43 permanent certificate of occupancy, or until such other time
44 specified by the authority, for a specific investment or
45 improvement, including the costs relating to lands, buildings,
46 improvements, real or personal property, or any interest therein,
47 including leases discounted to present value, including lands under
48 water, riparian rights, space rights, and air rights acquired, owned,

1 developed or redeveloped, constructed, reconstructed, rehabilitated,
2 or improved, any environmental remediation costs, plus costs not
3 directly related to construction, of an amount not to exceed 20
4 percent of the total costs, capitalized interest paid to third parties,
5 and the cost of infrastructure improvements, including ancillary
6 infrastructure projects. The cost of acquisition of land or fees
7 associated with the application or administration of a grant under
8 sections 54 through 67 of P.L. , c. (C.) (pending before the
9 Legislature as this bill) shall not constitute a project cost.

10 "Project financing gap" means the part of the total project cost,
11 including reasonable and appropriate return on investment, that
12 remains to be financed after all other sources of capital have been
13 accounted for, including, but not limited to developer contributed
14 capital, which shall not be less than 20 percent of the total project
15 cost, and investor or financial entity capital or loans for which the
16 developer, after making all good faith efforts to raise additional
17 capital, certifies that additional capital cannot be raised from other
18 sources on a non-recourse basis.

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

23 "Qualified incentive tract" means (i) a population census tract
24 having a poverty rate of 20 percent or more; or (ii) a census tract in
25 which the median family income for the census tract does not
26 exceed 80 percent of the greater of the Statewide median family
27 income or the median family income of the metropolitan statistical
28 area in which the census tract is situated.

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

34 "Redevelopment project" means a specific construction project
35 or improvement undertaken by a developer, owner or tenant, or
36 both, and any ancillary infrastructure project. A redevelopment
37 project may involve construction or improvement upon lands,
38 buildings, improvements, or real and personal property, or any
39 interest therein, including lands under water, riparian rights, space
40 rights, and air rights, acquired, owned, developed or redeveloped,
41 constructed, reconstructed, rehabilitated, or improved.

42 "Residential project" means a redevelopment project that is
43 predominantly residential, intended for multi-family residency, and
44 may include a parking component.

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

47 "SDA municipality" means a municipality in which an SDA
48 district is situated.

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

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

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

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

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

31 "Workforce housing" means housing that is affordable according
32 to federal Department of Housing and Urban Development or other
33 recognized standards for home ownership and rental costs, and
34 occupied or reserved for occupancy by households with a gross
35 household income of more than 80 percent, but less than 120
36 percent, of the median gross household income for households of
37 the same size within the housing region in which the housing is
38 located.

39
40 56. (New section) a. The New Jersey Aspire Program is hereby
41 established as a program under the jurisdiction of the New Jersey
42 Economic Development Authority. The authority shall administer
43 the program to encourage redevelopment projects through the
44 provision of incentive awards to reimburse developers for certain
45 project financing gap costs. The board may approve the award of
46 an incentive award to a developer upon application to the authority
47 pursuant to sections 58 and 59 of P.L. , c. (C. , C. , and
48 C.) (pending before the Legislature as this bill). The value of

1 all tax credits approved by the authority pursuant to sections 54
2 through 67 of P.L. , c. (C.) (pending before the Legislature
3 as this bill), shall be subject to the limitations set forth in section 98
4 of P.L. , c. (C.) (pending before the Legislature as this bill).

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

9
10 57. (New section) a. Prior to March 1, 2027, a developer shall
11 be eligible to receive an incentive award for a redevelopment
12 project only if the developer demonstrates to the authority at the
13 time of application that:

14 (1) without the incentive award, the redevelopment project is
15 not economically feasible;

16 (2) a project financing gap exists, or the authority determines
17 that the redevelopment project will generate a below market rate of
18 return;

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

20 (4) except for demolition and site remediation activities, the
21 developer has not commenced any construction at the site of the
22 redevelopment project prior to submitting an application, unless the
23 authority determines that the redevelopment project would not be
24 completed otherwise or, in the event the redevelopment project is to
25 be undertaken in phases, the requested incentive award is limited to
26 only phases for which construction has not yet commenced;

27 (5) the redevelopment project shall comply with minimum
28 environmental and sustainability standards;

29 (6) the redevelopment project shall comply with the authority's
30 affirmative action requirements, adopted pursuant to section 4 of
31 P.L.1979, ¹**[c.203]** c.303¹ (C.34:1B-5.4);

32 (7) ¹**[each worker employed or subcontractor of a developer**
33 **working at a redevelopment project, 80 percent or more of which is**
34 **operated by the developer, shall be paid not less than \$15 per hour**
35 **or 120 percent of the minimum wage fixed under subsection a. of**
36 **section 5 of P.L.1966, c.113 (C.34:11-56a4), whichever is higher;**

37 **(8)]¹ during the eligibility period, each worker employed to**
38 **perform construction work or building services work at the**
39 **redevelopment project shall be paid not less than the prevailing**
40 **wage rate for the worker's craft or trade, as determined by the**
41 **Commissioner of Labor and Workforce Development pursuant to**
42 **P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379**
43 **(C.34:11-56.58 et seq.). In the event a redevelopment project is**
44 **undertaken by a tenant and the tenant has a leasehold of more than**
45 **55 percent of space in the building owned or controlled by the**
46 **developer, the requirement that each worker employed to perform**
47 **building service work at the building be paid not less than the**
48 **prevailing wage shall apply to the entire building;**

1 ¹[(9)] (8)¹ the redevelopment project shall be completed, and the
2 developer shall be issued a certificate of occupancy for the
3 redevelopment project facilities by the applicable enforcing agency
4 within four years of executing the incentive award agreement
5 corresponding to the redevelopment project;

6 ¹[(10)] (9)¹ the developer has complied with all requirements
7 for filing tax and information returns and for paying or remitting
8 required State taxes and fees by submitting, as a part of the
9 application, a tax clearance certificate, as described in section 1 of
10 P.L.2007, c.101 (C.54:50-39); and

11 ¹[(11)] (10)¹ the developer is not more than 24 months in arrears
12 at the time of application.

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

16 (1) the incremental increase of State revenues realized from the
17 commercial project upon its completion shall be in excess of the
18 amount necessary to reimburse the developer for its project
19 financing gap; and

20 (2) the developer shall have an equity participation of at least 20
21 percent of the total project cost.

22 c. In addition to the requirements set forth in subsection a. of
23 this section, for a residential project to qualify for an incentive
24 award, the residential project shall:

25 (1) have a total project cost of at least \$17,500,000, if the
26 project is located in a municipality with a population greater than
27 200,000 according to the latest federal decennial census;

28 (2) have a total project cost of at least \$10,000,000 if the project
29 is located in a municipality with a population less than 200,000
30 according to the latest federal decennial census; or

31 (3) have a total project cost of at least \$5,000,000 if the project
32 is in a qualified incentive tract or government-restricted
33 municipality.

34 d. In addition to the requirements set forth in subsections a. and
35 c. of this section, for a residential project consisting of newly-
36 constructed residential units to qualify for an incentive award , the
37 developer shall reserve at least 20 percent, but not more than 50
38 percent, of the residential units constructed for occupancy by low-
39 and moderate-income households with affordability controls as
40 required under the "Fair Housing Act," P.L.1985, c. 222 (C.52:27D-
41 301 et al.) ¹and at least 5 percent of the residential units constructed
42 as workforce housing¹, unless: the municipality in which the
43 property is located has received substantive certification from the
44 council and such a reservation is not required under the approved
45 affordable housing plan; the municipality has been given a
46 judgment of repose or a judgment of compliance by the court, and
47 such a reservation is not required under the approved affordable

1 housing plan. ¹【The extent to which the proposed project would
 2 attract or retain a skilled employment base that is important to the
 3 State’s competitive position generally or to capture economic
 4 development opportunities within targeted industries, this 20
 5 percent for low-income housing and moderate-income housing may
 6 be used for workforce housing, or housing for individuals with
 7 special needs to the extent consistent with the Fair Housing Act,
 8 P.L.1985, c. 222 (C.52:27D-301 et al.). This 20 percent shall be
 9 constructed within the same housing development.】 If the
 10 municipality in which the property is located has received
 11 substantive certification from the council and such a reservation is
 12 not required under the approved affordable housing plan or the
 13 municipality has been given a judgment of repose or a judgment of
 14 compliance by the court, and such a reservation is not required
 15 under the approved affordable housing plan, then the developer
 16 shall reserve at least 10 percent, but not more than 50 percent, of
 17 the residential units constructed for occupancy by low- and
 18 moderate-income households with affordability controls as required
 19 under the "Fair Housing Act," P.L.1985, c. 222 (C.52:27D-301 et
 20 al.) and at least 15 percent of the residential units constructed as
 21 workforce housing.¹

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

33 58. (New section) a. Prior to March 1, 2027, a developer that
 34 meets the eligibility criteria in section 57 of P.L. , c. (C.)
 35 (pending before the Legislature as this bill) and is seeking an
 36 incentive award for a redevelopment project shall submit an
 37 application to the authority and, in the case of a residential project,
 38 shall submit an application to the authority and the agency, in a
 39 form and manner prescribed in regulations adopted by the authority,
 40 in consultation with the agency, pursuant to the provisions of the
 41 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
 42 seq.). The authority shall accept applications for incentive awards
 43 during the grant periods established pursuant to section 59 of
 44 P.L. , c. (C.) (pending before the Legislature as this bill).

45 b. The authority shall not consider an application for a
 46 commercial project unless the developer submits a letter evidencing
 47 support for the commercial project from the governing body of the

1 municipality in which the commercial project is located with the
2 application.

3 c. The authority shall review the project cost, evaluate and
4 validate the project financing gap estimated by the developer, and
5 conduct a State fiscal impact analysis to ensure that the overall
6 public assistance provided to the project will result in a net positive
7 benefit to the State, provided that the net benefit analysis shall not
8 apply to capital investment for a food delivery source ¹['], or ¹['] a
9 health care or health services center with a minimum of 10,000
10 square feet of space devoted to ¹['residential projects,']¹ health care
11 or health services that is located in a municipality with a Municipal
12 Revitalization Index distress score of at least 50 lacking adequate
13 access, as determined by the Commissioner of Health¹['], to health
14 care or health services¹[']; or a residential project¹. In determining
15 whether a project will result in a net positive benefit to the State,
16 the authority shall not consider the value of any taxes exempted,
17 abated, rebated, or retained under the "Five-Year Exemption and
18 Abatement Law," P.L.1991, c.441 (C.40A:21-1 et seq.), the "Long
19 Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et al.),
20 the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303
21 (C.52:27H-60 et seq.), or any other law that has the effect of
22 lowering or eliminating the developer's State or local tax liability.
23 The determination made pursuant to this subsection shall be based
24 on the potential tax liability of the developer without regard for
25 potential tax losses if the developer were to locate in another state.
26 The authority shall assess the cost of these reviews to the applicant.
27 A developer shall pay to the authority the full amount of the direct
28 costs of an analysis concerning the developer's application for a tax
29 credit that a third party retained by the authority performs, if the
30 authority deems such retention to be necessary. The authority shall
31 evaluate the net economic benefits on a present value basis under
32 which the requested tax credit allocation amount is discounted to
33 present value at the same discount rate as the projected benefits
34 from the implementation of the proposed redevelopment project for
35 which an award of tax credits is being sought.

36 d. For a redevelopment project subject to the requirement of
37 subsection c. of this section to be eligible for any tax credits under
38 the program, a developer shall demonstrate to the authority that the
39 award of tax credits will yield a net positive benefit to the State
40 equaling an amount determined by the authority through regulation
41 that exceeds the requested tax credit amount. The developer shall
42 certify, under the penalty of perjury, that all documents submitted,
43 and factual assertions made, to the authority to demonstrate that the
44 award of tax credits will yield a net positive benefit to the State in
45 accordance with this subsection are true and accurate at the time of
46 submission. A redevelopment project located in a government-
47 restricted municipality shall yield a net positive benefit to the State

1 that exceeds the requested tax credit amount, but the net benefit
2 requirement set by the authority for such redevelopment projects
3 may be up to 35 percentage points lower than the net benefit
4 requirement set by the authority for all other eligible redevelopment
5 projects.

6 e. If at any time during the eligibility period the authority
7 determines that the developer made a material misrepresentation on
8 the developer's application, the developer shall forfeit the incentive
9 award.

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

15
16 59. (New section) a. Prior to March 1, 2027, for redevelopment
17 projects eligible pursuant to section 57 of P.L. , c. (C.)
18 (pending before the Legislature as this bill), the authority ¹shall
19 award incentive awards through an application process consisting of
20 up to two biannual award rounds. The authority shall provide
21 notice to the public of the opening and closing dates for submission
22 of grant applications on its Internet website. The authority¹ shall
23 award incentive awards based on the order in which complete,
24 qualifying applications were received by the authority. ¹If a
25 developer intends to apply to both the authority and the agency for
26 subsidies, the developer shall notify the agency simultaneously with
27 any application made to the authority. The authority shall transmit
28 its grant determination for such residential projects to the agency
29 along with any information developed by the authority and
30 confirmation of the authority's intent to provide an incentive award
31 or award to the project. Approval of an application by the agency
32 shall be the final determination required for an incentive award for
33 a residential project under this section.¹

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

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

6
7 60. (New section) a. Following approval and selection of an
8 application pursuant to sections 58 and 59 of P.L. ,
9 c. (C. and C.) (pending before the Legislature as this
10 bill), the authority shall enter into an incentive award agreement
11 with the developer. The chief executive officer of the authority
12 shall negotiate the terms and conditions of the incentive award
13 agreement on behalf of the State. ¹【The incentive award agreement
14 shall require that the developer consent to the disclosure of tax
15 expenditure information as described in paragraph (8) of subsection
16 b. of section 1 of P.L.2009, c.189 (C.52:27B-20a).】¹

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

35 c. To ensure the protection of taxpayer money, if the authority
36 determines that the project financing gap is smaller than determined
37 at board approval, the authority shall reduce the amount of the tax
38 credit on a pro rata basis. If there is no project financing gap, then
39 the developer shall forfeit the incentive award. This test shall be
40 conducted at the end of the third year of the eligibility period
41 whereupon the authority shall evaluate the developer's cash flow
42 and compare that cash flow to the projected cash flow at the time of
43 board approval. For a commercial project, if the actual cash flow
44 exceeds the projected cash flow at the time of board approval by
45 more than 15 percent, the authority shall require the developer to
46 pay up to 15 percent of the amount of the excess ¹, which payment
47 shall be deposited in the State General Fund¹. To the extent

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

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

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

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

42 (3) As used in this subsection:

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

46 "Labor harmony agreement" means an agreement between a
47 business that serves as the owner or operator of a retail
48 establishment or distribution center and one or more labor

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

23 f. (1) ¹["In] For a redevelopment project whose total project
24 cost equals or exceeds \$10 million, in¹ addition to the incentive
25 award agreement, a developer shall enter into a community benefits
26 agreement with the authority and the county or municipality in
27 which the redevelopment project is located. The agreement may
28 include, but shall not be limited to, requirements for training,
29 employment, and youth development and free services to
30 underserved communities in and around the community in which
31 the redevelopment project is located. Prior to entering a community
32 benefits agreement, the governing body of the county or
33 municipality in which the redevelopment project is located shall
34 hold at least one public hearing at which the governing body shall
35 hear testimony from residents, community groups, and other
36 stakeholders on the needs of the community that the agreement
37 should address.

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

46 (3) At the time the developer submits the annual report required
47 pursuant to section 62 of P.L. , c. (C.) (pending before the
48 Legislature as this bill) to the authority, the developer shall certify,

1 under the penalty of perjury, that it is in compliance with the terms
2 of the community benefits agreement. If the developer fails to
3 provide the certification required pursuant to this paragraph or the
4 authority determines that the developer is not in compliance with
5 the terms of the community benefits agreement based on the reports
6 submitted by the community advisory committee pursuant to
7 paragraph (2) of this subsection, then the authority may rescind an
8 award or recapture all or part of any tax credits awarded.

9 ¹(4) A developer shall not be required to enter into a community
10 benefits agreement pursuant to this subsection if the developer
11 submits to the authority a copy of the developer's redevelopment
12 agreement that is certified by the municipality in which the
13 redevelopment project is located.¹

14 g. A developer shall submit, prior to the first disbursement of
15 tax credits under the incentive award agreement, but no later than
16 six months following project completion, satisfactory evidence of
17 actual project costs, as certified by a certified public accountant,
18 evidence of a temporary certificate of occupancy, or other event
19 evidencing project completion that begins the eligibility period
20 indicated in the incentive award agreement. The developer, or an
21 authorized agent of the developer, shall certify that the information
22 provided pursuant to this subsection is true under the penalty of
23 perjury. Claims, records, or statements submitted by a developer to
24 the authority in order to receive tax credits shall not be considered
25 claims, records, or statements made in connection with State tax
26 laws.

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

30
31 61. (New section) a. Up to the limits established in subsection
32 b. of this section and in accordance with an incentive award
33 agreement, beginning upon the receipt of occupancy permits for any
34 portion of the redevelopment project, or upon any other event
35 evidencing project completion as set forth in the incentive award
36 agreement, a developer shall be allowed a total tax credit that shall
37 not exceed 45 percent of the total project cost of the redevelopment
38 project, except for a commercial project that is located in a
39 government-restricted municipality, in which case the total tax
40 credit allowed shall not exceed 50 percent of the total project cost
41 of the commercial project.

42 b. The value of all tax credits approved by the authority under
43 the program for a redevelopment project shall not exceed
44 \$50,000,000 per redevelopment project if located in a qualified
45 incentive tract, government-restricted municipality, or municipality
46 with a Municipal Revitalization Index distress score of at least 50,
47 or \$32,000,000 for any other redevelopment project.

1 62. (New section) a. A developer approved for an incentive
2 award pursuant to sections 58 and 59 of P.L. , c. (C. and
3 C.) (pending before the Legislature as this bill) and that enters
4 an incentive award agreement pursuant to section 60 of P.L. ,
5 c. (C.) (pending before the Legislature as this bill) shall
6 submit annually, commencing in the year in which the incentive
7 award is issued and for the remainder of the eligibility period, a
8 report indicating whether the developer is aware of any condition,
9 event, or act that would cause the developer not to be in compliance
10 with the incentive award agreement or the provisions of sections 54
11 through 67 of P.L. , c. (C.) (pending before the Legislature
12 as this bill) and any additional reporting requirements contained in
13 the incentive award agreement or tax credit certificate. The
14 developer, or an authorized agent of the developer, shall certify that
15 the information provided pursuant to this subsection is true under
16 the penalty of perjury.

17 b. (1) Upon receipt and review of each report submitted
18 during the eligibility period, the authority shall provide to the
19 developer and the director a certificate of compliance indicating the
20 amount of tax credits that the developer may apply against the
21 developer's tax liability.

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

46 (3) The director shall prescribe the order of priority of the
47 application of the credit allowed under this section and any other
48 credits allowed by law against the tax imposed under section 5 of

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

7 ¹【c. The authority may, pursuant to an amendment to the
8 incentive award agreement, provide short-term stabilization loans to
9 a developer eligible for an incentive award pursuant to
10 subparagraph (b) of paragraph (3) of subsection a. of section 57 or
11 of P.L. , c. (C.) (pending before the Legislature as this
12 bill). The authority may finance the loans authorized pursuant to
13 this subsection through a sale of tax credits to which the developer
14 would be entitled at a future date pursuant to the incentive award
15 agreement and as authorized under this act or through
16 appropriations made available by the Legislature. A developer shall
17 utilize a loan made available pursuant to this subsection exclusively
18 for project costs or to mitigate a project financing gap. The loans
19 shall bear interest at rates and terms deemed appropriate by the
20 authority but shall bear an interest rate of zero percent per year for
21 the first five years of the loan term.】¹

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

40 b. The developer shall not sell or assign, including a collateral
41 assignment, a tax credit transfer certificate allowed under this
42 section for consideration received by the developer of less than 85
43 percent of the transferred credit amount before considering any
44 further discounting to present value which shall be permitted,
45 except a developer of a residential project consisting of newly-
46 constructed residential units may assign a tax credit transfer
47 certificate for consideration of less than 85 percent subject to the
48 submission of a plan to the authority and the agency to use the

1 proceeds derived from the assignment of tax credits to complete the
2 residential project, except a developer of a residential project
3 consisting of newly-constructed residential units that has received
4 federal low income housing tax credits under 26 U.S.C.
5 s.42(b)(2)(B)(i) may assign a tax credit transfer certificate for
6 consideration of no less than 75 percent subject to the submission of
7 a plan to the authority and the New Jersey Housing and Mortgage
8 Finance Agency to use the proceeds derived from the assignment of
9 tax credits to complete the residential project. The tax credit
10 transfer certificate issued to a developer by the director shall be
11 subject to any limitations and conditions imposed on the application
12 of State tax credits pursuant to sections 54 through 67 of P.L. ,
13 c. (C.) (pending before the Legislature as this bill) and any
14 other terms and conditions that the director may prescribe.

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

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

- 21 (1) the name of the transferrer;
22 (2) the name of the transferee;
23 (3) the value of the tax credit transfer certificate; and
24 (4) the consideration received by the transferrer.
25

26 64. (New section) a. A developer who has entered into an
27 incentive award agreement pursuant to section ¹~~62~~ 60¹ of P.L. ,
28 c. (C.) (pending before the Legislature as this bill) may,
29 upon notice to and written consent of the authority and State
30 Treasurer, pledge, assign, transfer, or sell any or all of its right,
31 title, and interest in and to the incentive award agreement and in the
32 incentive awards payable under the incentive award agreement, and
33 the right to receive the incentive awards, along with the rights and
34 remedies provided to the developer under the incentive award
35 agreement. Any assignment shall be an absolute assignment for all
36 purposes, including the federal bankruptcy code.

37 b. Any pledge of an incentive award made by the developer
38 shall be valid and binding from the time the pledge is made and
39 filed in the records of the authority. The incentive award pledged
40 and thereafter received by the developer shall immediately be
41 subject to the lien of the pledge without any physical delivery
42 thereof or further act, and the lien of any pledge shall be valid and
43 binding against all parties having claims of any kind in tort,
44 contract, or otherwise against the developer irrespective of whether
45 the parties have notice thereof. As a condition of any incentive
46 grant, the grantee, assignee, pledgee or subsequent holder of the
47 incentive grant shall immediately file notice of the same with the
48 clerk of the county in which the project is located.

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

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

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

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

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

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

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

33 (2) for a residential or mixed-use project, the construction of
34 1,000 or more new residential units, 20 percent of which shall be
35 constructed for occupancy by low- and moderate-income
36 households with affordability controls as required under the under
37 the "Fair Housing Act," P.L.1985, c. 222 (C.52:27D-301 et al.) ¹],
38 which 20 percent shall include, to the extent to which the proposed
39 transformative project would attract or retain a skilled employment
40 base that is important to the State's competitive position generally
41 or to capture economic development opportunities within targeted
42 industries, low-income housing, moderate-income housing,
43 workforce housing, or housing for individuals with special needs,
44 and which 20 percent shall be constructed within the same housing
45 development;] and at least 5 percent of the residential units
46 constructed as workforce housing, unless: the municipality in which
47 the property is located has received substantive certification from
48 the council and such a reservation is not required under the

1 approved affordable housing plan; the municipality has been given
 2 a judgment of repose or a judgment of compliance by the court, and
 3 such a reservation is not required under the approved affordable
 4 housing plan. If the municipality in which the property is located
 5 has received substantive certification from the council and such a
 6 reservation is not required under the approved affordable housing
 7 plan or the municipality has been given a judgment of repose or a
 8 judgment of compliance by the court, and such a reservation is not
 9 required under the approved affordable housing plan, then the
 10 developer shall reserve at least 10 percent, but not more than 50
 11 percent, of the residential units constructed for occupancy by low-
 12 and moderate-income households with affordability controls as
 13 required under the "Fair Housing Act," P.L.1985, c. 222 (C.52:27D-
 14 301 et al.) and at least 15 percent of the residential units constructed
 15 as workforce housing; and¹

16 (3) the extent to which the proposed project would leverage the
 17 competitive economic development advantages of the State's mass
 18 transit assets, higher education assets, and other economic
 19 development assets in attracting or retaining both employers and
 20 skilled workers generally or in targeted industries ¹~~[';']~~.

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

24 b. The authority may award an incentive award to no more than
 25 ¹~~['seven']~~ ten¹ transformative projects in accordance with the
 26 provisions of sections 59 through 67 of P.L. , c. (C.);
 27 provided, however, a transformative project shall not be subject to
 28 the competitive application procedure set forth in section 59 of
 29 P.L. , c. (C.) (pending before the Legislature as this bill).
 30 A transformative project receiving an incentive award pursuant to
 31 this section, other than a project that includes 250,000 or more
 32 square feet of film studios, professional stages, television studios,
 33 recording studios, screening rooms or other infrastructure for film
 34 production, shall be located in a distressed municipality, a
 35 government-restricted municipality, or an urban transit hub
 36 municipality. No more than two transformative ¹~~['project']~~ projects¹
 37 receiving an incentive award pursuant to this section shall be
 38 located in the same municipality. The authority shall not consider
 39 an application for a transformative project unless the applicant
 40 submits with its application a letter evidencing support for the
 41 transformative project from the governing body of the municipality
 42 in which the transformative project is located.

43 c. The authority shall review the transformative project cost,
 44 evaluate and validate the project financing gap estimated by the
 45 developer, and conduct a State fiscal impact analysis to ensure that
 46 the overall public assistance provided to the transformative project
 47 will result in a net positive benefit to the State. In determining

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

25 d. In determining net benefits for any business or person
26 considering locating in a transformative project and applying to
27 receive from the authority any other economic development
28 incentive subsequent to the award of transformative project tax
29 credits pursuant to section 65 of P.L. , c. (C.) (pending
30 before the Legislature as this bill), the authority shall not credit the
31 business or person with any benefit that was previously credited to
32 the transformative project pursuant to section 65 of P.L. ,
33 c. (C.) (pending before the Legislature as this bill).

34 e. The authority shall administer the credits awarded pursuant
35 to this section in accordance with the provisions of sections 62 and
36 63 of P.L. , c. (C. and C.) (pending before the
37 Legislature as this bill).

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

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

9
10 66. (New section) Beginning the year next following the year in
11 which P.L. , c. (C.) (pending before the Legislature as this
12 bill) takes effect and every two years thereafter, a State college or
13 university established pursuant to chapter 64 of Title 18A of the
14 New Jersey Statutes shall, pursuant to an agreement executed
15 between the State college or university and the authority, prepare a
16 report on the implementation of the program, and submit the report
17 to the authority, the Governor, and, pursuant to section 2 of
18 P.L.1991, c.164 (C.52:14-19.1), to the Legislature. Each biennial
19 report required under this section shall include a description of each
20 redevelopment project receiving a tax credit under the program, a
21 detailed analysis of the consideration given in each project to the
22 factors set forth in sections 58 and 59 of P.L. , c. (C. ,
23 C. , and C.) (pending before the Legislature as this bill),
24 in the case of a commercial project, the return on investment for
25 incentive awards provided and the commercial project's impact on
26 the State's economy, and any other metrics the State college or
27 university determines are relevant based upon national best
28 practices. The authority shall prepare a written response to the
29 report, which the authority shall submit to the Governor and,
30 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the
31 Legislature.

32
33 67. (New section) Notwithstanding the provisions of the
34 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
35 seq.), to the contrary, the chief executive officer of the authority
36 may adopt, immediately, upon filing with the Office of
37 Administrative Law, regulations that the chief executive officer
38 deems necessary to implement the provisions of sections 54 through
39 67 of P.L. , c. (C.) (pending before the Legislature as this
40 bill), which regulations shall be effective for a period not to exceed
41 180 days from the date of the filing. The chief executive officer
42 shall thereafter amend, adopt, or readopt the regulations in
43 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
44 et seq.).

45
46 68. (New section) Sections 68 through 81 of P.L. ,
47 c. (C.) (pending before the Legislature as this bill) shall be
48 known and may be cited as the "Emerge Program Act."

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

3 "Affiliate" means an entity that directly or indirectly controls, is
4 under common control with, or is controlled by the business.
5 Control exists in all cases in which the entity is a member of a
6 controlled group of corporations, as defined pursuant to section
7 1563 of the Internal Revenue Code of 1986 (26 U.S.C. s.1563), or
8 the entity is an organization in a group of organizations under
9 common control, as defined pursuant to subsection (c) of section
10 414 of the Internal Revenue Code of 1986 (26 U.S.C. s.414). A
11 taxpayer may establish by clear and convincing evidence, as
12 determined by the Director of the Division of Taxation in the
13 Department of the Treasury, that control exists in situations
14 involving lesser percentages of ownership than required by sections
15 1563 and 414 of the Internal Revenue Code of 1986 (26 U.S.C.
16 ss.1563 and 414).

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

19 "Aviation district" means all areas within the boundaries of the
20 Atlantic City International Airport, established pursuant to section
21 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation
22 Administration William J. Hughes Technical Center and the area
23 within a one-mile radius of the outermost boundary of the Atlantic
24 City International Airport and the Federal Aviation Administration
25 William J. Hughes Technical Center.

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

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

39 "Business" means an applicant proposing to own or lease
40 premises in a qualified business facility that is: a corporation that is
41 subject to the tax imposed pursuant to section 5 of P.L.1945, c.162
42 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and
43 C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or
44 N.J.S.17B:23-5, or is a partnership, S corporation, limited liability
45 company, or non-profit corporation. A business shall include an
46 affiliate of the business if that business applies for a credit based
47 upon any capital investment made by or full-time employees of an
48 affiliate. If the business or tenant is a cooperative or part of a

1 cooperative, then the cooperative may qualify for credits by
2 counting the full-time employees and capital investments of its
3 member organizations, and the cooperative may distribute credits to
4 its member organizations. If the business or tenant is a cooperative
5 that leases to its member organizations, the lease shall be treated as
6 a lease to an affiliate or affiliates. A business shall include an
7 affiliate of the business if that business applies for a credit based
8 upon any capital investment made by full-time employees of an
9 affiliate.

10 "Capital investment" means expenses that a business or an
11 affiliate of the business incurs following its submission of an
12 application to the authority pursuant to section 72 of P.L. ,
13 c. (C.) (pending before the Legislature as this bill), but prior
14 to the project completion date, as shall be defined in the project
15 agreement, for: a. site preparation and construction, repair,
16 renovation, improvement, equipping, or furnishing on real property
17 or of a building, structure, facility, or improvement to real property;
18 b. obtaining and installing furnishings and machinery, apparatus, or
19 equipment, including but not limited to material goods subject to
20 bonus depreciation under sections 168 and 179 of the federal
21 Internal Revenue Code (26 U.S.C. ss.168 and 179), for the
22 operation of a business on real property or in a building, structure,
23 facility, or improvement to real property; or any combination of the
24 foregoing.

25 "College or university" means a county college, an independent
26 institution of higher education, a public research university, or a
27 State college.

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

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

36 "Director" means the Director of the Division of Taxation in the
37 Department of the Treasury.

38 "Distressed municipality" means a municipality that is qualified
39 to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a
40 municipality under the supervision of the Local Finance Board
41 pursuant to the provisions of the "Local Government Supervision
42 Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality
43 identified by the Director of the Division of Local Government
44 Services in the Department of Community Affairs to be facing
45 serious fiscal distress, a SDA municipality, or a municipality in
46 which a major rail station is located.

47 "Doctoral university" means a university located within New
48 Jersey that is classified as a doctoral university under the Carnegie

1 Classification of Institutions of Higher Education's Basic
2 Classification methodology on the effective date of P.L.2017, c.221.

3 "Eligibility period" means the period in which an eligible
4 business may claim a tax credit under the program for a given
5 project phase, beginning with the tax period in which the authority
6 accepts certification of the eligible business that it has met the
7 capital investment and employment requirements of the program for
8 the respective project phase, and extending thereafter for a term of
9 not more than seven years, with the term to be determined at the
10 discretion of the applicant, provided that the term of the eligibility
11 period may consist of nonconsecutive tax years if the applicant
12 elects at any time after the end of the first tax period of the
13 eligibility period to defer the continuation of the eligibility period to
14 a subsequent tax period. The authority may extend the eligibility
15 period one additional tax period to accommodate a prorated
16 payment pursuant to paragraph (2) of subsection a. of section 77 of
17 P.L. , c. (C.) (pending before the Legislature as this bill).

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

22 "Eligible position" or "full-time job" means a full-time position
23 in a business in this State which the business has filled with a full-
24 time employee. An eligible position shall not include an
25 independent contractor or a consultant.

26 "Employment and Investment Corridor" means the portions of
27 the qualified incentive area that are not located within a distressed
28 municipality and which:

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

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

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

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

1 ¹“Enhanced area” means (1) an urban transit hub as defined in
2 section 2 of P.L.2007, c.346 (C.34:1B-208), (2) the five
3 municipalities with the highest poverty rates according to the 2017
4 Municipal Revitalization Index, and (3) the three municipalities
5 with the highest percentage of SNAP recipients according to the
6 2017 Municipal Revitalization Index.¹

7 "Full-time employee" means a person:

8 a. who is employed by a business for consideration for at least
9 35 hours a week, or who renders any other standard of service
10 generally accepted by custom or practice as full-time employment,
11 and whose wages are subject to withholding as provided in the
12 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.;

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

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

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

38 With respect to a logistics, manufacturing, energy, defense,
39 aviation, or maritime business, excluding primarily warehouse or
40 distribution operations, located in a port district having a container
41 terminal, the requirement that employee health benefits are to be
42 provided shall be deemed to be satisfied if the benefits are provided
43 in accordance with industry practice by a third party obligated to
44 provide such benefits pursuant to a collective bargaining agreement
45 ¹**[;]** ¹

46 A "full-time employee" shall include, but shall not be limited to,
47 an employee that has been hired by way of a labor union hiring hall
48 or its equivalent. 35 hours of employment per week qualified

1 business facility shall constitute one "full-time employee,"
 2 regardless of whether or not the hours of work were performed by
 3 one or more persons.

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

26 "Full-time employee" shall 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 for the business, or who renders any
 29 other standard of service generally accepted by custom or practice
 30 as full-time employment, but who, prior to project application, was
 31 not provided, by the business, with employee health benefits under
 32 a health benefits plan authorized pursuant to State or federal law.

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

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

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

8 "Incentive area" means:

- 9 a. an aviation district;
- 10 b. a port district;
- 11 c. a distressed municipality or transit hub municipality;
- 12 d. an area designated pursuant to the "State Planning Act,"
13 P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1
14 (Metropolitan), Planning Area 2 (Suburban), Planning Area 3
15 (Fringe Planning Area); or a Designated Center under the State
16 Development and Redevelopment Plan, provided an area designated
17 as Planning Area 2 (Suburban) or Planning Area 3 (Fringe Planning
18 Area) or a Designated Center shall be located within a one-half mile
19 radius of the mid-point, with bicycle and pedestrian connectivity, of
20 a New Jersey Transit Corporation, Port Authority Transit
21 Corporation, or Port Authority Trans-Hudson Corporation rail, bus,
22 or ferry station, including all light rail stations, or a high frequency
23 bus stop as certified by the New Jersey Transit Corporation.
- 24 e. an area located within a smart growth area and planning area
25 designated in a master plan adopted by the New Jersey
26 Meadowlands Commission pursuant to subsection (i) of section 6 of
27 P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan
28 adopted by the New Jersey Meadowlands Commission pursuant to
29 section 20 of P.L.1968, c.404 (C.13:17-21);
- 30 f. an area located within any land owned by the New Jersey
31 Sports and Exposition Authority, established pursuant to P.L.1971,
32 c.137 (C.5:10-1 et seq.), within the boundaries of the Hackensack
33 Meadowlands District as delineated in section 4 of P.L.1968, c.404
34 (C.13:17-4);
- 35 g. an area located within a regional growth area, rural
36 development area zoned for industrial use as of the effective date of
37 P.L.2016, c.75, or town, village, or a military and federal
38 installation area designated in the comprehensive management plan
39 prepared and adopted by the Pinelands Commission pursuant to the
40 "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.);
- 41 h. an area located within a government-restricted municipality;
- 42 i. an area located within land approved for closure under any
43 federal Commission on Base Realignment and Closure action;
- 44 j. an area located within an area designated pursuant to the
45 "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as
46 Planning Area 4A (Rural Planning Area), Planning Area 4B
47 (Rural/Environmentally Sensitive), or Planning Area 5
48 (Environmentally Sensitive), so long as that area designated as

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

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

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

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

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

47 "Industrial use" means assembling, processing, manufacturing, or
48 any combination thereof, of finished or partially finished products

1 from materials or fabricated parts; the breaking or demolishing of
2 finished or partially finished products; or the production of oil or
3 gas or the generation or transformation of electricity. "Industrial
4 use" includes farming purposes as that term is defined under ¹["IRC
5 section"] 26 U.S.C. s. 16420(c)(3)(A), undertaken in an industrial
6 space.

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

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

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

40 "Mega project" means a project of special economic importance,
41 as determined pursuant to regulations adopted by the ¹["chief
42 executive officer of the authority"] board¹, as measured by the level
43 of new jobs, new capital investment, and opportunities to leverage
44 leadership in a high-priority targeted industry, as determined by the
45 authority pursuant to rules and regulations promulgated to
46 implement ¹sections 68 through 81 of¹ P.L. , c. (C.)
47 (pending before the Legislature as this bill).

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

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

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

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

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

23 "Port district" means the portions of an incentive area that are
24 located within the "Port of New York District" of the Port Authority
25 of New York and New Jersey, as defined in Article II of the
26 Compact Between the States of New York and New Jersey of 1921;
27 or 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, c.60
31 (C.12:11A-1 et seq.).

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

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

38 "Project" means the capital investment and the employment
39 commitment at a qualified business facility pursuant to the project
40 agreement.

41 "Project agreement" means the contract executed between an
42 eligible business and the authority pursuant to section ¹[75] 73¹ of
43 P.L. , c. (C.) (pending before the Legislature as this bill),
44 which sets forth the terms and conditions under which the eligible
45 business may receive the incentives authorized pursuant to the
46 program.

47 "Project labor agreement" means a form of pre-hire collective
48 bargaining agreement covering terms and conditions of a specific

1 project that satisfies the requirements set forth in section 5 of
2 P.L.2002, c.44 (C.52:38-5).

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

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

15 "Qualified incentive tract" means: ¹[(i)] a.¹ a population census
16 tract having a poverty rate of 20 percent or more; or ¹[(ii)] b.¹ a
17 census tract in which the median family income for the census tract
18 does not exceed 80 percent of the greater of the Statewide median
19 family income or the median family income of the metropolitan
20 statistical area in which the census tract is situated.

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

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

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

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

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

46 "SDA municipality" means a municipality in which an SDA
47 district is situated.

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

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

6 "Targeted industry" means any industry identified from time to
7 time by the authority which shall initially include advanced
8 transportation and logistics, advanced manufacturing, aviation,
9 autonomous vehicle and zero-emission vehicle research or
10 development, clean energy, life sciences, hemp processing,
11 information and high technology, finance and insurance,
12 professional services, film and digital media, ¹~~and~~¹ non-retail
13 food and beverage businesses ¹~~and~~¹ including food innovation ¹~~and~~¹
14 and other innovative industries that disrupt current technologies or
15 business models.

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

24 "Transit oriented development" means a qualified business
25 facility located within a 1/2-mile radius, or one-mile radius for
26 projects located in a Government-restricted municipality,
27 surrounding the mid-point of a New Jersey Transit Corporation,
28 Port Authority Transit Corporation, or Port Authority Trans-Hudson
29 Corporation rail, bus, or ferry station platform area, including all
30 light rail stations.

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

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

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

1 70. (New section) a. The Emerge Program is hereby
2 established as a program under the jurisdiction of the New Jersey
3 Economic Development Authority. The authority shall administer
4 the program to encourage economic development, job creation, and
5 the retention of significant numbers of jobs in imminent danger of
6 leaving the State. The board may approve the award of tax credits
7 to an eligible business upon application of the chief executive
8 officer of the eligible business and following the execution of a
9 letter of intent and the payment of fees, subject to the limitations set
10 forth in subsection b. of this section:

11 b. value of all tax credits approved by the authority for
12 businesses eligible pursuant to section 71 of P.L. , c. (C.)
13 shall be subject to the limitations set forth in section 98 of P.L. ,
14 c. (C.) (pending before the Legislature as this bill).
15

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

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

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

28 (3) the qualified business facility is located in a qualified
29 incentive area;

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

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

47 (a) an award of tax credits to a business for a qualified business
48 facility located in a distressed municipality or transit hub

1 municipality shall yield a net positive benefit to the State, based on
2 the benefits generated during the period of time from approval
3 through the end of the commitment period, that equals at least 300
4 percent of the requested tax credit amount;

5 (b) an award of tax credits to a business for a qualified business
6 facility located in a government-restricted municipality, or for a
7 mega project, shall yield a net positive benefit to the State, based on
8 the benefits generated during the period of time from approval
9 through the end of the commitment period, that equals at least 200
10 percent of the requested tax credit amount;

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

17 (d) the net economic benefits shall be discounted to reflect the
18 uncertainty of the business's location after the commitment period
19 expires, provided that a business may elect a period of extended
20 commitment for which time the economic benefits shall be
21 creditable to the determination of the net economic benefit of the
22 project, and a business electing a period of extended commitment
23 and failing to maintain the project through the expiration of that
24 extended commitment period shall be obligated to repay a
25 proportion of the incremental benefits received on account of
26 having extended the commitment period, taking into consideration
27 the number of years of extended commitment during which the
28 business maintained the project;

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

43 ¹(f) If, during the term of the program, the methodology used by
44 the authority in projecting benefits of a project in making the
45 determination required pursuant to this paragraph is modified, the
46 respective percentages by which the benefits must exceed the
47 requested tax credit allocation amount set forth pursuant to this
48 paragraph (5) may be adjusted to ensure consistent application of

1 the respective thresholds in this paragraph (5) applied to each
2 application:¹

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

5 (7) the project shall comply with the authority's affirmative
6 action requirements, adopted pursuant to section 4 of P.L.1979, '1[c.
7 203] c.303¹ (C.34:1B-5.4); and

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

14 (i) the work performed under the contract is performed at a
15 qualified business facility owned by a landlord that is not a business
16 receiving authority assistance;

17 (ii) the landlord is a party to the construction contract; and

18 (iii) the qualified business facility constitutes a lease of less than
19 35 percent of the qualified business facility at the time of contract
20 and under any agreement to subsequently lease the qualified
21 business facility.

22 (b) In accordance with section 1 of P.L.1979, c.303 (C.34:1B-
23 5.1), nothing in this paragraph shall be construed as requiring the
24 payment of prevailing wage for construction commencing more
25 than two years after a business has executed with the authority a
26 commitment letter regarding authority financial assistance and the
27 first payment or other provision of the assistance is received.

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

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

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

39 (c) for the rehabilitation, improvement, fit-out, or retrofit of
40 existing portion of the premises that does not qualify pursuant to
41 subparagraph (a) or (b) of this paragraph, a minimum investment of
42 \$40 per square foot of gross leasable area;

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

47 (e) for a small business, no new minimum capital investment
48 shall be required, provided the applicant has demonstrated evidence

1 satisfactory to the authority of its intent to remain in the State for
2 the commitment period.

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

8 (3) Notwithstanding the provisions of paragraphs (1) and (2) of
9 this subsection, the authority may adopt, pursuant to the provisions
10 of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
11 1 et seq.), rules and regulations adjusting the minimum capital
12 investment amounts required under the program when necessary to
13 respond to the prevailing economic conditions in the State.

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

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

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

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

23 (d) for a business located in qualified incentive tract or
24 government-restricted municipality that will retain 500 or more
25 retained full-time jobs, a minimum of the business's retained full-
26 time jobs at the time of application and new construction or
27 rehabilitation, improvement, fit-out, or retrofit of an existing
28 portion of the premises equal in size to the space occupied by the
29 business's retained full-time jobs at the time of application;

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

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

43 d. A business shall provide and adhere to a plan that
44 demonstrates that the qualified business facility is capable of
45 accommodating more than half of the business's new or retained
46 full-time employees as approved and shall certify, under the penalty
47 of perjury, that not less than 80 percent ¹**['or more']** of the
48 ¹withholdings of new or retained full-time jobs are ¹**['held by**

1 employees whose earnings are¹ subject to ¹["withholding under"]¹
2 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.
3 ¹["On the effective date of P.L. , c. (C.) (pending before the
4 Legislature as this bill) this requirement shall apply to projects
5 approved under P.L.2011, c.149 (C.34:1B-242 et seq.), P.L.2007,
6 c.346 (C.34:1B-207 et seq.), and P.L.1996, c.26 (C.34:1B-124 et
7 al.)."]¹ The requirements set forth in this subsection may be
8 modified by the authority to respond to an emergency, disaster, or
9 other factors that result in employees of an eligible business having
10 to work from a location other than the qualified business facility.

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

15 f. A business eligible pursuant to this section may submit an
16 application to the authority in accordance with the provisions of
17 section 72 of P.L. , c. (C.) (pending before the Legislature
18 as this bill) on or after the effective date of P.L. ,
19 c. (C. or) (pending before the Legislature as this bill)
20 but prior to March 1, 2027.

21

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

30 b. (1) Before the board may consider an eligible business's
31 application for tax credits, the Department of Labor and Workforce
32 Development, the Department of Environmental Protection, and the
33 Department of the Treasury shall each report to the chief executive
34 officer of the authority whether the eligible business is in
35 compliance with the respective department, or, if necessary, has
36 entered into an agreement with the respective department that
37 includes a practical corrective action plan for the eligible business.
38 The authority may also contract with an independent third party to
39 perform a background check on the eligible business. Provided that
40 the eligible business is in substantial good standing, or has entered
41 into such an agreement, before the board may approve an eligible
42 business's application for tax credits, the eligible business shall
43 execute a non-binding letter of intent with the chief executive
44 officer of the authority, specifying the amount and terms and
45 conditions of tax credits that the authority is prepared to propose for
46 board approval and that are intended to be a material factor in the
47 decision by the eligible business to create or retain the proposed
48 number of new and retained full-time jobs, and in which the eligible

1 business certifies such tax credits are a material factor in its
2 decision.

3 (2) To assist the authority in determining whether the award of
4 tax credits is a material factor in the eligible business's decision to
5 create or retain the minimum number of new and retained full-time
6 jobs for eligibility under the program, the chief executive officer of
7 the authority shall require the eligible business to submit, as part of
8 its application, a full economic analysis of all locations under
9 consideration by the eligible business; all lease agreements,
10 ownership documents, or substantially similar documentation for
11 the eligible business's current in-State locations; and all lease
12 agreements, ownership documents, or substantially similar
13 documentation for potential out-of-State location alternatives, to the
14 extent they exist. The chief executive officer of the authority may
15 further consider the costs associated with opening and maintaining a
16 business in New Jersey, competitive proposals that the eligible
17 business has received from other states, the prevailing economic
18 conditions, and any other factors that the chief executive officer of
19 the authority deems relevant to assist the authority in determining
20 whether an award of tax credits is a material factor in the eligible
21 business's decision. Based on this information, the authority shall
22 independently verify and confirm the eligible business's assertion
23 that the award of tax credits under the program is a material factor
24 in the eligible business's decision to create or retain the minimum
25 number of new and retained full-time jobs for eligibility under the
26 program and, in the case of retained full-time jobs, the jobs are
27 actually at risk of leaving the State, before the authority may award
28 the eligible business any tax credits under the " Emerge Program
29 Act," sections 70 through 81 of P.L. , c. (C.) (pending
30 before the Legislature as this bill). The owner of the eligible
31 business, or an authorized agent of the owner, shall certify that all
32 factual representations made by the business to the authority
33 pursuant to this paragraph are true under the penalty of perjury.

34 c. An eligible business shall pay to the authority the full
35 amount of the direct costs of an analysis concerning the eligible
36 business's application for a tax credit, which a third party retained
37 by the authority performs, if the authority deems such retention to
38 be necessary. The authority shall have the discretion to waive all or
39 a portion of the costs of application for a small business.

40 d. If at any time during the eligibility period the authority
41 determines that the eligible business made a material
42 misrepresentation on the eligible business's application, the eligible
43 business shall forfeit all tax credits awarded under the program,
44 which shall be in addition to any other criminal or civil penalties to
45 which the business and the officer may be subject.

46 e. If circumstances require an eligible business to amend its
47 application to the authority, then the owner of the eligible business,
48 or an authorized agent of the owner, shall certify to the authority

1 that the information provided in its amended application is true
2 under the penalty of perjury.

3 f. Nothing shall preclude a business from applying for tax
4 credits under the program for more than one project pursuant to one
5 or more applications.
6

7 73. (New section) a. Following approval by the board, but
8 before the issuance of tax credits, the authority shall require an
9 eligible business to enter into a project agreement. The terms of the
10 project agreement shall be consistent with the eligibility
11 requirements of section 71 of P.L. , c. (C.) (pending before
12 the Legislature as this bill), as applicable, and shall include, but
13 shall not be limited to, the following:

14 (1) **[(i)]** (a)¹ a detailed description of the proposed project
15 which will result in job creation or retention, and the number of
16 new and retained full-time jobs that are approved for tax credits;

17 **[(ii)]** (b)¹ for a phased project, an incentive phase agreement
18 for which each phase identifies a description of the phase, the
19 expected capital investment and number of new full-time jobs, and
20 the time following acceptance of the incentive agreement when
21 each phase is to begin and be completed, with the awarding of tax
22 credits under the incentive agreement to be predicated on the
23 number of full-time jobs created through the fulfillment of each
24 incentive phase agreement;

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

27 (3) personnel information that will enable the authority to
28 administer the program;

29 (4) a requirement that the eligible business maintain the project
30 at a location in New Jersey for the commitment period, with at least
31 the minimum number of full-time jobs as required by this program,
32 and a provision to permit the authority to recapture all or part of any
33 tax credits awarded, at its discretion, if the eligible business does
34 not remain in compliance with this provision for the required term
35 or significantly reduces the number of full-time employees, or the
36 salaries thereof, to which the eligible business certified at the
37 commencement of the eligibility period;

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

45 (6) representations that the eligible business is in substantial
46 good standing or meets the agreement requirements described in
47 paragraph (1) of subsection b. of section 71 of P.L. , c. (C.)
48 (pending before the Legislature as this bill), the project complies

1 with all applicable laws, and specifically, that the project does not
2 violate any environmental law;

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

5 (8) a provision that the chief executive officer of the authority
6 receives annual reports from the Department of Environmental
7 Protection, the Department of Labor and Workforce Development,
8 and the Department of the Treasury demonstrating that the eligible
9 business and each contractor and subcontractor performing work at
10 the qualified business facility is in compliance with the respective
11 department, or has entered into an agreement with the respective
12 department that includes a practical corrective action plan, and a
13 provision providing that if the eligible business is not in compliance
14 with its legal obligations of rules administered by these departments
15 and has been given formal notice thereof, then the authority may
16 suspend the issuance of tax credits pending resolution of the
17 dispute;

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

21 (10) a provision permitting the authority to amend the
22 agreement;

23 and

24 (11) a provision establishing the conditions under which the
25 authority, the eligible business, or both, may terminate the
26 agreement.

27 b. (1) ¹**[In]** For a project whose total project cost equals or
28 exceeds \$10 million, in¹ addition to the project agreement, an
29 eligible business shall enter into a community benefits agreement
30 with the authority and the county or municipality in which the
31 qualified business facility is located. The agreement may include,
32 but shall not be limited to, requirements for training, employment,
33 and youth development and free services to underserved
34 communities in and around the community in which the qualified
35 business facility is located. Prior to entering a community benefits
36 agreement, the governing body of the county or municipality in
37 which the qualified business facility is located shall hold at least
38 one public hearing at which the governing body shall hear
39 testimony from residents, community groups, and other
40 stakeholders on the needs of the community that the agreement
41 should address.

42 (2) The community benefits agreement shall provide for the
43 creation of a community advisory committee to oversee the
44 implementation of the agreement, monitor successes, ensure
45 compliance with the terms of the agreement, and produce an annual
46 public report. The community advisory committee created pursuant
47 to this paragraph shall be comprised of representatives from

1 community groups and residents of the county or municipality in
2 which the qualified business facility is located.

3 (3) At the time the eligible business submits the annual report
4 required pursuant to section 77 of P.L. , c. (C.) (pending
5 before the Legislature as this bill) to the authority, the eligible
6 business shall certify, under the penalty of perjury, that it is in
7 compliance with the terms of the community benefits agreement. If
8 the eligible business fails to provide the certification required
9 pursuant to this paragraph or the authority determines that the
10 eligible business is not in compliance with the terms of the
11 community benefits agreement based on the reports submitted by
12 the community advisory committee pursuant to paragraph (2) of this
13 subsection, then the authority may rescind the award or recapture
14 all or part of any tax credits awarded.

15 ¹(4) An eligible business shall not be required to enter into a
16 community benefits agreement pursuant to this subsection if the
17 eligible business submits to the authority a copy of the eligible
18 business's project agreement that is certified by the municipality in
19 which the project is located.¹
20

21 74. (New section) a. Commencing with the date six months
22 following the date the authority and an eligible business execute a
23 project agreement, the eligible business shall demonstrate that it has
24 obtained site plan approval and has committed financing for, and
25 site control of, the qualified business facility. If the eligible
26 business obtained site control of the qualified business facility prior
27 to the execution of the letter of intent pursuant to section 72 of
28 P.L. , c. (C.) (pending before the Legislature as this bill),
29 then the authority may rescind approval of the award of tax credits,
30 unless the eligible business disclosed the fact that the eligible
31 business had obtained the site prior to executing the letter of intent
32 and the authority determines that the award of tax credits was still a
33 material factor in the eligible business's decision to create or retain
34 the minimum number of new and retained full-time jobs for
35 eligibility under the program. The eligible business shall provide
36 an estimated date of completion and shall submit periodic progress
37 reports. The authority may rescind an award of tax credits if an
38 eligible business fails to provide the information required under this
39 section within the period indicated in the approval of the tax credits
40 by the board. The authority may rescind an award of tax credits
41 under the program if a project fails to advance in accordance with
42 the project agreement.

43 b. Upon completion of the capital investment and employment
44 requirements of the program, an eligible business shall submit to
45 the authority certifications evidencing that the eligible business has
46 satisfied the conditions relating to the capital investment and
47 employment requirements of the project agreement with supporting
48 evidence satisfactory to the authority. Absent extenuating

1 circumstances and the written approval of the authority, the eligible
2 business shall submit the certification within three years following
3 the date of approval of the application. The authority may grant
4 two six-month extensions of the deadline; provided that the date of
5 completion shall not occur later than four years following the date
6 of approval of the application by the authority; provided further that
7 the authority may grant one additional extension not to exceed one
8 year upon a finding by the authority that: (1) the project is delayed
9 due to unforeseeable acts related to the project beyond the eligible
10 business's control and without its fault or negligence; (2) the
11 eligible business is using best efforts, with all due diligence, to
12 proceed with the completion of the project and the submission of
13 the certification; and (3) the eligible business has made, and
14 continues to make, all reasonable efforts to prevent, avoid, mitigate,
15 and overcome the delay. To qualify for the one-year extension, the
16 eligible business shall provide timely notice to the authority of the
17 delay within 30 days after the eligible business has actual or
18 constructive knowledge of the delay, and shall provide periodic
19 reports, not less than every 30 days, of the status of the delay and
20 the steps the eligible business is taking to mitigate or overcome the
21 delay.

22 c. If the Governor declares an emergency, then the chief
23 executive officer of the authority shall have the discretion to grant
24 an extension for the duration of the emergency and the board of the
25 authority, upon recommendation of the chief executive officer, may
26 grant two additional six-month extensions; provided, however, that:
27 (i) the extensions are due to the economic disruption caused by the
28 emergency; (ii) the project is delayed due to unforeseeable acts
29 related to the project beyond the eligible business's control and
30 without its fault or negligence; (iii) the eligible business is using
31 best efforts, with all due diligence, to proceed with the completion
32 of the project and the submission of the certification; and (iv) the
33 eligible business has made, and continues to make, all reasonable
34 efforts to prevent, avoid, mitigate, and overcome the delay.

35 d. The owner of the eligible business, or an authorized agent of
36 the owner, shall certify that the information provided pursuant to
37 this section is true under the penalty of perjury.
38

39 75. (New section) a. The total amount of the tax credit for an
40 eligible business for each new or retained full-time job shall be as
41 set forth in subsections b. through g. of this section. The total tax
42 credit amount shall be calculated and credited to the business
43 annually for each year of the eligibility period, notwithstanding any
44 other provisions of P.L. , c. (C.) (pending before the
45 Legislature as this bill) to the contrary.

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

- 1 (1) for an eligible business facility located within a government-
2 restricted municipality, or which is a mega project, \$4,000 per year;
- 3 (2) for a qualified business facility located within ¹【a distressed
4 municipality】 an enhanced area¹, \$3,500 per year;
- 5 (3) for a qualified business facility located within a ¹【transit hub
6 municipality but not qualifying under paragraph (1) of this
7 subsection, 3,000】 distressed municipality, \$3,000¹ per year;
- 8 (4) for a project in a qualified opportunity zone or an
9 employment and investment corridor, \$2,500 per year; and
- 10 (5) for a project in other eligible areas, \$500 per year.
- 11 c. (1) In addition to the base amount of the tax credit, the
12 amount of the tax credit to be awarded for each new or retained full-
13 time job shall be increased with the following bonuses:
- 14 (a) for an eligible business with a qualified business facility
15 located in a municipality with a Municipal Revitalization Index
16 score greater than 50, an increase of \$1,000 per year;
- 17 (b) for an eligible business with a qualified business facility at
18 which the capital investment in industrial or research and
19 development premises for industrial or research and development
20 use by the business is in excess of the minimum capital investment
21 required for eligibility pursuant to subsection b. of section 71 of
22 P.L. , c. (C.) (pending before the Legislature as this bill),
23 an increase of \$1,000 per year for each additional amount of
24 investment that exceeds the minimum amount required for
25 eligibility by 40 percent, with a maximum increase of \$3,000 per
26 year, unless the project qualifies as a mega project or the qualified
27 business facility is located in a government-restricted municipality,
28 in which case the maximum increase is \$5,000 per year;
- 29 (c) for an eligible business with large numbers of new full-time
30 jobs during the commitment period, the increases shall be in
31 accordance with the following schedule:
- 32 (i) if the number of new full-time jobs is between 251 and 400,
33 \$500 per year;
- 34 (ii) if the number of new full-time jobs is between 401 and 600,
35 \$750 per year;
- 36 (iii) if the number of new full-time jobs is between 601 and 800,
37 \$1000 per year;
- 38 (iv) if the number of new full-time jobs is between 801 and
39 1,000, \$1,250 per year;
- 40 (v) if the number of new full-time jobs is in excess of 1,000,
41 \$1,500 per year;
- 42 (d) for an eligible business that annually funds an industry-
43 specific training program, which has the capacity to enroll 10
44 percent or more of the eligible business's full-time workforce, or
45 pays a State educational institution to provide to the public an
46 industry-specific training program, an increase of \$500 per year;
47 provided, however, that if the training program is provided by a

1 State educational institution that is within 10 miles of the qualified
2 business facility, then the increase shall be \$1,000 per year;

3 (e) for an eligible business that qualifies as a small business, an
4 increase of \$500 per year;

5 (f) ¹[(i)]¹ for an eligible business with new full-time jobs and
6 retained full-time jobs at the qualified business facility with a
7 median salary in excess of the existing median salary for the county
8 in which the project is located, or, in the case of a project in a
9 government-restricted municipality, a business that employees full-
10 time positions at the project with a median salary in excess of the
11 median salary for the government-restricted municipality, an
12 increase of \$250 per year during the eligibility period for each 35
13 percent by which the project's median salary levels exceeds the
14 county or government-restricted municipality median salary, with a
15 maximum increase of \$1,500 per year;

16 (g) for an eligible business with a qualified business facility
17 located in a qualified incentive tract, an increase of \$500 per year;

18 (h) for an eligible business engaged primarily in a targeted
19 industry, an increase of \$500 per year;

20 (i) for an eligible business with a qualified business facility
21 located in a qualified incubator facility, an increase of \$500 per
22 year;

23 (j) for an eligible business that enters into a labor harmony
24 agreement in accordance with ¹[(subsection c. of section 73)] section
25 69¹ of P.L. , c. (C.) (pending before the Legislature as this
26 bill), an increase of \$2,000 per year for the portion of the project
27 subject to that labor harmony agreement; ¹provided further that an
28 eligible business receiving a bonus under this subparagraph may
29 exceed the limitation applicable to the eligible business pursuant to
30 subsection d. of this section by an amount not to exceed \$1,000;¹

31 (k) for an eligible business that provides its employees access to
32 child care either through an on-site quality child care facility free of
33 charge to its employees or through reimbursements paid by the
34 eligible business to its employees for the cost of child care in
35 accordance with standards adopted by the authority, an increase of
36 \$1,000 per year;

37 (l) for an eligible business that enters into a partnership with a
38 prisoner re-entry program for the purpose of identifying and
39 promoting employment opportunities at the eligible business for
40 former inmates and current inmates leaving the corrections system,
41 and that hires at least one active participant in the re-entry program,
42 an increase of \$500 per year.

43 (m) for an eligible business with a qualified business facility that
44 exceeds the Leadership in Energy and Environmental Design's
45 "Silver" rating standards but does not exceed "Gold" rating
46 standards or completes substantial environmental remediation, an
47 additional increase of \$250 per year, or for an eligible business with

1 a qualified business facility that exceeds the Leadership in Energy
2 and Environmental Design's "Gold" rating standards, an additional
3 increase of \$500 per year;

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

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

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

17 (q) for an eligible business with a qualified business facility
18 located in a qualified opportunity zone, an increase of \$1,000 per
19 year ¹; and

20 (r) for an eligible business if one-third or more of the members
21 of the eligible business's governing board or other governing body
22 self-identify as members of an underrepresented community, which
23 may include Black, African American, Hispanic, Latino, Asian,
24 Pacific Islander, Native American, Native Hawaiian, Alaska Native
25 or gay, lesbian, bisexual or transgender, an increase of \$2,000 per
26 year. The authority shall work with the Chief Diversity Officer or
27 other State entities to ensure that the bonus provided under this
28 subparagraph is implemented faithfully and in compliance with
29 law¹.

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

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

40 d. The gross amount of the tax credit available to an eligible
41 business for each new or retained full-time job shall be the sum of
42 the base amount set forth in subsection b. of this section and the
43 various additional bonus amounts for which the business is eligible
44 pursuant to subsection c. of this section, subject to the following
45 limitations:

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

1 (2) for a qualified business facility located within ¹ **["a distressed**
2 **municipality or qualified opportunity zone]** an enhanced area¹, the
3 gross amount for each new or retained full-time job shall not exceed
4 \$6,000 per year;

5 (3) for a qualified business facility ¹ **["in a transit hub]** within a
6 distressed¹ municipality, the gross amount for each new or retained
7 full-time job shall not exceed \$5,000 per year;

8 (4) for a qualified business facility in ¹ a qualified opportunity
9 zone or¹ an employment and investment corridor, the gross amount
10 for each new or retained full-time job shall not exceed \$4,000 per
11 year; and

12 (5) for a qualified business facility in other eligible areas, the
13 gross amount for each new or retained full-time job shall not exceed
14 \$3,000 per year.

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

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

38 g. Notwithstanding the provisions of subsections a. through f.
39 of this section to the contrary, for each application approved by the
40 board, the amount of tax credits available to be applied by the
41 business annually shall not exceed an amount determined by the
42 authority to be necessary to induce the project to be sited in New
43 Jersey as determined by the board. The authority shall determine
44 the amount necessary to complete the project through staff analysis
45 of all locations under consideration by the eligible business and all
46 lease agreements, ownership documents, or substantially similar
47 documentation for the eligible business's current in-State locations

1 and potential out-of-State location alternatives, competitive
2 proposals from other states, the prevailing economic conditions, and
3 any other information that the authority deems relevant.

4
5 76. (New section) a. (1) If, in any tax period, an eligible
6 business reduces the total number of full-time employees in its
7 Statewide workforce by more than 20 percent from the number of
8 full-time employees in its Statewide workforce in the last tax period
9 prior to the credit amount approval under the program, then the
10 eligible business shall forfeit its credit amount for that tax period
11 and each subsequent tax period, until the first tax period for which
12 documentation demonstrating the restoration of the eligible
13 business's Statewide workforce to the threshold levels required by
14 this subsection has been reviewed and approved by the authority,
15 for which tax period and each subsequent tax period the full amount
16 of the credit shall be allowed.

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

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

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

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

1 subsequent tax periods, provided, however, that an eligible business
2 may change the location of the qualified business facility if:

3 (a) the new facility:

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

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

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

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

1 facility, so long as that capital investment is not the subject of an
2 independent application under an incentive program with the
3 authority.

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

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

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

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

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

47 g. A business may include an affiliate for any period, provided
48 that the business provides a valid tax clearance certificate for the

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

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

15

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

46 (2) Upon receipt and review of each report submitted during the
47 eligibility period, the authority shall provide to the eligible business
48 and the director a certificate of compliance indicating the amount of

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

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

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

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

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

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

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

1 least equal to the tax credit amount claimed on the person's tax
2 return for the applicable tax period.

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

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

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

44 b. (1) The eligible business shall not sell or assign a tax credit
45 transfer certificate allowed under this section for consideration
46 received by the eligible business of less than 85 percent of the
47 transferred credit amount before considering any further
48 discounting to present value which shall be permitted. The tax

1 credit transfer certificate issued to the eligible business by the
2 director shall be subject to any limitations and conditions imposed
3 on the application of State tax credits pursuant to sections 70
4 through 81 of P.L. , c. (C.) (pending before the Legislature
5 as this bill) and any other terms and conditions that the director may
6 prescribe.

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

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

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

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

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

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

- 40 (1) buildings and structures, such as schools, fire houses, police
41 stations, recreation centers, public works garages, and water and
42 sewer treatment and pumping facilities;
43 (2) sidewalks, streets, roads, ramps, and jug handles;
44 (3) open space with improvements such as athletic fields,
45 playgrounds, and planned parks;
46 (4) open space without improvements;
47 (5) public transportation facilities such as train stations and
48 public parking facilities; and

1 (6) the purchase of equipment considered vital to public safety.

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

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

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

19 e. The Department of Community Affairs shall coordinate with
20 the authority and other boards, commissions, institutions,
21 departments, agencies, State officers, and employees to carry out
22 the local infrastructure projects funded through the Recovery
23 Infrastructure Fund.

24 f. (1) The authority shall adopt rules and regulations pursuant
25 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
26 1 et seq.), to effectuate the purposes of subsections a. through d. of
27 this section.

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

32

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

1 The authority shall prepare a written response to the report, which
2 the authority shall submit to the Governor and, pursuant to section 2
3 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

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

20
21 82 (New section) Sections 82 through 88 of P.L. ,
22 c. (C.) (pending before the Legislature as this bill) shall be
23 known and may be cited as the "Main Street Recovery Finance
24 Program Act."

25
26 83. (New section) As used in sections 82 through 88 of P.L. ,
27 c. (C.) (pending before the Legislature as this bill):

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

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

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

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

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

45 "Small business" means a business engaged in the conduct of a
46 trade or business in this State that qualifies as a "small business
47 concern" within the meaning of the federal "Small Business Act,"
48 Pub.L.85-536 (15 U.S.C. § 631 et seq.) for the purpose of the small

1 business's eligibility assistance from the United States Small
2 Business Administration.

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

18
19 85. (New section) a. As part of the Main Street Recovery
20 Finance Program, the authority shall provide grants to eligible small
21 businesses from the Main Street Recovery Fund, subject to
22 appropriation or the availability of federal funds provided that not
23 less than 40 percent of such funds shall be made available to
24 eligible microbusinesses certified by the State as a "minority
25 business" or a "women's business" pursuant to P.L.1986, c.195
26 (C.52:27H-21.17 et seq.). Grants awarded pursuant to the program
27 may be used by an eligible small business for capital improvements
28 or to cover operating expenses. The authority may dedicate up to
29 10 percent of any amount appropriated for the purposes of this
30 section to provide technical assistance grants to eligible
31 microbusinesses.

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

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

40 (b) each worker employed by the small business shall be paid
41 not less than \$15 per hour or 120 percent of the minimum wage
42 fixed under subsection a. of section 5 of P.L.1966, c.113 (C.34:11-
43 56a4), whichever is higher ¹, except an employee who customarily
44 and regularly receives gratuities or tips shall be paid not less than
45 120 percent of the minimum wage¹.

46 (2) In addition to the requirements of paragraph (1) of this
47 subsection, a small business shall be eligible to receive a grant
48 pursuant to this subsection for capital improvements only if the

1 small business demonstrates to the authority at the time of
2 application that:

3 (a) any capital improvement undertaken with grant funds shall
4 comply with standards established by the authority in accordance
5 with the green building manual prepared by the Commissioner of
6 Community Affairs pursuant to section 1 of P.L.2007, c.132
7 (C.52:27D-130.6), regarding the use of renewable energy, energy-
8 efficient technology, and non-renewable resources to reduce
9 environmental degradation and encourage long-term cost reduction;
10 and

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

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

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

46

47 86. (New section) a. As part of the Main Street Recovery
48 Finance Program, the authority shall make available from the Main

1 Street Recovery Fund, subject to annual appropriation and the
2 availability of funds, to eligible community development finance
3 institutions ¹and other eligible lenders¹ pursuant to subsection b. of
4 this section and to eligible microbusinesses pursuant to subsection
5 c. of this section, provided that not less than 40 percent of such
6 funds shall be made available to eligible microbusinesses certified
7 by the State as a "minority business" or a "women's business"
8 pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.). The
9 authority may dedicate up to 10 percent of any amount appropriated
10 for the purposes of this section to provide technical assistance
11 grants to eligible microbusinesses.

12 b. The authority shall provide loans and grants to eligible
13 community development finance institutions ¹and other eligible
14 lenders¹ in accordance with this subsection. Loans and grants made
15 available to eligible community development finance institutions
16 ¹and other eligible lenders¹ pursuant to this paragraph shall be used
17 to strengthen capital structures, leverage additional debt capital, and
18 increase lending and investing in economically disadvantaged
19 communities. The authority shall require an eligible community
20 development finance ¹~~institutions~~ institution or other eligible
21 lender¹ that receives a grant or loan pursuant to this subsection to
22 enter into an agreement with the authority.

23 ¹As used in this section, "other eligible lender" means a zone
24 development corporation as defined in section 3 of P.L.1983, c.303
25 (C.52:27H-62) that is located in a municipality with a population
26 greater than 100,000 or another nonprofit lender with at least 10
27 years experience lending to microbusinesses.¹

28 c. The authority shall provide loans to eligible microbusinesses
29 in accordance with this subsection. Loans made available to
30 eligible microbusinesses pursuant to this subsection may be used for
31 capital improvements, employee training, salaries for new positions,
32 and to pay for day-to-day operating expenditures, including payroll,
33 rent, utilities, insurance, and purchases of goods and services. The
34 authority shall require an eligible microbusiness to enter into a loan
35 agreement. Loans made pursuant to this subsection shall have a
36 term and an interest rate determined by the authority based on
37 conditions currently prevailing in the market. The authority may
38 forgive loans provided to eligible microbusinesses pursuant to this
39 subsection at the authority's discretion. The authority may, through
40 the terms of the loan agreement, establish terms governing the
41 incidence of default by an eligible microbusiness.

42 d. Prior to March 1, 2025, an eligible community development
43 finance institution ¹or other eligible lender¹ seeking a loan or a
44 grant pursuant to subsection b. of this section or an eligible
45 microbusiness seeking a loan pursuant to subsection c. of this
46 section shall submit an application for approval to the authority in
47 the form and manner prescribed in regulations adopted by the

1 authority pursuant to the provisions of the "Administrative
2 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Before the
3 authority may consider an application, the Department of Labor and
4 Workforce Development, the Department of Environmental
5 Protection, and the Department of the Treasury shall each report to
6 the chief executive officer of the authority whether the applicant is
7 in substantial good standing with the respective department, or has
8 entered into an agreement with the respective department that
9 includes a practical corrective action plan for the applicant. The
10 authority may also contract with an independent third party to
11 perform a background check on the applicant. The applicant, or an
12 authorized agent thereof, shall certify under the penalty of perjury
13 that any information provided in the application required pursuant
14 to this subsection is true.

15

16 87. (New section) a. To aid in the economic recovery of
17 those communities most impacted by the COVID-19 pandemic and
18 to better ensure their long-term economic growth, there is created
19 the "Main Street Recovery Fund" to be held by the State Treasurer.
20 All moneys deposited in the fund shall be held and disbursed in the
21 amounts necessary to fulfill the purposes of providing grants and
22 loans pursuant to sections 85 and 86 of P.L. , c. (C.) (pending
23 before the Legislature as this bill) and the purposes enumerated in
24 subsection b. of this section, and for reasonable administrative
25 costs of implementing sections 82 through 88 of P.L. ,
26 c. (C.) (pending before the Legislature as this bill). The fund
27 may be credited with pay backs; bonuses; entitlements; money
28 received from the federal government; transfers; grants; gifts;
29 bequests; moneys appropriated by the Legislature; or any other
30 money made available from any source. The State Treasurer, in
31 consultation with the authority, may invest and reinvest any moneys
32 in the fund in the State Treasurer's discretion. Any income from,
33 interest on, or increment to moneys so invested or reinvested shall
34 be included in the fund.

35 b. Upon application to the State Treasurer, and in consultation
36 with the Chief Executive Officer of the New Jersey Economic
37 Development Authority, the State Treasurer shall make loan
38 guarantees from the fund to leverage private and public lending to
39 help finance small businesses, real estate developments, and
40 manufacturers that are creditworthy but not receiving the financing
41 needed to expand and create jobs. In making loan guarantees under
42 this section, the State Treasurer shall give due consideration to
43 small businesses and real estate developments in underserved
44 communities throughout the State that have been deeply impacted
45 by the COVID-19 pandemic.

46 c. (1) The State Treasurer shall monitor the activities of the
47 beneficiaries of the loan guarantees issued pursuant to this section

1 on an annual basis to ensure compliance with the terms and
2 conditions imposed on the recipient by the chief executive officer.

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

7 (3) The annual accounting required under this section shall
8 include certifications by the Department of Labor and Workforce
9 Development, the Department of Environmental Protection, and the
10 Department of the Treasury that the entity and the beneficiaries are
11 in substantial good standing with the respective departments, or
12 have entered into an agreement with the respective department that
13 includes a practical corrective action plan.

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

17

18 88. (New section) Notwithstanding the provisions of the
19 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
20 seq.), to the contrary, the chief executive officer of the authority
21 may adopt, immediately, upon filing with the Office of
22 Administrative Law, regulations that the chief executive officer
23 deems necessary to implement the provisions of sections 82 through
24 88 of P.L. , c. (C.) (pending before the Legislature as this
25 bill), which regulations shall be effective for a period not to exceed
26 180 days from the date of the filing. The chief executive officer
27 shall thereafter amend, adopt, or readopt the regulations in
28 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
29 et seq.).

30

31 89. (New section) a. The Director of the Division of
32 Taxation in the Department of the Treasury may purchase unused
33 tax credits awarded under a program listed in subsection b. of this
34 section, including tax credit transfer certificates issued by the
35 director in lieu of a tax credit allowed under such programs. The
36 director shall not pay consideration in excess of 75 percent of the
37 credit amount to be purchased, except for a credit awarded under
38 the " Emerge Program Act," sections 68 through 81 of P.L. ,
39 c. (C.) (pending before the Legislature as this bill), which
40 shall be subject to the provisions of paragraph (4) of subsection d.
41 of section 77 of P.L. , c. (C.) (pending before the Legislature
42 as this bill).

43 b. The Director of the Division of Taxation in the Department
44 of the Treasury may purchase tax credits awarded under the
45 following:

46 (1) the "Historic Property Reinvestment Act," sections 1 through
47 8 of P.L. , c. (C.) (pending before the Legislature as this
48 bill);

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

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

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

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

12 (6) the "New Jersey Aspire Program Act," sections 54 through
13 67 of P.L. , c. (C.) (pending before the Legislature as this
14 bill);

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

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

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

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

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

24 (12) section 2 of P.L.2018, c.56 (C.54A:4-12b).

25
26 90. (New section) a. There is established in the New Jersey
27 Economic Development Authority a Working Group on
28 Entrepreneur Zones for the purpose of making recommendations for
29 the establishment of entrepreneur zones throughout the State. The
30 working group shall consider whether the establishment of
31 entrepreneur zones in which the State provides the tax incentives,
32 regulation relief, and financial support to local entrepreneurs is the
33 most effective way to create jobs in the State. The working group
34 shall identify census tracts within the State that are suitable for
35 designation as an entrepreneur zone.

36 b. The working group shall consist of seven members
37 appointed by the chief executive officer of the New Jersey
38 Economic Development Authority.

39 c. Appointments to the working group shall be made within 30
40 days after the effective date of this act. Vacancies in the
41 membership of the working group shall be filled in the same
42 manner as the original appointments were made.

43
44 91. (New section) a. As used in this section:

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

1 "State agency" means any principal department in the Executive
2 Branch of State government, and any division, board, bureau,
3 office, commission or other instrumentality within or created by
4 such department, and any independent State authority, commission,
5 instrumentality or agency, other than in the Legislative or Judicial
6 Branches of State government, which is authorized by law to award
7 public contracts.

8 b. Notwithstanding the provisions of any other law to the
9 contrary, whenever the Director of the Division of Purchase and
10 Property, or the head of any State agency shall consider bids on any
11 contract for the purchase of personal protective equipment that is
12 publicly advertised for bids, the director or the head of a State
13 agency shall list the bidders in order based upon which bid,
14 conforming to the invitation for bids, would be most advantageous
15 to the State, price, and other factors considered. If the first bidder
16 on the list has its principal place of business in this State it shall be
17 awarded the contract. If no bidder having its principal place of
18 business in this State has submitted a bid that is within five percent
19 of the bid submitted by the bidder at the top of the list that has its
20 principal place of business outside of this State, the contract shall
21 be awarded to the bidder at the top of the list. If the first bidder on
22 the list has its principal place of business outside of this State and a
23 bidder that has its principal place of business in this State is on the
24 list and has submitted a bid that is within five percent of the bid
25 submitted by the bidder at the top of the list that has its principal
26 place of business outside of this State, the contract shall be awarded
27 to the highest listed in-State bidder.

28 Any specifications for the provision ¹**[or]** of¹ personal
29 protective equipment under this act shall be drafted in a manner to
30 encourage free, open, and competitive bidding.

31 Any specification which knowingly excludes prospective bidders
32 by reason of the impossibility of performance, bidding, or
33 qualifications by any but one bidder shall be null and void and of no
34 effect.

35 ¹Nothing in this section shall limit the ability of the Director of
36 the Division of Purchase and Property or the head of any State
37 agency to make awards to multiple bidders, pursuant to section 1 of
38 P.L.1986, c.26 (C.52:34-12.1) to furnish the same or similar
39 materials, supplies, services or equipment, where multiple bidders
40 are necessary.¹

41 c. The State Treasurer shall adopt such rules and regulations as
42 may be necessary to implement the provisions of this section
43 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
44 (C.52:14B-1 et seq.).

45
46 92. (New section) Sections 92 through 97 of P.L. ,
47 c. (C.) (pending before the Legislature as this bill) shall be
48 known and may be cited as the "New Jersey Ignite Act."

1 93. (New section) As used in sections 92 through 97 of P.L. ,
2 c. (C.) (pending before the Legislature as this bill):
3 "Authority" means the New Jersey Economic Development
4 Authority established pursuant to section 4 of P.L.1974, c.80
5 (C.34:1B-4).
6 "Authority commitment period" means the period for which the
7 authority commits to provide a start-up rent grant for the payment
8 of rent in a collaborative workspace
9 "Collaborative workspace" means a business facility certified
10 pursuant to section 95 of P.L. , c. (C.) (pending before the
11 Legislature as this bill), located in this State, developed to provide
12 flexible workspaces for early stage innovation economy businesses,
13 and designed to encourage community and collaboration within an
14 inter-connected environment in which multiple start-up businesses
15 have access to shared community events and shared workplace
16 accommodations including, but not limited to, kitchens and
17 makerspaces.
18 "Collaborative workspace commitment period" means a period of
19 months equal to one-half the number of months of the authority
20 commitment period.
21 "Community event" means an event hosted by a collaborative
22 workspace and accessible to start-up tenant or member businesses,
23 without charge or with nominal charge, organized to support an
24 innovation ecosystem, as defined in section 21 of P.L. ,
25 c. (C.) (pending before the Legislature as this bill), at the
26 collaborative workspace, including, but not limited to, events such
27 as meet-ups, speaker series, and office hours for lawyers,
28 accountants, consultants, or investors.
29 "Early stage innovation economy business" means a business
30 that operates within a targeted industry with at least one full-time
31 employee, who is assigned to the collaborative workspace, and
32 fewer than 10 employees overall and with less than \$1,000,000 in
33 gross sales over the 12-month period immediately prior to
34 submitting an application for tenancy at a collaborative workspace.
35 To be considered an "early stage innovation economy business" the
36 earliest date of formation for the business must have been not more
37 than three years prior to utilizing or renting space in, or access to,
38 the collaborative workspace under the program, and the business
39 shall not have previously utilized or rented space in, or access to,
40 another collaborative workspace in the State.
41 "Full time employee" means a person who is: employed by the
42 start-up tenant or member business for at least 35 hours a week;
43 working as an independent contractor providing critical capabilities
44 to the start-up tenant or member business for at least 35 hours a
45 week; or an owner or partner of the start-up tenant or member
46 business who works for at start-up tenant or member business for at
47 least 35 hours a week.

1 "Grant agreement" means an agreement between the authority
2 and the owner and operator of a collaborative workspace which
3 memorializes the terms and conditions of the collaborative
4 workspace's participation in the program.

5 "Program" means the New Jersey Ignite Program established
6 pursuant to section 94 of P.L. , c. (C.) (pending before the
7 Legislature as this bill).

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

18 "Start-up rent grant" means a grant provided by the authority to a
19 collaborative workspace for the rent that would otherwise be due to
20 the collaborative workspace from a start-up tenant or member
21 business for the period of the authority commitment period.

22 "Start-up tenant or member business" means an early stage
23 innovation economy business that is registered to do business in
24 New Jersey, rents space in, or access to, a collaborative workspace
25 under the program, and enters into an agreement with the owner and
26 operator of the collaborative workspace to rent space in, or access
27 to, the collaborative workspace for an agreed upon period, which
28 shall include the authority commitment period, collaborative
29 workspace commitment period, and start-up tenant or member
30 business commitment period.

31 "Start-up tenant or member business commitment period" means
32 a period of months equal to the sum of the authority commitment
33 period and the collaborative workspace commitment period.

34
35 94. (New section) The New Jersey Ignite Program is hereby
36 established as a program under the jurisdiction of the authority.
37 The purpose of the program shall be to foster early stage innovation
38 economy businesses and to help those businesses overcome barriers
39 to commercial success. The authority shall structure the program as
40 a public-private partnership through which the authority provides
41 start-up rent grants to collaborative workspaces, certified pursuant
42 to section 95 of P.L. , c. (C.) (pending before the
43 Legislature as this bill), to support the early months of an early
44 stage innovation economy business's rent at the collaborative
45 workspace.

46
47 95. (New section) a. The owner and operator of a business
48 facility located in the State may apply to the authority to have the

- 1 business facility certified as a collaborative workspace under the
2 program. A business facility shall be eligible for certification as a
3 collaborative workspace if:
- 4 (1) the business facility is developed to provide flexible
5 workspaces for early stage innovation economy businesses;
- 6 (2) the business facility is designed to encourage community
7 and collaboration within an inter-connected environment in which
8 multiple start-up businesses have access to shared workplace
9 accommodations;
- 10 (3) the owner and operator of the business facility commits to
11 hosting at least eight community events at the business facility each
12 year;
- 13 (4) the owner and operator of the business facility possesses a
14 tax clearance certificate issued by the Division of Taxation in the
15 Department of the Treasury;
- 16 (5) the owner and operator of the business facility possesses a
17 business registration certificate issued by the Division of Revenue
18 in the Department of the Treasury;
- 19 (6) at least five unique tenant or member businesses, in which
20 the owner and operator of the business facility does not have a
21 direct financial interest, have paid rent for space in, or access to, the
22 business facility over the two years immediately preceding the
23 submission of the application for certification as a collaborative
24 workspace pursuant to this section or, if the business facility has
25 been open for less than 90 days, the owner and operator of the
26 business facility provides to the authority at least three letters of
27 intent from prospective tenant or member businesses;
- 28 (7) the business facility is subject to ongoing operating costs,
29 such as rent, mortgage payments, or internal corporate charge-
30 backs, at the time of application for certification pursuant to this
31 section;
- 32 (8) the owner and operator of the business facility offers at least
33 one type of workspace at the business facility for rent by an early
34 stage innovation economy business;
- 35 (9) the owner and operator of the business facility charges rent
36 to tenants or members; and
- 37 (10) the owner and operator of the business facility certifies that
38 any rent charged to a start-up tenant or member business is to be
39 market-rate.
- 40 b. In addition to the requirements set forth in subsection a. of
41 this section, for a business facility to qualify for certification as a
42 collaborative workspace, the authority may, in its discretion and
43 subject to available funds, require the owner and operator of the
44 business facility shall commit to paying one month's rent for a
45 start-up tenant or member business at the business facility for every
46 two months of rent to be paid by the authority as a start-up rent
47 grant under the program.

1 c. (1) The owner and operator of a business facility eligible
2 for certification as a collaborative workspace pursuant to
3 subsections a. and b. of this section shall submit an application for
4 certification and participation in the program in such form as
5 required by the authority. The application shall include any
6 information the authority determines is necessary to administer the
7 program.

8 (2) In evaluating applications for certification as a collaborative
9 workspace, the authority may conduct site visits or perform any
10 other investigation necessary to confirm any statement made in the
11 application submitted by the owner and operator of the business
12 facility. If the authority later finds that any statement made in the
13 application for certification is inaccurate, then the authority may
14 rescind its certification of the collaborative workspace.

15 d. Following approval of an application for certification, to
16 participate in the program the authority and the owner and operator
17 of a collaborative workspace shall enter into a grant agreement
18 governing the terms, conditions, and timing under which the
19 authority shall pay the start-up rent grant to the owner and operator
20 of the collaborative workspace. The grant agreement shall require a
21 collaborative workspace to share data concerning its participation in
22 the program and on collaborative workspace utilization for the
23 purpose of better program planning and the development of new
24 programs to further support the State's economy.
25

26 96. (New section) a. Up to the limits established in this
27 subsection and in accordance with the grant agreement, the
28 authority shall provide start-up rent grants to the owner and
29 operator of a collaborative workspace through a series of scheduled
30 payments as set forth in the grant agreement. The owner and
31 operator of the collaborative workspace shall utilize the grant
32 funding to provide rent-free space to a start-up tenant or member
33 business that agrees to continue renting space in, or access to, the
34 collaborative workspace for the start-up tenant or member business
35 commitment period. The maximum start-up rent grant that the
36 authority may provide to a collaborative workspace for the tenancy
37 of a single start-up tenant or member business shall not exceed
38 \$25,000.

39 b. The authority may provide a start-up rent grant for the
40 payment of rent for space in, or access to, a collaborative workspace
41 for up to six months; provided, however, if a collaborative
42 workspace or start-up tenant or member business satisfies any of the
43 bonuses set forth in paragraphs (1) through (5) of this subsection,
44 then the authority may provide an additional month of rent for each
45 bonus satisfied by the collaborative workspace or start-up tenant or
46 member business. The authority ¹~~shall~~ may¹ award a bonus to
47 the owner and operator of a collaborative workspace if:

1 (1) the collaborative workspace is located in a qualified
2 opportunity zone designated pursuant to 26 U.S.C. s.1400Z-1;

3 (2) the collaborative workspace is affiliated with a hospital
4 system or a New Jersey university;

5 (3) the collaborative workspace has been open less than 90 days
6 from the date on which the owner and operator of the collaborative
7 workspace applied to the authority to participate in the program and
8 the collaborative workspace is not in the same location as an
9 existing facility;

10 (4) the start-up tenant or member business for which the start-up
11 rent grant is paid is certified by the State as a "minority business" or
12 a "women's business" pursuant to P.L.1986, c.195 (C.52:27H-21.17
13 et seq.); or

14 (5) the start-up tenant or member business for which the start-up
15 rent grant is paid is the first presence of a foreign company entering
16 into the United States.

17 c. (1) The owner and operator of a collaborative workspace
18 shall annually certify to the authority, under the penalty of perjury,
19 that it is in compliance with the grant agreement.

20 (2) In addition to the certification required pursuant to
21 paragraph (1) of this subsection, the authority shall conduct an
22 annual inspection and review of the collaborative workspace and
23 may request documentation evidencing that the collaborative
24 workspace utilized the start-up rent grant it received from the
25 authority in accordance with the requirements of the program and
26 the grant agreement.

27 d. (1) If a start-up tenant or member business stops
28 occupying or accessing a collaborative workspace before the end of
29 the start-up tenant or member business commitment period, then the
30 collaborative workspace shall refund to the authority that portion of
31 the start-up rent grant covering any period in which the start-up
32 tenant or member business did not have space in, or access to, the
33 collaborative workspace.

34 (2) If the authority determines that a collaborative workspace is
35 not in compliance with the requirements of the program or of the
36 grant agreement, then the authority shall rescind the business
37 facility's certification as a collaborative workspace and bar the
38 business facility from further participation in the program.

39

40 97. (New section) The authority shall promulgate rules and
41 regulations necessary for the effective implementation of sections
42 92 through 97 of P.L. , c. (C.) (pending before the
43 Legislature as this bill). Notwithstanding any provision of the
44 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
45 seq.) to the contrary, the authority may adopt, immediately upon
46 filing with the Office of Administrative Law, such regulations as
47 are necessary to implement the provisions of sections 92 through 97
48 of P.L. , c. (C.) (pending before the Legislature as this

1 bill), which shall be effective for a period not to exceed 12 months
 2 following enactment, and shall thereafter be amended, adopted, or
 3 readopted by the authority in accordance with the requirements of
 4 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
 5 seq.).

6
 7 98. (New section) a. The combined value of all tax credits
 8 awarded under the "Historic Property Reinvestment Act," sections 1
 9 through 8 of P.L. , c. (C.) (pending before the Legislature
 10 as this bill), the "Brownfield Redevelopment Incentive Program
 11 Act," sections 9 through 19 of P.L. , c. (C.) (pending
 12 before the Legislature as this bill), the "New Jersey Innovation
 13 Evergreen Act," sections 20 through 34 of P.L. , c. (C.)
 14 (pending before the Legislature as this bill), the "Food Desert Relief
 15 Act," sections 35 through 42 of P.L. , c. (C.) (pending
 16 before the Legislature as this bill), the "New Jersey Community-
 17 Anchored Development Act," sections 43 through 53 of P.L. ,
 18 c. (C.) (pending before the Legislature as this bill); the "New
 19 Jersey Aspire Program Act," sections 54 through 67 of P.L. ,
 20 c. (C.) (pending before the Legislature as this bill); and the
 21 "Emerge Program Act," sections 68 through 81 of P.L. ,
 22 c. (C.) (pending before the Legislature as this bill) shall not
 23 exceed an overall cap of \$11.5 billion over a ¹**【six-year】** seven-
 24 year¹ period, subject to the conditions and limitations set forth in
 25 this section. Of this \$11.5 billion, \$2.5 billion shall be reserved for
 26 transformative projects approved under the Aspire Program or the
 27 Emerge Program.

28 b. (1) The total value of tax credits awarded under any
 29 constituent program of the "New Jersey Economic Recovery Act of
 30 2020," P.L. , c. (C.) (pending before the Legislature as this
 31 bill) shall be subject to the following annual limitations, except as
 32 otherwise provided in subsection c. of this section:

33 (a) for tax credits awarded under the "Historic Property
 34 Reinvestment Act," sections 1 through 8 of P.L. , c. (C.)
 35 (pending before the Legislature as this bill), the total value of tax
 36 credits annually awarded during ¹each of¹ the ¹**【six-year】** first six
 37 years of the seven-year¹ period shall not exceed \$50 million;

38 (b) for tax credits awarded under the "Brownfield
 39 Redevelopment Incentive Program Act," sections 9 through 19 of
 40 P.L. , c. (C.) (pending before the Legislature as this bill),
 41 the total value of tax credits annually awarded during ¹each of¹ the
 42 ¹**【six-year】** first six years of the seven-year¹ period shall not exceed
 43 \$50 million;

44 (c) for tax credits awarded under the "New Jersey Innovation
 45 Evergreen Act," sections 20 through 34 of P.L. , c. (C.)
 46 (pending before the Legislature as this bill), the total value of tax
 47 credits annually awarded during ¹each of¹ the ¹**【six-year】** first six

1 years of the seven-year¹ period shall not exceed \$60 million ¹and
 2 the total value of tax credits awarded over the entirety of the seven-
 3 year program shall not exceed \$300,000,000¹;

4 (d) for tax credits awarded under the "Food Desert Relief Act,"
 5 sections 35 through 42 of P.L. , c. (C.) (pending before the
 6 Legislature as this bill), the total value of tax credits annually
 7 awarded during ¹each of¹ the ¹【six-year】 first six years of the
 8 seven-year¹ period shall not exceed \$40 million;

9 (e) for tax credits awarded under the "New Jersey Community-
 10 Anchored Development Act," sections 43 through 53 of P.L. ,
 11 c. (C.) (pending before the Legislature as this bill), the total
 12 value of tax credits annually awarded during¹each of¹ the ¹【six-
 13 year】 first six years of the seven-year¹ period shall not exceed \$200
 14 million, except that during each of the first ¹【three】 six¹ years of
 15 the ¹【six-year】 seven-year¹ period, the authority shall annually
 16 award tax credits valuing no greater than \$130 million for projects
 17 located in the 13 northern counties of the State, and the authority
 18 shall annually award tax credits valuing no greater than \$70 million
 19 for projects located in the eight southern counties of the State. If
 20 during any of the first ¹【three】 six¹ years of the ¹【six-year】 seven-
 21 year¹ period, the authority awards tax credits in an amount less than
 22 the annual limitation for projects located in northern counties or
 23 southern counties, as applicable, the uncommitted portion of the
 24 annual limitation shall be available to be deployed by the authority
 25 in ¹【the】 a¹ subsequent year, provided that the uncommitted portion
 26 of tax credits shall be awarded for projects located in the applicable
 27 geographic area ¹【. During each of the final three years of the six-
 28 year period, the authority may annually award】 , except that (i)
 29 after the completion of the third year of the seven-year period, the
 30 authority may deploy 50 percent of the uncommitted portion of tax
 31 credits from any previous year without consideration to the county
 32 in which a project is located; and (ii) after the completion of the
 33 sixth year of the seven-year period, the authority may deploy all¹
 34 available tax credits, including the uncommitted portion of the
 35 annual limitation for any previous year, without consideration to the
 36 county in which ¹【the】 a¹ project is located;

37 (f) for tax credits awarded under the "New Jersey Aspire
 38 Program Act," sections 54 through 67 of P.L. , c. (C.)
 39 (pending before the Legislature as this bill), and the "Emerge
 40 Program Act," sections 68 through 81 of P.L. , c. (C.)
 41 (pending before the Legislature as this bill), not including tax
 42 credits awarded for transformative projects, the total value of tax
 43 credits annually awarded during ¹each of¹ the ¹【six-year】 first six
 44 years of the seven-year¹ period shall not exceed \$1.1 billion, except
 45 that during each of the first ¹【three】 six¹ years of the ¹【six-year】
 46 seven-year¹ period, the authority shall annually award tax credits

1 valuing no greater than \$715 million for projects located in the
 2 northern counties of the State, and the authority shall annually
 3 award tax credits valuing no greater than \$385 million for projects
 4 located in the southern counties of the State. If during any of the
 5 first ~~three~~ six¹ years of the ~~six-year~~ seven-year¹ period, the
 6 authority awards tax credits in an amount less than the annual
 7 limitation for projects located in northern counties or southern
 8 counties, as applicable, the uncommitted portion of the annual
 9 limitation shall be available to be deployed by the authority in
 10 ~~the~~ a¹ subsequent year, provided that the uncommitted portion of
 11 tax credits shall be awarded for projects located in the applicable
 12 geographic area ~~the~~ a¹. During each of the final three years of the six-
 13 year period, the authority may annually award ~~the~~ a¹, except that (i)
 14 after the completion of the third year of the seven-year period, the
 15 authority may deploy 50 percent of the uncommitted portion of tax
 16 credits for any previous year without consideration to the county in
 17 which a project is located; and (ii) after the completion of the sixth
 18 year of the seven-year period, the authority may deploy all¹
 19 available tax credits, including the uncommitted portion of the
 20 annual limitation for any previous year, without consideration to the
 21 county in which ~~the~~ a¹ project is located; and

22 (g) for tax credits awarded for transformative projects under the
 23 "New Jersey Aspire Program Act," sections 54 through 67 of
 24 P.L. , c. (C.) (pending before the Legislature as this bill),
 25 and the "Emerge Program Act," sections 68 through 81 of P.L. ,
 26 c. (C.) (pending before the Legislature as this bill), the total
 27 value of tax credits awarded during the ~~six-year~~ seven-year¹
 28 period shall not exceed \$2.5 billion. The total value of tax credits
 29 awarded for transformative projects in a given year shall not be
 30 subject to an annual limitation, except that no more than 10
 31 transformative projects shall be awarded tax credits during the
 32 ~~six-year~~ seven-year¹ period, and the total value of tax credits
 33 awarded to any transformative project shall not exceed \$250
 34 million.

35 (2) The authority may in any given year determine that it is in
 36 the State's interest to approve an amount of tax credits in excess of
 37 the annual limitations set forth in paragraph (1) of this subsection,
 38 but in no event more than \$200,000,000 in excess of the annual
 39 limitation, upon a determination by the authority board that such
 40 increase is warranted based on specific criteria that may include:

41 (i) the increased demand for opportunities to create or retain
 42 employment and investment the State as indicated by the volume of
 43 project applications and the amount of tax credits being sought by
 44 those applications;

45 (ii) the need to protect the State's economic position in the event
 46 of an economic downturn;

1 (iii) the quality of project applications and the net economic
2 benefit to the State and municipalities associated with those
3 applications;

4 (iv) opportunities for project applications to strengthen or protect
5 the competitiveness of the state under the prevailing market
6 conditions;

7 (v) enhanced access to employment and investment for
8 underserved populations in distressed municipalities and qualified
9 incentives tracts;

10 (vi) increased investment and employment in high-growth
11 technology sectors and in projects that entail collaboration with
12 education institutions in the State;

13 (vii) increased development proximate to mass transit facilities;

14 (viii) any other factor deemed relevant by the authority.

15 c. In the event that the authority in any year approves projects
16 for tax credits in an amount less than the annual limitations set forth
17 in paragraph (1) of subsection b. of this section, then the
18 uncommitted portion of the annual limitation shall be available to
19 be deployed by the authority in future years for projects ¹under the
20 same program¹; provided however, that in no event shall the
21 aggregate amount of tax credits approved be in excess of the overall
22 cap of \$11.5 billion ¹, and in no event shall the uncommitted
23 portion of the annual limitation for any previous year be deployed
24 after the conclusion of the seven-year period¹.
25

26 99. (New section) Sections 99 through 105 of P.L. ,
27 c. (C.) (pending before the Legislature as this bill) shall be
28 known and may be cited as the "Economic Development Authority
29 Integrity and Protection Act."
30

31 100. (New section) As used in sections 99 through 105 of
32 P.L. , c. (C.) (pending before the Legislature as this bill):

33 "Economic development incentive" means a financial incentive,
34 awarded by the authority to a person or entity, or agreed to between
35 the authority and a person or entity, for the purpose of stimulating
36 economic development or redevelopment in New Jersey, including,
37 but not limited to, a bond, grant, loan, loan guarantee, matching
38 fund, tax credit, tax deduction, or other tax expenditure.

39 "Fraud" means a deception or misrepresentation made by any
40 person or entity with the knowledge that the deception or
41 misrepresentation could result in some unauthorized benefit to that
42 person or entity or another person or entity, including any act that
43 constitutes fraud under applicable federal or State law.

44 "Economic development investigation" means an investigation of
45 fraud, abuse, or illegal acts perpetrated within economic
46 development incentive programs by applicants for, or recipients of,
47 economic development incentives.

1 "Office of the Economic Development Inspector General" means
2 the Office of the Economic Development Inspector General created
3 by section 102 of P.L. , c. (C.) (pending before the
4 Legislature as this bill).

5
6 101. (New section) a. The New Jersey Economic Development
7 Authority shall employ a Chief Compliance Officer, who shall be
8 appointed by the Chief Executive Officer of the authority to manage
9 the Division of Portfolio Management and Compliance in the
10 authority.

11 b. The Chief Compliance Officer shall:

12 (1) create, maintain, monitor, and coordinate procedures to
13 ensure that all economic development incentive programs, authority
14 employees, and economic development incentive program
15 applicants and recipients comply fully with the requirements of the
16 corresponding economic development incentive program;

17 (2) conduct, on such periodic basis as determined by the
18 authority, systematic audits of economic development incentive
19 programs for compliance with the laws, regulations, codes, orders,
20 procedures, advisory opinions and rulings concerning those
21 programs;

22 (3) maintain a central database of information concerning the
23 management of all economic development incentive programs and
24 information on economic development incentive program applicants
25 and recipients to provide for the regular and ongoing reporting,
26 verification, and monitoring of the State's economic development
27 incentive programs;

28 (4) prior to the adoption of any rule or regulation by the
29 authority or the board related to the general administration of the
30 programs administered by the authority pursuant to section 6 of
31 P.L. , c. (C.) (pending before the Legislature as this bill),
32 section 19 of P.L. , c. (C.) (pending before the Legislature
33 as this bill), section 29 of P.L. , c. (C.) (pending before the
34 Legislature as this bill), section 34 of P.L. , c. (C.)
35 (pending before the Legislature as this bill), section 41 of P.L. ,
36 c. (C.) (pending before the Legislature as this bill), section
37 67 of P.L. , c. (C.) (pending before the Legislature as this
38 bill), section 79 of P.L. , c. (C.) (pending before the
39 Legislature as this bill), section 88 of P.L. , c. (C.)
40 (pending before the Legislature as this bill), and section 97 of
41 P.L. , c. (C.) (pending before the Legislature as this bill), or
42 any other regulation specifically related to the recapture of
43 economic development incentive award values, review and certify
44 that the provisions of program rules or regulations provide the
45 authority with adequate procedures to pursue the recapture of the
46 value of an economic development incentive in the case of
47 substantial noncompliance, fraud, or abuse by the economic
48 development incentive recipient, and that program rules and

1 regulations are sufficient to ensure against economic development
2 incentive fraud, waste, and abuse; and

3 (5) refer, to the Economic Development Inspector General and
4 to the Attorney General, information on suspected fraud or abuse
5 identified by the Division of Portfolio Management and
6 Compliance.

7 c. The Chief Compliance Officer, in consultation with the
8 Department of Labor and Workforce Development and the
9 Department of the Treasury, shall:

10 Develop, adopt, and implement a corrective action plan, within
11 one year of the effective date of sections 99 through 105 of P.L. ,
12 c. (C.) (pending before the Legislature as this bill) and
13 within six months of receiving notice of any program deficiency
14 issued by the Economic Development Inspector General, that is
15 designed to enable the authority to properly manage the economic
16 development incentive programs administered by the authority, and
17 adopt rules and regulations concerning the administration and
18 enforcement of the Division of Portfolio Management and
19 Compliance's duties in a manner that is most compatible with
20 ensuring against fraud and abuse in the State's economic
21 development incentive programs.

22

23 102. (New section) a. There is established, in the authority, the
24 Office of the Economic Development Inspector General, which
25 shall operate independent of the oversight or management of the
26 Chief Executive Officer of the authority. The Office of the
27 Economic Development Inspector General shall operate under the
28 Economic Development Inspector General, who shall be a retired
29 member of the Judicial Branch of the State, to be appointed by the
30 Governor with the advice and consent of the Senate for a term of
31 four years. The Economic Development Inspector General shall
32 direct the work of the Office of the Economic Development
33 Inspector General and have the following general functions, duties,
34 powers, and responsibilities:

35 (1) to appoint such deputies, directors, assistants, and other
36 officers and employees as may be needed for the Office of the
37 Economic Development Inspector General to meet its
38 responsibilities, and to prescribe their duties and fix their
39 compensation within the amounts appropriated therefor;

40 (2) to conduct and supervise State government activities relating
41 to State economic development incentive integrity, fraud, and
42 abuse;

43 (3) to call upon any department, office, division, or agency of
44 State government to provide such information, resources, or other
45 assistance as the Economic Development Inspector General deems
46 necessary to discharge the duties and functions and to fulfill the
47 responsibilities of the Economic Development Inspector General
48 under sections 99 through 105 of P.L. , c. (C.) (pending

1 before the Legislature as this bill). Each department, office,
2 division, and agency of this State shall cooperate with the Economic
3 Development Inspector General and furnish the Office of the
4 Economic Development Inspector General with the assistance
5 necessary to accomplish the purposes of sections 99 through 105 of
6 P.L. , c. (C.) (pending before the Legislature as this bill);

7 (4) to coordinate activities to prevent, detect, and investigate
8 economic development incentive fraud and abuse among the
9 following: the authority, State and local government officials, and
10 all economic development incentive applicants and recipients;

11 (5) to recommend and implement policies relating to economic
12 development incentive integrity, fraud, and abuse, and monitor the
13 implementation of any recommendations made by the Office of the
14 Economic Development Inspector General to the authority for the
15 administration of economic development incentives;

16 (6) to perform any other functions that are necessary or
17 appropriate in furtherance of the mission of the Office of the
18 Economic Development Inspector General; and

19 (7) to direct an economic development incentive applicant or
20 recipient to cooperate with the Office of the Economic
21 Development Inspector General and provide such information or
22 assistance as shall be reasonably required by the Office of the
23 Economic Development Inspector General.

24 b. As it relates to ensuring compliance with applicable
25 economic development incentive standards and requirements,
26 identifying and reducing fraud and abuse, and improving the
27 efficiency and effectiveness of economic development incentives,
28 the functions, duties, powers, and responsibilities of the Economic
29 Development Inspector General shall include, but not be limited to,
30 the following:

31 (1) to establish, in consultation with the authority and the
32 Attorney General, guidelines under which the withholding of
33 payments or exclusion from economic development incentive
34 programs shall be imposed on an economic development incentive
35 applicant or recipient;

36 (2) to review the utilization of economic development incentives
37 to ensure that economic development incentive funds are
38 appropriately spent to meet the goals and purposes of an individual
39 economic development incentive program;

40 (3) to review and audit contracts, reports, documentation,
41 claims, and all awards of economic development incentives to
42 determine compliance with applicable laws, regulations, guidelines,
43 and standards, and enhance program integrity;

44 (4) to consult with the authority to optimize the economic
45 development incentive management information system in
46 furtherance of the mission of the Office of the Economic
47 Development Inspector General. The authority shall consult with
48 the Economic Development Inspector General on matters that

1 concern the operation, upgrade, and implementation of the
2 economic development incentive management information system;
3 (5) to coordinate the implementation of information technology
4 relating to economic development incentive integrity, fraud, and
5 abuse;
6 (6) to conduct educational programs for economic development
7 incentive State and local government officials and economic
8 development incentive recipients designed to limit economic
9 development incentive fraud and abuse; and
10 (7) to provide notice to the Chief Compliance Officer, appointed
11 pursuant to section 101 of P.L. , c. (C.) (pending before the
12 Legislature as this bill) if the Economic Development Inspector
13 General determines that a program deficiency exists in an economic
14 development incentive program administered by the authority and
15 to provide notice to the Chief Executive Officer of the Authority of
16 pending investigations if the Economic Development Inspector
17 General determines that such disclosure is consistent with the
18 public interest in maintaining the integrity of an economic
19 development incentive program administered by the authority or to
20 abate the continuation of fraud or abuse.
21 c. As it relates to investigating allegations of economic
22 development incentive fraud and abuse and enforcing applicable
23 laws, rules, regulations, and standards, the functions, duties,
24 powers, and responsibilities of the Economic Development
25 Inspector General shall include, but not be limited to, the following:
26 (1) to conduct economic development investigations concerning
27 any acts of misconduct within economic development incentive
28 programs;
29 (2) to provide information concerning the economic
30 development investigations of the Office of the Economic
31 Development Inspector General to the Attorney General, law
32 enforcement authorities, and any prosecutor of competent
33 jurisdiction, and endeavor to develop these economic development
34 investigations in a manner that expedites and facilitates criminal
35 prosecutions and the recovery of improperly expended economic
36 development incentives, including the maintenance of detailed
37 records for cases processed by the Economic Development
38 Inspector General. The records shall include: information on the
39 total number of cases processed and, for each case, the agency and
40 division to which the case is referred for an economic development
41 investigation; the date on which the case is referred; and the nature
42 of the suspected fraud or abuse.
43 (3) to provide information and evidence relating to suspected
44 criminal acts that the Economic Development Inspector General
45 may obtain in carrying out its duties to law enforcement officials
46 when appropriate, and to provide such information to the Attorney
47 General and county prosecutors in order to facilitate criminal
48 economic development investigations and prosecutions;

1 (4) to refer complaints alleging criminal conduct to the Attorney
2 General or other appropriate prosecutorial authority.;

3 The Economic Development Inspector General shall maintain a
4 record of all matters referred to the Attorney General and shall be
5 authorized to disclose information received, as appropriate and as
6 may be necessary to resolve the matter referred, to the extent
7 consistent with the public interest in disclosure, the need for
8 protecting the confidentiality of complainants and informants, and
9 preserving the confidentiality of ongoing criminal economic
10 development investigations. Notwithstanding any referral made
11 pursuant to this subsection, the Economic Development Inspector
12 General may pursue any administrative or civil remedy under the
13 law. A referral by the inspector general to the Attorney General or
14 a prosecutorial authority shall in no way preclude the inspector
15 general from performing its own separate, independent
16 investigation; and

17 (5) in furtherance of an economic development investigation, to
18 compel at a specific time and place, by subpoena, the appearance
19 and sworn testimony of any person whom the Economic
20 Development Inspector General reasonably believes may be able to
21 give information relating to a matter subject to an economic
22 development investigation:

23 (a) for this purpose, the Economic Development Inspector
24 General is empowered to administer oaths and examine witnesses
25 under oath, and compel any person to produce at a specific time and
26 place, by subpoena, any documents, books, records, papers, objects,
27 or other evidence that the Economic Development Inspector
28 General reasonably believes may relate to a matter subject to an
29 economic development investigation; and

30 (b) if any person to whom a subpoena is issued fails to appear
31 or, having appeared, refuses to give testimony, or fails to produce
32 the books, papers, or other documents required, the Economic
33 Development Inspector General may apply to the Superior Court
34 and the court may order the person to appear and give testimony or
35 produce the books, papers, or other documents, as applicable. Any
36 person failing to obey that order may be held by the court in
37 contempt;

38 (6) subject to applicable State law, to have full and unrestricted
39 access to all records, reports, audits, reviews, documents, papers,
40 data, recommendations, or other material available to the authority
41 and other State and local government agencies with respect to
42 which the Office of the Economic Development Inspector General
43 has responsibilities under sections 102 through 105 of P.L. ,
44 c. (C.) (pending before the Legislature as this bill);

45 (7) to solicit, receive, and investigate complaints related to
46 economic development incentive integrity, fraud, and abuse; and

47 (8) to prepare cases, provide expert testimony, and support
48 administrative hearings and other legal proceedings.

1 d. As it relates to recovering improperly obtained economic
2 development incentives, imposing administrative sanctions,
3 damages, or penalties, and negotiating settlements to assure that all
4 governmental resources have been properly expended, the
5 functions, duties, powers, and responsibilities of the Economic
6 Development Inspector General shall include, but not be limited to,
7 the following:

8 (1) to pursue civil and administrative enforcement actions
9 against those who engage in fraud, abuse, or illegal acts perpetrated
10 under economic development incentive programs. These civil and
11 administrative enforcement actions shall include the imposition of
12 administrative sanctions, penalties, suspension of fraudulent or
13 illegal awards, and actions for civil recovery and seizure of property
14 or other assets connected with such economic incentive awards;

15 (2) to initiate civil suits consistent with the provisions of
16 sections 99 through 105 of P.L. , c. (C.) (pending before
17 the Legislature as this bill), maintain actions for civil recovery on
18 behalf of the State, and enter into civil settlements;

19 (3) to require that the authority withhold payments to an
20 economic development incentive applicant or recipient if the
21 applicant or recipient unreasonably fails to produce complete and
22 accurate records related to an economic development investigation
23 that is initiated by the Office of the Economic Development
24 Inspector General with reasonable cause; and

25 (4) to monitor and pursue the recoupment of economic
26 development incentive awards or portions thereof, damages,
27 penalties, and sanctions.

28
29 103. (New section) a. The Economic Development Inspector
30 General is authorized to request, and shall be entitled to receive,
31 such information, assistance, and cooperation from any State or
32 local government department, board, bureau, commission, or other
33 agency or unit thereof, as may be necessary to carry out the duties
34 and responsibilities of the Office of the Economic Development
35 Inspector General pursuant to sections 102 through 105 of P.L. ,
36 c. (C.) (pending before the Legislature as this bill).

37 b. Upon the request of a prosecutor of competent jurisdiction,
38 an office, department, or any other State or local government entity,
39 the Economic Development Inspector General shall provide
40 information, data, assistance, staff, and other resources as shall be
41 necessary, appropriate and available to aid and facilitate the
42 economic development investigation and prosecution of economic
43 development incentive fraud.

44
45 104. (New section) The Economic Development Inspector
46 General shall report annually to the Governor, to the Legislature,
47 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), and to the
48 Attorney General, the activities of the Office of the Economic

1 Development Inspector General, as well as recommendations, if
2 any, for legislation to provide for the management of the State's
3 economic development incentive programs.

4
5 105. (New section) The Economic Development Inspector
6 General, pursuant to the "Administrative Procedure Act," P.L.1968,
7 c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations, in
8 consultation with the authority, the Department of Labor and
9 Workforce Development, and the Department of the Treasury,
10 concerning the administration and enforcement of the Office of the
11 Economic Development Inspector General's duties pursuant to
12 sections 102 through 105 of P.L. , c. (C.) (pending before
13 the Legislature as this bill) in a manner that is most compatible with
14 ensuring against fraud and abuse in the State's economic
15 development incentive programs.

16
17 106. (New section) a. For privilege periods ending in 2020,
18 2021, and 2022, a taxpayer, upon approval of an application to the
19 authority, shall be allowed a credit against the tax imposed pursuant
20 to section 5 of P.L.1945, c.162 (C.54:10A-5) in the amount of
21 \$10,000 for each qualifying new hire involved in the manufacture
22 of personal protective equipment in a qualified facility in which the
23 taxpayer made a capital investment during the privilege period.

24 b. The minimum capital investment in a qualified facility
25 required to be eligible for a credit under this section shall be as
26 follows:

27 (1) for the rehabilitation, improvement, fit-out, or retrofit of an
28 existing premises in Atlantic County, Burlington County, Cape May
29 County, Cumberland County, Gloucester County, Ocean County, or
30 Salem County, a minimum investment of \$10 per square foot of
31 gross leasable area;

32 (2) for the rehabilitation, improvement, fit-out, or retrofit of an
33 existing premises in counties in the State not listed in paragraph (1)
34 of this subsection, a minimum investment of \$20 per square foot of
35 gross leasable area;

36 (3) for the new construction of a premises in Atlantic County,
37 Burlington County, Cape May County, Cumberland County,
38 Gloucester County, Ocean County, or Salem County, a minimum
39 investment of \$100 per square foot of gross leasable area; or

40 (4) for the new construction of a premises in counties in the
41 State not listed in paragraph (3) of this subsection, a minimum
42 investment of \$120 per square foot of gross leasable area.

43 c. The minimum number of new or retained qualifying full-
44 time jobs required to be eligible for a credit under this section shall
45 be as follows:

46 (1) for a qualified facility in Atlantic County, Burlington
47 County, Cape May County, Cumberland County, Gloucester

1 County, Ocean County, or Salem County, a minimum of five new or
2 15 retained qualifying full-time jobs; or

3 (2) for a qualified facility in counties in the State not listed in
4 paragraph (1) of this subsection, a minimum of ten new or 25
5 retained qualifying full-time jobs.

6 d. In addition to the amount of credit allowed pursuant to
7 subsection a. of this section, a taxpayer shall be allowed the
8 following tax credits for privilege periods ending in 2020, 2021,
9 and 2022:

10 (1) \$1,000 per qualifying full-time job in the privilege period at
11 a qualified facility that is a building vacant for not less than seven
12 years in need of rehabilitation with a minimum of 250,000 square
13 feet;

14 (2) \$1,500 per qualifying full-time job in the privilege period at
15 a qualified facility in which the manufacturing of personal
16 protective equipment is part of a research collaboration between the
17 taxpayer and a college or university located within the State; and

18 (3) \$1,000 per qualifying full-time job in the privilege period at
19 a qualified facility in which the taxpayer has established an
20 apprenticeship program or pre-apprenticeship program with a
21 technical school or county college located within the State.

22 e. The total credit allowed to a taxpayer pursuant to this section
23 during the privilege period shall not exceed \$500,000. A taxpayer
24 shall not be eligible for a tax credit under this section for the same
25 qualifying new hire for which the taxpayer is receiving a tax credit
26 incentive award under the Emerge Program established by sections
27 68 through 81 of P.L. , c. (C.) (pending before the
28 Legislature as this bill).

29 f. Notwithstanding the minimum tax schedule imposed
30 pursuant to subsection (e) of section 5 of P.L.1945, c.162
31 (C.54:10A-5), if the amount of the tax credit allowed exceeds the
32 amount of corporation business tax otherwise due pursuant to
33 section 5 of P.L.1945, c.162 (C.54:10A-5), the amount of excess
34 shall be treated as a refundable overpayment except that interest
35 shall not be paid pursuant to section 7 of P.L.1992, c.175 (C.54:49-
36 15.1) on the amount of overpayment attributable to this credit
37 amount. The director shall determine the order of priority of the
38 application of the credit allowed pursuant to this section and any
39 other credits allowed by law.

40 g. The combined value of all tax credits approved by the
41 authority and the director pursuant to this section and pursuant to
42 section 2 of P.L. , c. (C.)(pending before the Legislature as
43 this bill) shall not exceed \$10,000,000 in any State fiscal year to
44 apply against the tax imposed pursuant to the “New Jersey Gross
45 Income Tax Act,” N.J.S.54A:1-1 et seq., and the tax imposed
46 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).

47 h. An application for the tax credit shall be submitted to the
48 authority in a form and manner prescribed by the chief executive

1 officer of the authority. As a condition of receiving tax credits
2 under this section, an applicant shall be required to commit to
3 employ qualifying new hires for which tax credits are awarded
4 under this section for a period of five years.

5 i. Notwithstanding any provision of the “Administrative
6 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the
7 contrary, the director chief executive officer of the authority is
8 authorized to adopt immediately upon filing with the Office of
9 Administrative Law such rules and regulations shall be effective for
10 a period not to exceed 360 days following the date of filing and may
11 thereafter be amended, adopted, or readopted by the chief executive
12 officer of the authority in accordance with the requirements of
13 P.L.1968, c.410 (C.52:14B-1 et seq.). The chief executive officer
14 of the authority shall consult with the Commissioner of Health
15 related to any specification requirements for what manufactured
16 products are to qualify as personal protective equipment pursuant to
17 this section.

18 j. As used in this section:

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

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

24 “Personal protective equipment” means coveralls, face shields,
25 gloves, gowns, masks, respirators, safeguard equipment, and other
26 equipment designed to protect the wearer from the spread of
27 infection or illness as may be modified from time to time by the
28 board of the authority.

29 “Qualified facility” means a facility that is:

30 (1) located in a redevelopment area or rehabilitation area as
31 defined in section 3 of P.L.1992, c.79 (C.40A:12A-3);

32 (2) located in a Smart Growth Area as identified by the Office
33 of Planning Advocacy;

34 (3) a facility in which the manufacturing of personal protective
35 equipment is part of a research collaboration between the taxpayer a
36 college or university located within the State;

37 (4) a facility in which the taxpayer has established an
38 apprenticeship program or pre-apprenticeship program with a
39 technical school or community located within the State; or

40 (5) a building vacant for not less than seven years in need of
41 rehabilitation with a minimum of 250,000 square feet.

42 “Qualifying full-time job” means a full-time position in a
43 business in this State which the business has filled with a full-time
44 employee for the manufacturing of personal protective equipment in
45 this State. The employee shall be employed for at least 35 hours a
46 week and shall be paid employee wages at a rate of not less than
47 \$15 per hour, or render any other standard of service generally
48 accepted by custom or practice as full-time employment, whose

1 wages are subject to withholding as provided in the “New Jersey
2 Gross Income Tax Act,” N.J.S.54A:1-1 et seq. and is paid employee
3 wages at a rate of not less than \$15 per hour. “Qualifying new hire”
4 shall not include any person who works as an independent
5 contractor or on a consulting basis for the business. “Qualifying
6 new or retained job” includes only a position for which the taxpayer
7 provides employee health benefits under a health benefits plan
8 authorized pursuant to State or federal law.
9

10 107. a. For taxable years 2020, 2021, and 2022, a taxpayer,
11 upon approval of an application to the authority shall be allowed a
12 credit against the tax imposed pursuant to the “New Jersey Gross
13 Income Tax Act” N.J.S.54A:1-1 et seq. in the amount of \$10,000
14 for each qualifying new hire involved in the manufacture of
15 personal protective equipment in a qualified facility in which the
16 taxpayer made a capital investment during the taxable year.

17 b. The minimum capital investment in a qualified facility
18 required to be eligible for a credit under this section shall be as
19 follows:

20 (1) for the rehabilitation, improvement, fit-out, or retrofit of an
21 existing premises in Atlantic County, Burlington County, Cape May
22 County, Cumberland County, Gloucester County, Ocean County, or
23 Salem County, a minimum investment of \$10 per square foot of
24 gross leasable area;

25 (2) for the rehabilitation, improvement, fit-out, or retrofit of an
26 existing premises in counties in the State not listed in paragraph (1)
27 of this subsection, a minimum investment of \$20 per square foot of
28 gross leasable area;

29 (3) for the new construction of a premises in Atlantic County,
30 Burlington County, Cape May County, Cumberland County,
31 Gloucester County, Ocean County, or Salem County, a minimum
32 investment of \$100 per square foot of gross leasable area; or

33 (4) for the new construction of a premises in counties in the
34 State not listed in paragraph (3) of this subsection, a minimum
35 investment of \$120 per square foot of gross leasable area.

36 c. The minimum number of new or retained qualifying full-
37 time jobs required to be eligible for a credit under this section shall
38 be as follows:

39 (1) for a qualified facility in Atlantic County, Burlington
40 County, Cape May County, Cumberland County, Gloucester
41 County, Ocean County, or Salem County, a minimum of five new or
42 15 retained qualifying full-time jobs; and

43 (2) for a qualified facility in counties in the State not listed in
44 paragraph (1) of this subsection, a minimum of ten new or 25
45 retained qualifying full-time jobs.

46 d. In addition to the amount of credit allowed pursuant to
47 subsection a. of this section, a taxpayer shall be allowed the
48 following tax credits for taxable years 2020, 2021, and 2022:

1 (1) \$1,000 per qualifying full-time job in a taxable year at a
2 qualified facility that is a building vacant for not less than seven
3 years in need of rehabilitation with a minimum of 250,000 square
4 feet;

5 (2) \$1,500 per qualifying full-time job in a taxable year at a
6 qualified facility in which the manufacturing of personal protective
7 equipment is part of a research collaboration between the taxpayer
8 and a college or university located within the State; and

9 (3) \$1,000 per qualifying full-time job in a taxable year at a
10 qualified facility in which the taxpayer has established an
11 apprenticeship program or pre-apprenticeship program with a
12 technical school or county college located within the State.

13 e. The total credit allowed to a taxpayer pursuant to this section
14 during the taxable year shall not exceed \$500,000. A taxpayer shall
15 not be eligible for a tax credit under this section for the same
16 qualifying new hire for which the taxpayer is receiving a tax credit
17 incentive award under the Emerge Program established by sections
18 68 through 81 of P.L. , c. (C.)(pending before the
19 Legislature as this bill)

20 f. If the amount of the credit exceeds the amount of tax
21 otherwise due, that amount of excess shall be an overpayment for
22 the purposes of N.J.S.54A:9-7; provided however, that subsection
23 (f) of N.J.S.54A:9-7 shall not apply. The director shall determine
24 the order of priority of the application of the credit allowed
25 pursuant to this section and any other credits allowed by law.

26 g. (1) A business entity that is classified as a partnership for
27 federal income tax purposes shall not be allowed a tax credit
28 pursuant to this section directly, but the amount of tax credit of a
29 taxpayer in respect to distributive share of entity income, shall be
30 determined by allocating to the taxpayer that proportion of the tax
31 credit acquired by the entity that is equal to the taxpayer's share,
32 whether or not distributed, of the total distributive income or gain
33 of the entity for its taxable year ending within or with the
34 taxpayer's taxable year.

35 (2) A New Jersey S Corporation shall not be allowed a tax credit
36 pursuant to this section directly, but the amount of the tax credit of
37 a taxpayer in respect of a pro rata share of S Corporation income,
38 shall be determined by allocating to the taxpayer that proportion of
39 the tax credit acquired by the New Jersey S Corporation that is
40 equal to the taxpayer's share, whether or not distributed, of the total
41 pro rata share of S Corporation income of the New Jersey S
42 Corporation for its privilege period ending within or with the
43 taxpayer's taxable year.

44 h. The combined value of all tax credits approved by the
45 authority and the director pursuant to this section and pursuant to
46 section 1 of P.L. , c. (C.)(pending before the Legislature
47 as this bill) shall not exceed \$10,000,000 in any State fiscal year to
48 apply against the tax imposed pursuant to the "New Jersey Gross

1 Income Tax Act,” N.J.S.54A:1-1 et seq., and the tax imposed
2 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).

3 i. An application for the tax credit shall be submitted to the
4 authority in a form and manner prescribed by the chief executive
5 officer of the authority. As a condition of receiving tax credits
6 under this section, an applicant shall be required to commit to
7 employ qualifying new hires for which tax credits are awarded
8 under this section for a period of five years.

9 j. Notwithstanding any provision of the “Administrative
10 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the
11 contrary, the chief executive officer of the authority is authorized to
12 adopt immediately upon filing with the Office of Administrative
13 Law such rules and regulations shall be effective for a period not to
14 exceed 360 days following the date of filing and may thereafter be
15 amended, adopted, or readopted by the chief executive officer of the
16 authority in accordance with the requirements of P.L.1968, c.410
17 (C.52:14B-1 et seq.). The chief executive officer of the authority
18 shall consult with the Commissioner of Health related to any
19 specification requirements for what manufactured products are to
20 qualify as personal protective equipment pursuant to this section.

21 k. As used in this section:

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

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

27 “Personal protective equipment” means coveralls, face shields,
28 gloves, gowns, masks, respirators, safeguard equipment, and other
29 equipment designed to protect the wearer from the spread of
30 infection or illness as may be modified from time to time by the
31 board of the authority.

32 “Qualified facility” means a facility that is:

33 (1) located in a redevelopment area or rehabilitation area as
34 defined in section 3 of P.L.1992, c.79 (C.40A:12A-3);

35 (2) located in a Smart Growth Area as identified by the Office
36 of Planning Advocacy;

37 (3) a facility in which the manufacturing of personal protective
38 equipment is part of a research collaboration between the taxpayer a
39 college or university located within the State;

40 (4) a facility in which the taxpayer has established an
41 apprenticeship program or pre-apprenticeship program with a
42 technical school or community located within the State; or

43 (5) a building vacant for not less than seven years in need of
44 rehabilitation with a minimum of 250,000 square feet.

45 “Qualifying full-time job” means a full-time employee hired by
46 the taxpayer during the privilege period for the manufacturing of
47 personal protective equipment in this State. The person hired shall
48 be employed for at least 35 hours a week and shall be paid

1 employee wages at a rate of not less than \$15 per hour, or render
2 any other standard of service generally accepted by custom or
3 practice as full-time employment, whose wages are subject to
4 withholding as provided in the "New Jersey Gross Income Tax
5 Act," N.J.S.54A:1-1 et seq. and is paid employee wages at a rate of
6 not less than \$15 per hour. "Qualifying new hire" shall not include
7 any person who works as an independent contractor or on a
8 consulting basis for the business. "Qualifying new or retained job"
9 includes only a position for which the taxpayer provides employee
10 health benefits under a health benefits plan authorized pursuant to
11 State or federal law.

12

13 108. Section 6 of P.L.2011, c.149 (C.34:1B-247) is amended to
14 read as follows:

15 6. a. (1) The combined value of all credits approved by the
16 authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) and
17 P.L.2011, c.149 (C.34:1B-242 et al.) prior to December 31, 2013
18 shall not exceed \$1,750,000,000, except as may be increased by the
19 authority as set forth in paragraph (5) of subsection a. of section 35
20 of P.L.2009, c.90 (C.34:1B-209.3). Following the enactment of the
21 "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161
22 (C.52:27D-489p et al.), there shall be no monetary cap on the value
23 of credits approved by the authority attributable to the program
24 pursuant to the "New Jersey Economic Opportunity Act of 2013,"
25 P.L.2013, c.161 (C.52:27D-489p et al.).

26 (2) (Deleted by amendment, P.L.2013, c.161)

27 (3) (Deleted by amendment, P.L.2013, c.161)

28 (4) (Deleted by amendment, P.L.2013, c.161)

29 (5) (Deleted by amendment, P.L.2013, c.161)

30 b. (1) A business shall submit an application for tax credits prior
31 to July 1, 2019. The authority shall not approve an application for
32 tax credits unless the application was submitted prior to July 1,
33 2019.

34 (2) (a) A business shall submit its documentation indicating that
35 it has met the capital investment and employment requirements and
36 all conditions of approvals specified in the incentive agreement for
37 certification of its tax credit amount, to the authority's satisfaction,
38 within three years following the date of approval of its application
39 by the authority. The authority shall have the discretion to grant
40 two six-month extensions of this deadline. If the authority accepts
41 the documentation, the authority shall request that the Division of
42 Taxation in the Department of the Treasury issue a tax credit based
43 on the approved documentation to be used by the business during
44 the eligibility period. Except as provided in subparagraphs (b) and
45 (c) of this paragraph, in no event shall the incentive effective date
46 occur later than four years following the date of approval of an
47 application by the authority.

1 (b) As of the effective date of P.L.2017, c.314, a business which
2 applied for the tax credit prior to July 1, 2014 under P.L.2011,
3 c.149 (C.34:1B-242 et al.), shall submit its documentation to the
4 authority no later than July 28, 2019, indicating that it has met the
5 capital investment and employment requirements specified in the
6 incentive agreement for certification of its tax credit amount.

7 (c) If the Governor declares an emergency, then the chief
8 executive officer of the authority shall have the discretion to grant
9 an extension for the duration of the emergency and the board of the
10 authority, upon recommendation of the chief executive officer, may
11 grant two additional six-month extensions; provided that (i) the
12 extensions are due to the economic disruption caused by the
13 emergency; (ii) the project is delayed due to unforeseeable acts
14 related to the project beyond the eligible business's control and
15 without its fault or negligence; (iii) the eligible business is using
16 best efforts, with all due diligence, to proceed with the completion
17 of the project and the submission of the certification; and (iv) the
18 eligible business has made, and continues to make, all reasonable
19 efforts to prevent, avoid, mitigate, and overcome the delay.

20 (3) Full-time employment for an accounting or privilege period
21 shall be determined as the average of the monthly full-time
22 employment for the period.

23 (4) A business seeking a credit for a mega project shall apply for
24 the credit within four years after the effective date of the "New
25 Jersey Economic Opportunity Act of 2013," P.L.2013, c.161
26 (C.52:27D-489p et al.).

27 c. (1) In conducting its annual review, the authority may
28 require a business to submit any information determined by the
29 authority to be necessary and relevant to its review.

30 The credit amount for any tax period for which the
31 documentation of a business's credit amount remains uncertified as
32 of a date three years after the closing date of that period shall be
33 forfeited, although credit amounts for the remainder of the years of
34 the eligibility period shall remain available to it.

35 The credit amount may be taken by the tax certificate holder for
36 the tax period for which it was issued or may be carried forward for
37 use by the tax certificate holder in any of the next 20 successive tax
38 periods, and shall expire thereafter. The tax certificate holder may
39 transfer the tax credit amount on or after the date of issuance or at
40 any time within three years of the date of issuance for use by the
41 transferee in the tax period for which it was issued or in any of the
42 next 20 successive tax periods. Notwithstanding the foregoing, no
43 more than the amount of tax credits equal to the total credit amount
44 divided by the duration of the eligibility period in years may be
45 taken in any tax period.

46 A business may elect to suspend its obligations for the 2020 tax
47 period and, if the public health emergency or state of emergency
48 declared due to the COVID-19 pandemic extends past March 2021,

1 the 2021 tax period, provided that the business shall make such
2 election in writing to the authority before the date the annual report
3 is due and such suspension shall extend the term of the eligibility
4 period by a corresponding amount of time. The authority shall
5 amend the incentive agreement, and the business shall execute the
6 amended incentive agreement within the time period provided by
7 the authority. The amended incentive agreement shall provide that
8 the failure to submit the annual report due to the suspension shall
9 not be a forfeiture or an uncertified tax period.

10 (2) Credits granted to a partnership shall be passed through to
11 the partners, members, or owners, respectively, pro-rata or pursuant
12 to an executed agreement among the partners, members, or owners
13 documenting an alternate distribution method provided to the
14 Director of the Division of Taxation in the Department of the
15 Treasury accompanied by any additional information as the director
16 may require.

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

22 (4) In order to respond to the profoundly negative impact of the
23 COVID-19 pandemic on the State's economy and finances, the
24 authority may request a tax certificate holder, at the tax certificate
25 holder's discretion, to defer the application of a credit amount
26 allowed pursuant to this section to a later tax period. Upon request,
27 the authority and the tax certificate holder shall negotiate the terms
28 of the deferral, which shall hold the certificate holder harmless,
29 which will be made in the incentive agreement or as an addendum
30 to the incentive agreement.

31 d. (1) If, in any tax period, the business reduces the total
32 number of full-time employees in its Statewide workforce by more
33 than 20 percent from the number of full-time employees in its
34 Statewide workforce in the last tax period prior to the credit amount
35 approval under section 3 of P.L.2011, c.149 (C.34:1B-244), then the
36 business shall forfeit its credit amount for that tax period and each
37 subsequent tax period, until the first tax period for which
38 documentation demonstrating the restoration of the business's
39 Statewide workforce to the threshold levels required by the
40 incentive agreement has been reviewed and approved by the
41 authority, for which tax period and each subsequent tax period the
42 full amount of the credit shall be allowed.

43 (2) If, in any tax period, the number of full-time employees
44 employed by the business at the qualified business facility located
45 within a qualified incentive area drops below 80 percent of the
46 number of new and retained full-time jobs specified in the incentive
47 agreement, then the business shall forfeit its credit amount for that
48 tax period and each subsequent tax period, until the first tax period

1 for which documentation demonstrating the restoration of the
2 number of full-time employees employed by the business at the
3 qualified business facility to 80 percent of the number of jobs
4 specified in the incentive agreement.

5 (3) (a) If the qualified business facility is sold by the owner in
6 whole or in part during the eligibility period, the new owner shall
7 not acquire the capital investment of the seller and the seller shall
8 forfeit all credits for the tax period in which the sale occurs and all
9 subsequent tax periods, provided however that any credits of the
10 business shall remain unaffected.

11 (b) In connection with a regional distribution facility of
12 foodstuffs, the business entity or entities which own or lease the
13 facility shall qualify as a business regardless of: (i) the type of the
14 business entity or entities which own or lease the facility; (ii) the
15 ownership or leasing of the facility by more than one business
16 entity; or (iii) the ownership of the business entity or entities which
17 own or lease the facility. The ownership or leasing, whether by
18 members, shareholders, partners, or other owners of the business
19 entity or entities, shall be treated as ownership or leasing by
20 affiliates. The members, shareholders, partners, or other ownership
21 or leasing participants and others that are tenants in the facility shall
22 be treated as affiliates for the purpose of counting the full-time
23 employees and capital investments in the facility. The business
24 entity or entities may distribute credits to members, shareholders,
25 partners, or other ownership or leasing participants in accordance
26 with their respective interests. If the business entity or entities or
27 their members, shareholders, partners, or other ownership or leasing
28 participants lease space in the facility to members, shareholders,
29 partners, or other ownership or leasing participants or others as
30 tenants in the facility, the leases shall be treated as a lease to an
31 affiliate, and the business entity or entities shall not be subject to
32 forfeiture of the credits. For the purposes of this section, leasing
33 shall include subleasing and tenants shall include subtenants.

34 (4) (a) For a project located within a Garden State Growth
35 Zone, if, in any tax period, the number of full-time employees
36 employed by the business at the qualified business facility located
37 within a qualified incentive area increases above the number of full-
38 time employees specified in the incentive agreement, then the
39 business shall be entitled to an increased base credit amount for that
40 tax period and each subsequent tax period, for each additional full-
41 time employee added above the number of full-time employees
42 specified in the incentive agreement, until the first tax period for
43 which documentation demonstrating a reduction of the number of
44 full-time employees employed by the business at the qualified
45 business facility, at which time the tax credit amount will be
46 adjusted accordingly pursuant to this section.

47 (b) For a project located within a Garden State Growth Zone
48 which qualifies under the "Municipal Rehabilitation and Economic

1 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or which
2 contains a Tourism District as established pursuant to section 5 of
3 P.L.2011, c.18 (C.5:12-219) and regulated by the Casino
4 Reinvestment Development Authority, and which qualifies for a tax
5 credit pursuant to subsubparagraph (ii) of subparagraphs (a) through
6 (e) of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149
7 (C.34:1B-246), if, in any tax period the number of full-time
8 employees employed by the business at the qualified business
9 facility located within a qualified incentive area increases above the
10 number of full-time employees specified in the incentive agreement
11 such that the business shall then meet the minimum number of
12 employees required in subparagraph (b), (c), (d), or (e) of paragraph
13 (6) of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246),
14 then the authority shall recalculate the total tax credit amount per
15 full-time job by using the certified capital investment of the project
16 allowable under the applicable subsubparagraph and the number of
17 full-time jobs certified on the date of the recalculation and applying
18 those numbers to subparagraph (b), (c), (d), or (e) of paragraph (6)
19 of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246),
20 until the first tax period for which documentation demonstrating a
21 reduction of the number of full-time employees employed by the
22 business at the qualified business facility, at which time the tax
23 credit amount shall be adjusted accordingly pursuant to this section.

24 e. The authority shall not enter into an incentive agreement
25 with a business that has previously received incentives pursuant to
26 the "Business Retention and Relocation Assistance Act," P.L.1996,
27 c.25 (C.34:1B-112 et seq.), the "Business Employment Incentive
28 Program Act," P.L.1996, c.26 (C.34:1B-124 et al.), or any other
29 program administered by the authority unless:

30 (1) the business has satisfied all of its obligations underlying the
31 previous award of incentives or is compliant with section 4 of
32 P.L.2011, c.149 (C.34:1B-245); or

33 (2) the capital investment incurred and new or retained full-time
34 jobs pledged by the business in the new incentive agreement are
35 separate and apart from any capital investment or jobs underlying
36 the previous award of incentives.

37 f. A business which has already applied for a tax credit
38 incentive award prior to the effective date of the "New Jersey
39 Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-
40 489p et al.), but who has not yet been approved for the tax credits,
41 or has not executed an agreement with the authority, may proceed
42 under that application or seek to amend the application or reapply
43 for a tax credit incentive award for the same project or any part
44 thereof for the purpose of availing itself of any more favorable
45 provisions of the program.

46 g. A business that has entered into an incentive agreement may
47 request before December 31, 2022 to terminate the incentive
48 agreement due to the COVID-19 public health emergency; provided

1 that the business shall submit a certification from the business's
2 chief executive officer or equivalent officer stating that the
3 termination is due to the public health emergency and describing
4 the impact of the public health emergency on the business. All
5 credits for the tax period in which the termination occurs and all
6 subsequent tax periods shall be forfeited, provided however that any
7 credits of the business shall remain unaffected.

8 h. A business that has entered into an incentive agreement may
9 request to reduce the number of new or retained full-time jobs
10 specified in the incentive agreement based on a certification of the
11 business of the eligible positions at the qualified business facility
12 commencing with the 2020 tax period and each subsequent tax
13 period remaining in the eligibility period, provided that the business
14 maintains the minimum number of new or retained full-time jobs
15 required to be eligible pursuant to subsection c. of section 3 of P.L.
16 2011, c. 149 (C.34:1B-244). The reduction in employment shall
17 first apply to the number of new full-time employees, and then shall
18 apply to the number of retained full-time employees.

19 The authority shall calculate a new tax credit total amount for the
20 2020 tax period and the remainder of the eligibility period based on
21 the reduced employment and shall amend the incentive agreement
22 to reflect the recalculated award amount. In no event shall the
23 modification result in an increase in employment or tax credit
24 amount.

25 (cf: P.L.2020, c.8, s.3)

26
27 109. Section 6 of P.L.2010, c.57 (C.34:1B-209.4) is amended to
28 read as follows:

29 6. a. (1) A business, upon application to and approval from
30 the authority, shall be **【allowed】** awarded a credit of 100 percent of
31 its capital investment, made after the effective date of P.L.2010,
32 c.57 (C.48:3-87.1 et al.) but prior to its submission of
33 documentation pursuant to subsection c. of this section, in a
34 qualified wind energy facility located **【within an eligible wind**
35 **energy zone】** in the State, pursuant to the restrictions and
36 requirements of this section. The award of a tax credit pursuant to
37 this section shall be structured so that the authority shall make up to
38 four awards, each equaling 25 percent of the total value of the tax
39 credit, to a qualified business over four privilege periods or taxable
40 years in which the business meets the requirements for the
41 minimum number of new, full-time employees. Otherwise eligible
42 businesses with between 150 and 300 new, full-time jobs may
43 receive an award based on a prorated formula developed by the
44 authority. To be eligible for any tax credits authorized under this
45 section, a business shall demonstrate to the authority, at the time of
46 application, that the State's financial support of the proposed capital
47 investment in a qualified wind energy facility will yield a net
48 positive benefit to the State. The value of all credits approved by

1 the authority pursuant to this section may be up to \$100,000,000,
2 except as may be increased by the authority if the chief executive
3 officer of the authority judges certain qualified offshore wind
4 projects to be meritorious. Credits provided pursuant to this section
5 shall not be applicable to the cap on the credits provided in section
6 3 of P.L.2007, c.346 (C.34:1B-209).

7 (2) (a) A business, other than a tenant eligible pursuant to
8 subparagraph (b) of this paragraph, shall make or acquire capital
9 investments totaling not less than \$50,000,000 in a qualified wind
10 energy facility, at which the business, including tenants at the
11 qualified wind energy facility, shall employ **【at least 300】** the
12 minimum number of new, full-time employees, to be eligible for a
13 credit under this section. A business that acquires a qualified wind
14 energy facility after the effective date of P.L.2010, c.57 (C.48:3-
15 87.1 et al.) shall also be deemed to have acquired the capital
16 investment made or acquired by the seller.

17 (b) A business that is a tenant in the qualified wind energy
18 facility, the owner of which has made or acquired capital
19 investments in the facility totaling more than \$50,000,000, shall
20 occupy a leased area of the qualified wind energy facility that
21 represents at least \$17,500,000 of the capital investment in the
22 qualified wind energy facility at which **【at least 300】** the minimum
23 number of new, full-time employees in the aggregate are employed,
24 to be eligible for a credit under this section. The amount of capital
25 investment in a facility that a leased area represents shall be equal
26 to that percentage of the owner's total capital investment in the
27 facility that the percentage of net leasable area leased by the tenant
28 is of the total net leasable area of the qualified business facility.
29 Capital investments made by a tenant shall be deemed to be
30 included in the calculation of the capital investment made or
31 acquired by the owner, but only to the extent necessary to meet the
32 owner's minimum capital investment of \$50,000,000. Capital
33 investments made by a tenant and not allocated to meet the owner's
34 minimum capital investment threshold of \$50,000,000 shall be
35 added to the amount of capital investment represented by the
36 tenant's leased area in the qualified wind energy facility.

37 (c) The calculation of the number of new, full-time employees
38 required pursuant to subparagraphs (a) and (b) of this paragraph
39 may include the number of new, full-time positions resulting from
40 an equipment supply coordination agreement with equipment
41 manufacturers, suppliers, installers and operators associated with
42 the supply chain required to support the qualified wind energy
43 facility.

44 For the purposes of this paragraph, "full time employee" shall
45 not include an employee who is a resident of another state and
46 whose income is not subject to the "New Jersey Gross Income Tax
47 Act," N.J.S.54A:1-1 et seq., unless that state has entered into a
48 reciprocity agreement with the State of New Jersey **【**, provided that

1 any employee whose work is provided pursuant to a collective
2 bargaining agreement with a business in the wind energy zone may
3 be included】.

4 (3) A business shall not be **【allowed】** awarded a tax credit
5 pursuant to this section if the business receives a business
6 employment incentive grant pursuant to the "Business Employment
7 Incentive Program Act," P.L.1996, c.26 (C.34:1B-124 et al.),
8 relating to the same capital and employees that qualify the business
9 for this credit, or if the business receives assistance pursuant to the
10 "Business Retention and Relocation Assistance Act," P.L.1996, c.25
11 (C.34:1B-112 et seq.). A business that is **【allowed】** awarded a tax
12 credit under this section shall not be eligible for incentives
13 authorized pursuant to the "Municipal Rehabilitation and Economic
14 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.).

15 (4) Full-time employment for an accounting or privilege period
16 shall be determined as the average of the monthly full-time
17 employment for the period.

18 b. A business shall apply for the credit by July 1, **【2024】** 2025,
19 and a business shall submit its documentation for approval of its
20 credit amount by July 1, **【2027】** 2028.

21 c. The credit **【allowed】** awarded pursuant to this section shall
22 be administered in accordance with the provisions of subsection c.
23 of section 3 of P.L.2007, c.346 (C.34:1B-209) and section 33 of
24 P.L.2009, c.90 (C.34:1B-209.1), except that all references therein to
25 "qualified business facility" shall be deemed to refer to "qualified
26 wind energy facility," as that term is defined in subsection f. of this
27 section.

28 d. The amount of the credit **【allowed】** awarded pursuant to this
29 section shall, except as otherwise provided, be equal to the capital
30 investment made by the business, or the capital investment
31 represented by the business's leased area, and shall be taken over a
32 **【10-year】** five-year period, at the rate of **【one-tenth】** one-fifth of
33 the total amount of the business's credit for each tax accounting or
34 privilege period of the business, beginning with the **【tax period】**
35 privilege period or taxable year in which the business is first
36 approved by the authority as having met the investment capital and
37 employment qualifications, subject to any disqualification as
38 determined by annual review by the authority. In conducting its
39 annual review, the authority may require a business to submit any
40 information determined by the authority to be necessary and
41 relevant to its review. The credit amount for any **【tax period】**
42 privilege period or taxable year ending after the date 18 years after
43 the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.) during
44 which the documentation of a business's credit amount remains
45 unapproved shall be forfeited, although credit amounts for the
46 remainder of the years of the **【10-year】** five-year credit period shall
47 remain available. The amount of the credit **【allowed】** awarded for

1 a **【tax period】** privilege period or taxable year to a business that is a
2 tenant in a qualified wind energy facility shall not exceed the
3 business's total lease payments for occupancy of the qualified wind
4 energy facility for the **【tax period】** privilege period or taxable year.

5 e. The authority shall adopt rules and regulations pursuant to
6 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
7 seq.) as are necessary to implement this section, including, but not
8 limited to: examples of and the determination of capital investment;
9 the nature of businesses and employment positions constituting and
10 participating in an equipment supply coordination agreement; a
11 determination of the types of businesses that may be eligible and
12 expenses that may constitute capital improvements; the
13 promulgation of procedures and forms necessary to apply for a
14 credit; and provisions for applicants to be charged an initial
15 application fee, and ongoing service fees, to cover the
16 administrative costs related to the credit.

17 The rules and regulations established by the authority pursuant to
18 this subsection shall be effective immediately upon filing with the
19 Office of Administrative Law and shall be effective for a period not
20 to exceed 12 months and may, thereafter, be amended, adopted or
21 readopted in accordance with the provisions of the "Administrative
22 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

23 f. As used in this section: the terms "authority," "business,"
24 and "capital investment" shall have the same meanings as defined in
25 section 2 of the "Urban Transit Hub Tax Credit Act," P.L.2007,
26 c.346 (C.34:1B-208), except that all references therein to "qualified
27 business facility" shall be deemed to refer to "qualified wind energy
28 facility" as defined in this subsection.

29 In addition, as used in this section:

30 "Equipment supply coordination agreement" means an agreement
31 between a business and equipment manufacturer, supplier, installer,
32 and operator that supports a qualified offshore wind project, or
33 other wind energy project as determined by the authority, and that
34 indicates the number of new, full-time jobs to be created by the
35 agreement participants towards the employment requirement as set
36 forth in paragraph (2) of subsection a. of this section.

37 "Minimum number of new, full-time employees" means:

38 (1) for the first award, at least a cumulative 100 new, full-time
39 employees compared to the number of full-time employees at the
40 time of application;

41 (2) for the second award, for a privilege period or taxable year
42 following the first award, at least a cumulative 150 new, full-time
43 employees compared to the number of full-time employees at the
44 time of application;

45 (3) for the third award, for a privilege period or taxable year
46 following the second award, at least a cumulative 200 new, full-
47 time employees compared to the number of full-time employees at
48 the time of application; and

1 (4) for the fourth award, for a privilege period or taxable year
2 following the third award, at least a cumulative 300 new, full-time
3 employees compared to the number of full-time employees at the
4 time of application.

5 "Qualified offshore wind project" shall have the same meaning
6 as provided in section 3 of P.L.1999, c.23 (C.48:3-51).

7 "Qualified wind energy facility" means any building, complex of
8 buildings, or structural components of buildings, including water
9 access infrastructure, and all machinery and equipment used in the
10 manufacturing, assembly, development or administration of
11 component parts that support the development and operation of a
12 qualified offshore wind project, or other wind energy project as
13 determined by the authority **],** and that are located in a wind energy
14 zone**].**

15 **["Wind energy zone" means property located in the South Jersey**
16 **Port District established pursuant to "The South Jersey Port**
17 **Corporation Act," P.L.1968, c.60 (C.12:11A-1 et seq.).]**
18 (cf: P.L.2018, c.17, s.7)

19
20 110. Section 1 of P.L.2018, c.56 (C.54:10A-5.39b) is amended to
21 read as follows:

22 1. a. (1) A taxpayer, upon approval of an application to the
23 authority and the director, shall be allowed a credit against the tax
24 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in
25 an amount equal to 30 percent of the qualified film production
26 expenses of the taxpayer during a privilege period commencing on
27 or after July 1, 2018 but before July 1, 2028, provided that:

28 (a) at least 60 percent of the total film production expenses,
29 exclusive of post-production costs, of the taxpayer are incurred for
30 services performed, and goods purchased through vendors
31 authorized to do business, in New Jersey, or the qualified film
32 production expenses of the taxpayer during the privilege period
33 exceed \$1,000,000 per production;

34 (b) principal photography of the film commences within the
35 earlier of 180 days from the date of the original application for the
36 tax credit, or 150 days from the date of approval of the application
37 for the tax credit;

38 (c) the film includes, when determined to be appropriate by the
39 commission, at no cost to the State, marketing materials promoting
40 this State as a film and entertainment production destination, which
41 materials shall include placement of a "Filmed in New Jersey" or
42 "Produced in New Jersey" statement, or an approved logo approved
43 by the commission, in the end credits of the film;

44 (d) the taxpayer submits a tax credit verification report prepared
45 by an independent certified public accountant licensed in this State
46 in accordance with subsection f. of this section; and

1 (e) the taxpayer complies with the withholding requirements
2 provided for payments to loan out companies and independent
3 contractors in accordance with subsection g. of this section.

4 (2) Notwithstanding the provisions of paragraph (1) of
5 subsection a. of this section to the contrary, the tax credit allowed
6 pursuant to this subsection against the tax imposed pursuant to
7 section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount
8 equal to 35 percent of the qualified film production expenses of the
9 taxpayer during a privilege period that are incurred for services
10 performed and tangible personal property purchased through
11 vendors whose primary place of business is located in Atlantic,
12 Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer
13 or Salem County.

14 b. (1) A taxpayer, upon approval of an application to the
15 authority and the director, shall be allowed a credit against the tax
16 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in
17 an amount equal to 20 percent of the qualified digital media content
18 production expenses of the taxpayer during a privilege period
19 commencing on or after July 1, 2018 but before July 1, 2028,
20 provided that:

21 (a) at least \$2,000,000 of the total digital media content
22 production expenses of the taxpayer are incurred for services
23 performed, and goods purchased through vendors authorized to do
24 business, in New Jersey;

25 (b) at least 50 percent of the qualified digital media content
26 production expenses of the taxpayer are for wages and salaries paid
27 to full-time or full-time equivalent employees in New Jersey;

28 (c) the taxpayer submits a tax credit verification report prepared
29 by an independent certified public accountant licensed in this State
30 in accordance with subsection f. of this section; and

31 (d) the taxpayer complies with the withholding requirements
32 provided for payments to loan out companies and independent
33 contractors in accordance with subsection g. of this section.

34 (2) Notwithstanding the provisions of paragraph (1) of
35 subsection b. of this section to the contrary, the tax credit allowed
36 pursuant to this subsection against the tax imposed pursuant to
37 section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount
38 equal to 25 percent of the qualified digital media content production
39 expenses of the taxpayer during a privilege period that are incurred
40 for services performed and tangible personal property purchased
41 through vendors whose primary place of business is located in
42 Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester,
43 Mercer, or Salem County.

44 c. No tax credit shall be allowed pursuant to this section for
45 any costs or expenses included in the calculation of any other tax
46 credit or exemption granted pursuant to a claim made on a tax
47 return filed with the director, or included in the calculation of an
48 award of business assistance or incentive, for a period of time that

1 coincides with the privilege period for which a tax credit authorized
2 pursuant to this section is allowed. The order of priority in which
3 the tax credit allowed pursuant to this section and any other tax
4 credits allowed by law may be taken shall be as prescribed by the
5 director. The amount of the tax credit applied under this section
6 against the tax imposed pursuant to section 5 of P.L.1945, c.162
7 (C.54:10A-5), for a privilege period, when taken together with any
8 other payments, credits, deductions, and adjustments allowed by
9 law shall not reduce the tax liability of the taxpayer to an amount
10 less than the statutory minimum provided in subsection (e) of
11 section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of the tax
12 credit otherwise allowable under this section which cannot be
13 applied for the privilege period due to the limitations of this
14 subsection or under other provisions of P.L.1945, c.162 (C.54:10A-
15 1 et seq.) may be carried forward, if necessary, to the seven
16 privilege periods following the privilege period for which the tax
17 credit was allowed.

18 d. A taxpayer, with an application for a tax credit provided for
19 in subsection a. or subsection b. of this section, may apply to the
20 authority and the director for a tax credit transfer certificate in lieu
21 of the taxpayer being allowed any amount of the tax credit against
22 the tax liability of the taxpayer. The tax credit transfer certificate,
23 upon receipt thereof by the taxpayer from the authority and the
24 director, may be sold or assigned, in full or in part, to any other
25 taxpayer that may have a tax liability under the "Corporation
26 Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), or
27 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in
28 exchange for private financial assistance to be provided by the
29 purchaser or assignee to the taxpayer that has applied for and been
30 granted the tax credit. The tax credit transfer certificate provided to
31 the taxpayer shall include a statement waiving the taxpayer's right
32 to claim that amount of the tax credit against the tax imposed
33 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) that the
34 taxpayer has elected to sell or assign. The sale or assignment of any
35 amount of a tax credit transfer certificate allowed under this section
36 shall not be exchanged for consideration received by the taxpayer of
37 less than 75 percent of the transferred tax credit amount. Any
38 amount of a tax credit transfer certificate used by a purchaser or
39 assignee against a tax liability under P.L.1945, c.162 (C.54:10A-1
40 et seq.) shall be subject to the same limitations and conditions that
41 apply to the use of a tax credit pursuant to subsection c. of this
42 section. Any amount of a tax credit transfer certificate obtained by
43 a purchaser or assignee under subsection a. or subsection b. of this
44 section may be applied against the purchaser's or assignee's tax
45 liability under N.J.S.54A:1-1 et seq. and shall be subject to the
46 same limitations and conditions that apply to the use of a credit
47 pursuant to subsections c. and d. of section 2 of P.L.2018, c.56
48 (C.54A:4-12b).

1 e. (1) The value of tax credits, including tax credits allowed
2 through the granting of tax credit transfer certificates, approved by
3 the director and the authority pursuant to subsection a. of this
4 section and pursuant to subsection a. of section 2 of P.L.2018, c.56
5 (C.54A:4-12b) to taxpayers, other than New Jersey film partners
6 and New Jersey film-lease partners, shall not exceed a cumulative
7 total of \$100,000,000 in fiscal year 2019 and in each fiscal year
8 thereafter prior to fiscal year 2029 to apply against the tax imposed
9 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax
10 imposed pursuant to the "New Jersey Gross Income Tax Act,"
11 N.J.S.54A:1-1 et seq. In addition to the \$100,000,000 limitation on
12 the value of tax credits approved by the director for New Jersey
13 film-lease partners and the \$100,000,000 limitation on the value of
14 tax credits approved by the director for other taxpayers imposed by
15 this paragraph, the value of tax credits, including tax credits
16 allowed through the granting of tax credit transfer certificates,
17 approved by the director and the authority pursuant to subsection a.
18 of this section and pursuant to subsection a. of section 2 of
19 P.L.2018, c.56 (C.54A:4-12b) to New Jersey film partners shall not
20 exceed a cumulative total of \$100,000,000 in fiscal year 2021 and
21 in each fiscal year thereafter prior to fiscal year ¹[2029] 2034¹ to
22 apply against the tax imposed pursuant to section 5 of P.L.1945,
23 c.162 (C.54:10A-5) and the tax imposed pursuant to the "New
24 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. In addition to
25 the \$100,000,000 limitation on the value of tax credits approved by
26 the director for New Jersey film partners and the \$100,000,000
27 limitation on the value of tax credits approved by the director for
28 other taxpayers imposed by this paragraph, the value of tax credits,
29 including tax credits allowed through the granting of tax credit
30 transfer certificates, approved by the director and the authority
31 pursuant to subsection a. of this section and pursuant to subsection
32 a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey film-
33 lease partners shall not exceed a cumulative total of \$100,000,000
34 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal
35 year ¹[2029] 2034¹ to apply against the tax imposed pursuant to
36 section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed
37 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
38 et seq.

39 If the cumulative total amount of tax credits, and tax credit
40 transfer certificates, allowed to taxpayers for privilege periods or
41 taxable years commencing during a single fiscal year under
42 subsection a. of this section and subsection a. of section 2 of
43 P.L.2018, c.56 (C.54A:4-12b) exceeds the amount of tax credits
44 available in that fiscal year, then taxpayers who have first applied
45 for and have not been allowed a tax credit or tax credit transfer
46 certificate amount for that reason shall be allowed, in the order in
47 which they have submitted an application, the amount of tax credit
48 or tax credit transfer certificate on the first day of the next

1 succeeding fiscal year in which tax credits and tax credit transfer
2 certificates under subsection a. of this section and subsection a. of
3 section 2 of P.L.2018, c.56 (C.54A:4-12b) are not in excess of the
4 amount of credits available.

5 Notwithstanding any provision of paragraph (1) of this
6 subsection to the contrary, for any fiscal year in which the amount
7 of tax credits approved pursuant to this paragraph is less than the
8 cumulative total amount of tax credits permitted to be approved in
9 that fiscal year, the authority shall certify the amount of the
10 remaining tax credits available for approval in that fiscal year, and
11 shall increase the cumulative total amount of tax credits permitted
12 to be approved in the subsequent fiscal year by the certified amount
13 remaining from the prior fiscal year. The authority shall also
14 certify, for each fiscal year, the amount of tax credits that were
15 previously approved, but that the taxpayer is not able to redeem or
16 transfer to another taxpayer under this section, and shall increase
17 the cumulative total amount of tax credits permitted to be approved
18 in the subsequent fiscal year by the amount of tax credits previously
19 approved, but not subject to redemption or transfer. ¹【The
20 combined increase to the cumulative total permitted to be approved
21 in a subsequent fiscal year pursuant to this paragraph shall not
22 exceed \$50,000,000】¹.

23 (2) The value of tax credits, including tax credits allowed
24 through the granting of tax credit transfer certificates, approved by
25 the authority and the director pursuant to subsection b. of this
26 section and pursuant to subsection b. of section 2 of P.L.2018, c.56
27 (C.54A:4-12b) shall not exceed a cumulative total of \$10,000,000 in
28 fiscal year 2019 and in each fiscal year thereafter prior to fiscal year
29 2029 to apply against the tax imposed pursuant to section 5 of
30 P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the
31 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

32 If the total amount of tax credits and tax credit transfer
33 certificates allowed to taxpayers for privilege periods or taxable
34 years commencing during a single fiscal year under subsection b. of
35 this section and subsection b. of section 2 of P.L.2018, c.56
36 (C.54A:4-12.b) exceeds the amount of tax credits available in that
37 year, then taxpayers who have first applied for and have not been
38 allowed a tax credit or tax credit transfer certificate amount for that
39 reason shall be allowed, in the order in which they have submitted
40 an application, the amount of tax credit or tax credit transfer
41 certificate on the first day of the next succeeding fiscal year in
42 which tax credits and tax credit transfer certificates under
43 subsection b. of this section and subsection b. of section 2 of
44 P.L.2018, c.56 (C.54A:4-12.b) are not in excess of the amount of
45 credits available.

46 Notwithstanding any provision of this paragraph to the contrary,
47 for any fiscal year in which the amount of tax credits approved
48 pursuant to this paragraph is less than the cumulative total amount

1 of tax credits permitted to be approved in that fiscal year, the
2 authority shall certify the amount of the remaining tax credits
3 available for approval in that fiscal year, and shall increase the
4 cumulative total amount of tax credits permitted to be approved in
5 the subsequent fiscal year by the certified amount remaining from
6 the prior fiscal year. The authority shall also certify, for each fiscal
7 year, the amount of tax credits that were previously approved, but
8 that the taxpayer is not able to redeem or transfer to another
9 taxpayer under this section, and shall increase the cumulative total
10 amount of tax credits permitted to be approved in the subsequent
11 fiscal year by the amount of tax credits previously approved, but not
12 subject to redemption or transfer.

13 f. A taxpayer shall submit to the authority and the director a
14 report prepared by an independent certified public accountant
15 licensed in this State to verify the taxpayer's tax credit claim
16 following the completion of the production. The report shall be
17 prepared by the independent certified public accountant pursuant to
18 agreed upon procedures prescribed by the authority and the director,
19 and shall include such information and documentation as shall be
20 determined to be necessary by the authority and the director to
21 substantiate the qualified film production expenses or the qualified
22 digital media content production expenses of the taxpayer. A single
23 report with attachments deemed necessary by the authority shall be
24 submitted electronically. Upon receipt of the report, the authority
25 and the director shall review the findings of the independent
26 certified public accountant's report, and shall make a determination
27 as to the qualified film production expenses or the qualified digital
28 media content production expenses of the taxpayer. The
29 determination shall be provided in writing to the taxpayer, and a
30 copy of the written determination shall be included in the filing of a
31 return that includes a claim for a tax credit allowed pursuant to this
32 section.

33 g. A taxpayer shall withhold from each payment to a loan out
34 company or to an independent contractor an amount equal to 6.37
35 percent of the payment otherwise due. The amounts withheld shall
36 be deemed to be withholding of liability pursuant to the "New
37 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the
38 taxpayer shall be deemed to have the rights, duties, and
39 responsibilities of an employer pursuant to chapter 7 of Title 54A of
40 the New Jersey Statutes. The director shall allocate the amounts
41 withheld for a taxable year to the accounts of the individuals who
42 are employees of a loan out company in proportion to the
43 employee's payment by the loan out company in connection with a
44 trade, profession, or occupation carried on in this State or for the
45 rendition of personal services performed in this State during the
46 taxable year. A loan out company that reports its payments to
47 employees in connection with a trade, profession, or occupation
48 carried on in this State or for the rendition of personal services

1 performed in this State during a taxable year shall be relieved of its
2 duties and responsibilities as an employer pursuant to chapter 7 of
3 Title 54A of the New Jersey Statutes for the taxable year for any
4 payments relating to the payments on which the taxpayer withheld.

5 h. As used in this section:

6 "Authority" means the New Jersey Economic Development
7 Authority.

8 "Business assistance or incentive" means "business assistance or
9 incentive" as that term is defined pursuant to section 1 of P.L.2007,
10 c.101 (C.54:50-39).

11 "Commission" means the Motion Picture and Television
12 Development Commission.

13 "Digital media content" means any data or information that is
14 produced in digital form, including data or information created in
15 analog form but reformatted in digital form, text, graphics,
16 photographs, animation, sound, and video content. "Digital media
17 content" shall not mean content offerings generated by the end user
18 (including postings on electronic bulletin boards and chat rooms);
19 content offerings comprised primarily of local news, events,
20 weather, or local market reports; public service content; electronic
21 commerce platforms (such as retail and wholesale websites);
22 websites or content offerings that contain obscene material as
23 defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or
24 content that are produced or maintained primarily for private,
25 industrial, corporate, or institutional purposes; or digital media
26 content acquired or licensed by the taxpayer for distribution or
27 incorporation into the taxpayer's digital media content.

28 "Film" means a feature film, a television series, or a television
29 show of 22 minutes or more in length, intended for a national
30 audience, or a television series or a television show of 22 minutes
31 or more in length intended for a national or regional audience,
32 including, but not limited to, a game show, award show, or other
33 gala event filmed and produced at a nonprofit arts and cultural
34 venue receiving State funding. "Film" shall not include a
35 production featuring news, current events, weather, and market
36 reports or public programming, talk show, or sports event, a
37 production that solicits funds, a production containing obscene
38 material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-3, or a
39 production primarily for private, industrial, corporate, or
40 institutional purposes, or a reality show, except if the production
41 company of the reality show owns, leases, or otherwise occupies a
42 production facility of no less than 20,000 square feet of real
43 property for a minimum term of 24 months, and invests no less than
44 \$3,000,000 in such a facility within a designated enterprise zone
45 established pursuant to the "New Jersey Urban Enterprise Zones
46 Act," P.L.1983, c.303 (C.52:27H-60 et al.), or a UEZ-impacted
47 business district established pursuant to section 3 of P.L.2001,
48 c.347 (C.52:27H-66.2). "Film" shall not include an award show or

1 other gala event that is not filmed and produced at a nonprofit arts
2 and cultural venue receiving State funding.

3 "Full-time or full-time equivalent employee" means an individual
4 employed by the taxpayer for consideration for at least 35 hours a
5 week, or who renders any other standard of service generally
6 accepted by custom or practice as full-time or full-time equivalent
7 employment, whose wages are subject to withholding as provided in
8 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or
9 who is a partner of a taxpayer, who works for the partnership for at
10 least 35 hours a week, or who renders any other standard of service
11 generally accepted by custom or practice as full-time or full-time
12 equivalent employment, and whose distributive share of income,
13 gain, loss, or deduction, or whose guaranteed payments, or any
14 combination thereof, is subject to the payment of estimated taxes, as
15 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
16 et seq. "Full-time or full-time equivalent employee" shall not
17 include an individual who works as an independent contractor or on
18 a consulting basis for the taxpayer.

19 "Highly compensated individual" means an individual who
20 directly or indirectly receives compensation in excess of \$500,000
21 for the performance of services used directly in a production. An
22 individual receives compensation indirectly when the taxpayer pays
23 a loan out company that, in turn, pays the individual for the
24 performance of services.

25 "Independent contractor" means an individual treated as an
26 independent contractor for federal and State tax purposes who is
27 contracted with by the taxpayer for the performance of services
28 used directly in a production.

29 "Loan out company" means a personal service corporation or
30 other entity that is contracted with by the taxpayer to provide
31 specified individual personnel, such as artists, crew, actors,
32 producers, or directors for the performance of services used directly
33 in a production. "Loan out company" shall not include entities
34 contracted with by the taxpayer to provide goods or ancillary
35 contractor services such as catering, construction, trailers,
36 equipment, or transportation.

37 "New Jersey film partner" means a film production company that
38 has made a commitment to produce films or commercial
39 audiovisual products in New Jersey and has developed, purchased,
40 or executed a 10-year contract to lease a production facility of
41 250,000 square feet or more as a "transformative project" pursuant
42 to section 65 of P.L. , c. (C.) (pending before the Legislature
43 as this bill). No more than five film production companies may be
44 designated as a New Jersey film partner.

45 "New Jersey film-lease partner" means a taxpayer, including any
46 taxpayer that is a member of a combined group under P.L.2018,
47 c.131 (C:54:10A-4.11), that has made a commitment to lease or
48 acquire a New Jersey production facility with an aggregate square

1 footage of at least 50,000 square feet, which includes a sound stage
2 and production support space such as production offices or a
3 backlot, for a period of five or more successive years and commits
4 to spend, on a separate-entity basis or in the aggregate with other
5 members of the taxpayer's combined group, an annual average of
6 \$50,000,000 of qualified film production expenses over the period
7 of at least five but not to exceed 10 years. '【The authority shall be
8 permitted to recapture any credits awarded to a New Jersey film-
9 lease partner if the New Jersey film-lease partner, or any member of
10 the New Jersey film-lease partner's combined group fails to
11 maintain a New Jersey production facility during the period
12 prescribed or if the New Jersey film-lease partner, on a separate-
13 entity basis or in the aggregate with other members of the New
14 Jersey film-lease partner's combined group, fails to spend an annual
15 average of \$50,000,000 of qualified film production expenses over
16 the prescribed period.】'¹

17 "Partnership" means an entity classified as a partnership for
18 federal income tax purposes.

19 "Post-production costs" means the costs of the phase of
20 production of a film that follows principal photography, in which
21 raw footage is cut and assembled into a finished film with sound
22 synchronization and visual effects.

23 "Pre-production costs" means the costs of the phase of
24 production of a film that precedes principal photography, in which a
25 detailed schedule and budget for the production is prepared, the
26 script and location is finalized, and contracts with vendors are
27 negotiated.

28 "Qualified digital media content production expenses" means an
29 expense incurred in New Jersey for the production of digital media
30 content. "Qualified digital media content production expenses"
31 shall include but not be limited to: wages and salaries of individuals
32 employed in the production of digital media content on which the
33 tax imposed by the "New Jersey Gross Income Tax Act,"
34 N.J.S.54A:1-1 et seq. has been paid or is due; and the costs of
35 computer software and hardware, data processing, visualization
36 technologies, sound synchronization, editing, and the rental of
37 facilities and equipment. Payment made to a loan out company or
38 to an independent contractor shall not be deemed a "qualified digital
39 media content production expense" unless the payment is made in
40 connection with a trade, profession, or occupation carried on in this
41 State or for the rendition of personal services performed in this
42 State and the taxpayer has made the withholding required pursuant
43 to subsection g. of this section. "Qualified digital media content
44 production expenses" shall not include expenses incurred in
45 marketing, promotion, or advertising digital media or other costs
46 not directly related to the production of digital media content.
47 Costs related to the acquisition or licensing of digital media content
48 by the taxpayer for distribution or incorporation into the taxpayer's

1 digital media content shall not be deemed "qualified digital media
2 content production expenses."

3 "Qualified film production expenses" means an expense incurred
4 in New Jersey for the production of a film including pre-production
5 costs and post-production costs incurred in New Jersey. "Qualified
6 film production expenses" shall include but not be limited to:
7 wages and salaries of individuals employed in the production of a
8 film on which the tax imposed by the "New Jersey Gross Income
9 Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; and the
10 costs for tangible personal property used, and services performed,
11 directly and exclusively in the production of a film, such as
12 expenditures for film production facilities, props, makeup,
13 wardrobe, film processing, camera, sound recording, set
14 construction, lighting, shooting, editing, and meals. Payment made
15 to a loan out company or to an independent contractor shall not be
16 deemed a "qualified film production expense" unless the payment is
17 made in connection with a trade, profession, or occupation carried
18 on in this State or for the rendition of personal services performed
19 in this State and the taxpayer has made the withholding required
20 pursuant to subsection g. of this section. "Qualified film production
21 expenses" shall not include: expenses incurred in marketing or
22 advertising a film; and payment in excess of \$500,000 to a highly
23 compensated individual for costs for a story, script, or scenario used
24 in the production of a film and wages or salaries or other
25 compensation for writers, directors, including music directors,
26 producers, and performers, other than background actors with no
27 scripted lines, except as follows:

28 (1) for a New Jersey film partner that incurs more than
29 '~~[\$30,000,000]~~ \$15,000,000¹ , but less than '~~[\$100,000,000]~~
30 \$50,000,000¹ , in qualified film production expenses in the State, an
31 amount, not to exceed \$15,000,000, of the wages or salaries or other
32 compensation for writers, directors, including music directors,
33 producers, and performers, other than background actors with no
34 scripted lines, shall constitute qualified film production expenses;

35 (2) ¹for a New Jersey film partner that incurs \$50,000,000 or
36 more, but less than \$100,000,000, in qualified film production
37 expenses in the State, an amount, not to exceed \$25,000,000, of the
38 wages or salaries or other compensation for writers, directors,
39 including music directors, producers, and performers, other than
40 background actors with no scripted lines, shall constitute qualified
41 film production expenses;

42 (3)¹ for a New Jersey film partner that incurs \$100,000,000 or
43 more, but less than \$150,000,000, in qualified film production
44 expenses in the State, an amount, not to exceed '~~[\$30,000,000]~~
45 \$40,000,000¹ , of the wages or salaries or other compensation for
46 writers, directors, including music directors, producers, and

1 performers, other than background actors with no scripted lines,
2 shall constitute qualified film production expenses; and

3 '[(3)] (4)' for a New Jersey film partner that incurs
4 \$150,000,000 or more in qualified film production expenses in the
5 State, an amount, not to exceed \$60,000,000, of the wages or
6 salaries or other compensation for writers, directors, including
7 music directors, producers, and performers, other than background
8 actors with no scripted lines, shall constitute qualified film
9 production expenses.

10 "Total digital media content production expenses" means costs
11 for services performed and property used or consumed in the
12 production of digital media content.

13 "Total film production expenses" means costs for services
14 performed and tangible personal property used or consumed in the
15 production of a film.

16 i. A business that is not a "taxpayer" as defined and used in the
17 "Corporation Business Tax Act (1945)," P.L.1945, c.162
18 (C.54:10A-1 et seq.) and therefore is not directly allowed a credit
19 under this section, but is a business entity that is classified as a
20 partnership for federal income tax purposes and is ultimately owned
21 by a business entity that is a "corporation" as defined in subsection
22 (c) of section 4 of P.L.1945, c.162 (C.54:10A-4), or a limited
23 liability company formed under the "Revised Uniform Limited
24 Liability Company Act," P.L.2012, c.50 (C.42:2C-1 et seq.), or
25 qualified to do business in this State as a foreign limited liability
26 company, with one member, and is wholly owned by the business
27 entity that is a "corporation" as defined in subsection (c) of section
28 4 of P.L.1945, c.162 (C.54:10A-4), but otherwise meets all other
29 requirements of this section, shall be considered an eligible
30 applicant and "taxpayer" as that term is used in this section.

31 (cf: P.L.2019, c.506, s.1)

32
33 111. Section 2 of P.L.2018, c.56 (C.54A:4-12b) is amended to
34 read as follows:

35 2. a. (1) A taxpayer, upon approval of an application to the
36 authority and the director, shall be allowed a credit against the tax
37 otherwise due for the taxable year under the "New Jersey Gross
38 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to 30
39 percent of the qualified film production expenses of the taxpayer
40 during a taxable year commencing on or after July 1, 2018 but
41 before July 1, 2028, provided that:

42 (a) at least 60 percent of the total film production expenses,
43 exclusive of post-production costs, of the taxpayer are incurred for
44 services performed, and goods purchased through vendors
45 authorized to do business, in New Jersey, or the qualified film
46 production expenses of the taxpayer during the taxable year exceed
47 \$1,000,000 per production;

1 (b) principal photography of the film commences within the
2 earlier of 180 days from the date of the original application for the
3 tax credit, or 150 days from the date of approval of the application
4 for the tax credit;

5 (c) the film includes, when determined to be appropriate by the
6 commission, at no cost to the State, marketing materials promoting
7 this State as a film and entertainment production destination, which
8 materials shall include placement of a "Filmed in New Jersey" or
9 "Produced in New Jersey" statement, or an appropriate logo
10 approved by the commission, in the end credits of the film;

11 (d) the taxpayer submits a tax credit verification report prepared
12 by an independent certified public accountant licensed in this State
13 in accordance with subsection g. of this section; and

14 (e) the taxpayer complies with the withholding requirements
15 provided for payments to loan out companies and independent
16 contractors in accordance with subsection h. of this section.

17 (2) Notwithstanding the provisions of paragraph (1) of
18 subsection a. of this section to the contrary, the tax credit allowed
19 pursuant to this subsection against the tax otherwise due for the
20 taxable year under the "New Jersey Gross Income Tax Act,"
21 N.J.S.54A:1-1 et seq., shall be in an amount equal to 35 percent of
22 the qualified film production expenses of the taxpayer during a
23 taxable year that are incurred for services performed and tangible
24 personal property purchased through vendors whose primary place
25 of business is located in Atlantic, Burlington, Camden, Cape May,
26 Cumberland, Gloucester, Mercer, or Salem County.

27 b. (1) A taxpayer, upon approval of an application to the
28 authority and the director, shall be allowed a credit against the tax
29 otherwise due for the taxable year under the "New Jersey Gross
30 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to 20
31 percent of the qualified digital media content production expenses
32 of the taxpayer during a taxable year commencing on or after July
33 1, 2018 but before July 1, 2028, provided that:

34 (a) at least \$2,000,000 of the total digital media content
35 production expenses of the taxpayer are incurred for services
36 performed, and goods purchased through vendors authorized to do
37 business, in New Jersey;

38 (b) at least 50 percent of the qualified digital media content
39 production expenses of the taxpayer are for wages and salaries paid
40 to full-time or full-time equivalent employees in New Jersey;

41 (c) the taxpayer submits a tax credit verification report prepared
42 by an independent certified public accountant licensed in this State
43 in accordance with subsection g. of this section; and

44 (d) the taxpayer complies with the withholding requirements
45 provided for payments to loan out companies and independent
46 contractors in accordance with subsection h. of this section.

47 (2) Notwithstanding the provisions of paragraph (1) of
48 subsection b. of this section to the contrary, the tax credit allowed

1 pursuant to this subsection against the tax otherwise due for the
2 taxable year under the "New Jersey Gross Income Tax Act,"
3 N.J.S.54A:1-1 et seq., shall be in an amount equal to 25 percent for
4 the qualified digital media content production expenses of the
5 taxpayer during a taxable year that are incurred for services
6 performed and tangible personal property purchased through
7 vendors whose primary place of business is located in Atlantic,
8 Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer,
9 or Salem County.

10 c. No tax credit shall be allowed pursuant to this section for
11 any costs or expenses included in the calculation of any other tax
12 credit or exemption granted pursuant to a claim made on a tax
13 return filed with the director, or included in the calculation of an
14 award of business assistance or incentive, for a period of time that
15 coincides with the taxable year for which a tax credit authorized
16 pursuant to this section is allowed. The order of priority in which
17 the tax credit allowed pursuant to this section and any other tax
18 credits allowed by law may be taken shall be as prescribed by the
19 director. The amount of the tax credit applied under this section
20 against the tax otherwise due under the "New Jersey Gross Income
21 Tax Act," N.J.S.54A:1-1 et seq., for a taxable year, when taken
22 together with any other payments, credits, deductions, and
23 adjustments allowed by law shall not reduce the tax liability of the
24 taxpayer to an amount less than zero. The amount of the tax credit
25 otherwise allowable under this section which cannot be applied for
26 the taxable year due to the limitations of this subsection or under
27 other provisions of N.J.S.54A:1-1 et seq., may be carried forward, if
28 necessary, to the seven taxable years following the taxable year for
29 which the tax credit was allowed.

30 d. (1) A business entity that is classified as a partnership for
31 federal income tax purposes shall not be allowed a tax credit
32 pursuant to this section directly, but the amount of tax credit of a
33 taxpayer in respect of a distributive share of entity income, shall be
34 determined by allocating to the taxpayer that proportion of the tax
35 credit acquired by the entity that is equal to the taxpayer's share,
36 whether or not distributed, of the total distributive income or gain
37 of the entity for its taxable year ending within or with the taxpayer's
38 taxable year.

39 (2) A New Jersey S Corporation shall not be allowed a tax credit
40 pursuant to this section directly, but the amount of tax credit of a
41 taxpayer in respect of a pro rata share of S Corporation income,
42 shall be determined by allocating to the taxpayer that proportion of
43 the tax credit acquired by the New Jersey S Corporation that is
44 equal to the taxpayer's share, whether or not distributed, of the total
45 pro rata share of S Corporation income of the New Jersey S
46 Corporation for its privilege period ending within or with the
47 taxpayer's taxable year.

1 A business entity that is not a gross income "taxpayer" as defined
2 and used in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
3 et seq., and therefore is not directly allowed a credit under this
4 section, but otherwise meets all the other requirements of this
5 section, shall be considered an eligible applicant and "taxpayer" as
6 that term is used in this section, and the application of an otherwise
7 allowed credit amount shall be distributed to appropriate gross
8 income taxpayers pursuant to the other requirements of this
9 subsection.

10 e. A taxpayer, with an application for a tax credit provided for
11 in subsection a. or subsection b. of this section, may apply to the
12 authority and the director for a tax credit transfer certificate in lieu
13 of the taxpayer being allowed any amount of the tax credit against
14 the tax liability of the taxpayer. The tax credit transfer certificate,
15 upon receipt thereof by the taxpayer from the authority and the
16 director, may be sold or assigned, in full or in part, to any other
17 taxpayer that may have a tax liability under the "New Jersey Gross
18 Income Tax Act," N.J.S.54A:1-1 et seq., or the "Corporation
19 Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), in
20 exchange for private financial assistance to be provided by the
21 purchaser or assignee to the taxpayer that has applied for and been
22 granted the tax credit. The tax credit transfer certificate provided to
23 the taxpayer shall include a statement waiving the taxpayer's right
24 to claim that amount of the tax credit against the tax imposed
25 pursuant to N.J.S.54A:1-1 et seq. that the taxpayer has elected to
26 sell or assign. The sale or assignment of any amount of a tax credit
27 transfer certificate allowed under this section shall not be
28 exchanged for consideration received by the taxpayer of less than
29 75 percent of the transferred tax credit amount. Any amount of a
30 tax credit transfer certificate used by a purchaser or assignee against
31 a tax liability under N.J.S.54A:1-1 et seq. shall be subject to the
32 same limitations and conditions that apply to the use of a tax credit
33 pursuant to subsections c. and d. of this section. Any amount of a
34 tax credit transfer certificate obtained by a purchaser or assignee
35 under subsection e. of this section may be applied against the
36 purchaser's or assignee's tax liability under P.L.1945, c.162
37 (C.54:10A-1 et seq.) and shall be subject to the same limitations
38 and conditions that apply to the use of a credit pursuant to
39 subsection c. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b).

40 f. (1) The value of tax credits, including tax credits allowed
41 through the granting of tax credit transfer certificates, approved by
42 the director and the authority pursuant to subsection a. of this
43 section and pursuant to subsection a. of section 1 of P.L.2018, c.56
44 (C.54:10A-5.39b) to taxpayers, other than New Jersey film partners
45 and New Jersey film-lease partners, shall not exceed a cumulative
46 total of \$100,000,000 in fiscal year 2019 and in each fiscal year
47 thereafter prior to fiscal year 2029 to apply against the tax imposed
48 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1

et seq., and pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).
In addition to the \$100,000,000 limitation on the value of tax credits approved by the director for New Jersey film-lease partners and the \$100,000,000 limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey film partners shall not exceed a cumulative total of \$100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year ¹~~2029~~ 2034¹ to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. In addition to the \$100,000,000 limitation on the value of tax credits approved by the director for New Jersey film partners and the \$100,000,000 limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 1 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey film-lease partners shall not exceed a cumulative total of \$100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year ¹~~2029~~ 2034¹ to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

If the cumulative total amount of tax credits, and tax credit transfer certificates, allowed to taxpayers for taxable years or privilege periods commencing during a single fiscal year under subsection a. of this section and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) exceeds the amount of tax credits available in that fiscal year, then taxpayers who have first applied for and have not been allowed a tax credit or tax credit transfer certificate amount for that reason shall be allowed, in the order in which they have submitted an application, the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates under subsection a. of this section and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of the amount of credits available.

Notwithstanding any provision of paragraph (1) of this subsection to the contrary, for any fiscal year in which the amount of tax credits approved pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the

1 remaining tax credits available for approval in that fiscal year, and
2 shall increase the cumulative total amount of tax credits permitted
3 to be approved in the subsequent fiscal year by the certified amount
4 remaining from the prior fiscal year. The authority shall also
5 certify, for each fiscal year, the amount of tax credits that were
6 previously approved, but that the taxpayer is not able to redeem or
7 transfer to another taxpayer under this section, and shall increase
8 the cumulative total amount of tax credits permitted to be approved
9 in the subsequent fiscal year by the amount of tax credits previously
10 approved, but not subject to redemption or transfer. ¹【The
11 combined increase to the cumulative total permitted to be approved
12 in a subsequent fiscal year pursuant to this paragraph shall not
13 exceed \$50,000,000】¹.

14 (2) The value of tax credits, including tax credits allowed
15 through the granting of tax credit transfer certificates, approved by
16 the authority and the director pursuant to subsection b. of this
17 section and pursuant to subsection b. of section 1 of P.L.2018, c.56
18 (C.54:10A-5.39b) shall not exceed a cumulative total of
19 \$10,000,000 in fiscal year 2019 and in each fiscal year thereafter
20 prior to fiscal year 2029 to apply against the tax imposed pursuant
21 to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.
22 and the tax imposed pursuant to section 5 of P.L.1945, c.162
23 (C.54:10A-5).

24 If the total amount of tax credits and tax credit transfer
25 certificates allowed to taxpayers for taxable years or privilege
26 periods commencing during a single fiscal year under subsection b.
27 of this section and subsection b. of section 1 of P.L.2018, c.56
28 (C.54:10A-5.39b) exceeds the amount of tax credits available in
29 that year, then taxpayers who have first applied for and have not
30 been allowed a tax credit or tax credit transfer certificate amount for
31 that reason shall be allowed, in the order in which they have
32 submitted an application, the amount of tax credit or tax credit
33 transfer certificate on the first day of the next succeeding fiscal year
34 in which tax credits and tax credit transfer certificates under
35 subsection b. of this section and subsection b. of section 1 of
36 P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of the amount of
37 credits available.

38 Notwithstanding any provision of this paragraph to the contrary,
39 for any fiscal year in which the amount of tax credits approved
40 pursuant to this paragraph is less than the cumulative total amount
41 of tax credits permitted to be approved in that fiscal year, the
42 authority shall certify the amount of the remaining tax credits
43 available for approval in that fiscal year, and shall increase the
44 cumulative total amount of tax credits permitted to be approved in
45 the subsequent fiscal year by the certified amount remaining from
46 the prior fiscal year. The authority shall also certify, for each fiscal
47 year, the amount of tax credits that were previously approved, but
48 that the taxpayer is not able to redeem or transfer to another

1 taxpayer under this section, and shall increase the cumulative total
2 amount of tax credits permitted to be approved in the subsequent
3 fiscal year by the amount of tax credits previously approved, but not
4 subject to redemption or transfer.

5 g. A taxpayer shall submit to the authority and the director a
6 report prepared by an independent certified public accountant
7 licensed in this State to verify the taxpayer's tax credit claim
8 following the completion of the production. The report shall be
9 prepared by the independent certified public accountant pursuant to
10 agreed upon procedures prescribed by the authority and the director,
11 and shall include such information and documentation as shall be
12 determined to be necessary by the authority and the director to
13 substantiate the qualified film production expenses or the qualified
14 digital media content production expenses of the taxpayer. A single
15 report with attachments deemed necessary by the authority shall be
16 submitted electronically. Upon receipt of the report, the authority
17 and the director shall review the findings of the independent
18 certified public accountant's report, and shall make a determination
19 as to the qualified film production expenses or the qualified digital
20 media content production expenses of the taxpayer. The
21 determination shall be provided in writing to the taxpayer, and a
22 copy of the written determination shall be included in the filing of a
23 return that includes a claim for a tax credit allowed pursuant to this
24 section.

25 h. A taxpayer shall withhold from each payment to a loan out
26 company or to an independent contractor an amount equal to 6.37
27 percent of the payment otherwise due. The amounts withheld shall
28 be deemed to be withholding of liability pursuant to the "New
29 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the
30 taxpayer shall be deemed to have the rights, duties, and
31 responsibilities of an employer pursuant to chapter 7 of Title 54A of
32 the New Jersey Statutes. The director shall allocate the amounts
33 withheld for a taxable year to the accounts of the individuals who
34 are employees of a loan out company in proportion to the
35 employee's payment by the loan out company in connection with a
36 trade, profession, or occupation carried on in this State or for the
37 rendition of personal services performed in this State during the
38 taxable year. A loan out company that reports its payments to
39 employees in connection with a trade, profession, or occupation
40 carried on in this State or for the rendition of personal services
41 performed in this State during a taxable year shall be relieved of its
42 duties and responsibilities as an employer pursuant to chapter 7 of
43 Title 54A of the New Jersey Statutes for the taxable year for any
44 payments relating to the payments on which the taxpayer withheld.

45 i. As used in this section:

46 "Authority" means the New Jersey Economic Development
47 Authority.

1 "Business assistance or incentive" means "business assistance or
2 incentive" as that term is defined pursuant to section 1 of P.L.2007,
3 c.101 (C.54:50-39).

4 "Commission" means the Motion Picture and Television
5 Development Commission.

6 "Digital media content" means any data or information that is
7 produced in digital form, including data or information created in
8 analog form but reformatted in digital form, text, graphics,
9 photographs, animation, sound, and video content. "Digital media
10 content" shall not mean content offerings generated by the end user
11 (including postings on electronic bulletin boards and chat rooms);
12 content offerings comprised primarily of local news, events,
13 weather or local market reports; public service content; electronic
14 commerce platforms (such as retail and wholesale websites);
15 websites or content offerings that contain obscene material as
16 defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or
17 content that are produced or maintained primarily for private,
18 industrial, corporate, or institutional purposes; or digital media
19 content acquired or licensed by the taxpayer for distribution or
20 incorporation into the taxpayer's digital media content.

21 "Film" means a feature film, a television series, or a television
22 show of 22 minutes or more in length, intended for a national
23 audience, or a television series or a television show of 22 minutes
24 or more in length intended for a national or regional audience,
25 including, but not limited to, a game show, award show, or other
26 gala event filmed and produced at a nonprofit arts and cultural
27 venue receiving State funding. "Film" shall not include a
28 production featuring news, current events, weather, and market
29 reports or public programming, talk show, sports event, or reality
30 show, a production that solicits funds, a production containing
31 obscene material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-
32 3, or a production primarily for private, industrial, corporate, or
33 institutional purposes. "Film" shall not include an award show or
34 other gala event that is not filmed and produced at a nonprofit arts
35 and cultural venue receiving State funding.

36 "Full-time or full-time equivalent employee" means an individual
37 employed by the taxpayer for consideration for at least 35 hours a
38 week, or who renders any other standard of service generally
39 accepted by custom or practice as full-time or full-time equivalent
40 employment, whose wages are subject to withholding as provided in
41 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or
42 who is a partner of a taxpayer, who works for the partnership for at
43 least 35 hours a week, or who renders any other standard of service
44 generally accepted by custom or practice as full-time or full-time
45 equivalent employment, and whose distributive share of income,
46 gain, loss, or deduction, or whose guaranteed payments, or any
47 combination thereof, is subject to the payment of estimated taxes, as
48 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1

1 et seq. "Full-time or full-time equivalent employee" shall not
2 include an individual who works as an independent contractor or on
3 a consulting basis for the taxpayer.

4 "Highly compensated individual" means an individual who
5 directly or indirectly receives compensation in excess of \$500,000
6 for the performance of services used directly in a production. An
7 individual receives compensation indirectly when the taxpayer pays
8 a loan out company that, in turn, pays the individual for the
9 performance of services.

10 "Independent contractor" means an individual treated as an
11 independent contractor for federal and State tax purposes who is
12 contracted with by the taxpayer for the performance of services
13 used directly in a production.

14 "Loan out company" means a personal service corporation or
15 other entity that is contracted with by the taxpayer to provide
16 specified individual personnel, such as artists, crew, actors,
17 producers, or directors for the performance of services used directly
18 in a production. "Loan out company" shall not include entities
19 contracted with by the taxpayer to provide goods or ancillary
20 contractor services such as catering, construction, trailers,
21 equipment, or transportation.

22 "New Jersey film partner" means a film production company that
23 has made a commitment to produce films or commercial
24 audiovisual products in New Jersey and has developed, purchased,
25 or executed a 10-year contract to lease a production facility of
26 250,000 square feet or more as a "transformative project" pursuant
27 to section 65 of P.L. , c. (C.) (pending before the Legislature
28 as this bill). No more than five film production companies may be
29 designated as a New Jersey film partner.

30 "New Jersey film-lease partner" means a taxpayer, including any
31 taxpayer that is a member of a combined group under P.L.2018,
32 c.131 (C:54:10A-4.11), that has made a commitment to lease or
33 acquire a New Jersey production facility with an aggregate square
34 footage of at least 50,000 square feet, which includes a sound stage
35 and production support space such as production offices or a
36 backlot, for a period of five or more successive years and commits
37 to spend, on a separate-entity basis or in the aggregate with other
38 members of the taxpayer's combined group, an annual average of
39 \$50,000,000 of qualified film production expenses over the period
40 of at least five but not to exceed 10 years. '1The authority shall be
41 permitted to recapture any credits awarded to a New Jersey film-
42 lease partner if the New Jersey film-lease partner, or any member of
43 the New Jersey film-lease partner's combined group fails to
44 maintain a New Jersey production facility during the period
45 prescribed or if the New Jersey film-lease partner, on a separate-
46 entity basis or in the aggregate with other members of the New
47 Jersey film-lease partner's combined group, fails to spend an annual

1 average of \$50,000,000 of qualified film production expenses over
2 the prescribed period.】¹

3 "Partnership" means an entity classified as a partnership for
4 federal income tax purposes.

5 "Post-production costs" means the costs of the phase of
6 production of a film that follows principal photography, in which
7 raw footage is cut and assembled into a finished film with sound
8 synchronization and visual effects.

9 "Pre-production costs" means the costs of the phase of
10 production of a film that precedes principal photography, in which a
11 detailed schedule and budget for the production is prepared, the
12 script and location is finalized, and contracts with vendors are
13 negotiated.

14 "Qualified digital media content production expenses" means an
15 expense incurred in New Jersey for the production of digital media
16 content. "Qualified digital media content production expenses"
17 shall include but not be limited to: wages and salaries of individuals
18 employed in the production of digital media content on which the
19 tax imposed by the "New Jersey Gross Income Tax Act,"
20 N.J.S.54A:1-1 et seq. has been paid or is due; and the costs of
21 computer software and hardware, data processing, visualization
22 technologies, sound synchronization, editing, and the rental of
23 facilities and equipment. Payment made to a loan out company or
24 to an independent contractor shall not be deemed a "qualified digital
25 media content production expense" unless the payment is made in
26 connection with a trade, profession, or occupation carried on in this
27 State or for the rendition of personal services performed in this
28 State and the taxpayer has made the withholding required pursuant
29 to subsection h. of this section. "Qualified digital media content
30 production expenses" shall not include expenses incurred in
31 marketing, promotion, or advertising digital media or other costs
32 not directly related to the production of digital media content.
33 Costs related to the acquisition or licensing of digital media content
34 by the taxpayer for distribution or incorporation into the taxpayer's
35 digital media content shall not be deemed "qualified digital media
36 content production expenses."

37 "Qualified film production expenses" means an expense incurred
38 in New Jersey for the production of a film including pre-production
39 costs and post-production costs incurred in New Jersey. "Qualified
40 film production expenses" shall include but not be limited to:
41 wages and salaries of individuals employed in the production of a
42 film on which the tax imposed by the "New Jersey Gross Income
43 Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; and the
44 costs for tangible personal property used, and services performed,
45 directly and exclusively in the production of a film, such as
46 expenditures for film production facilities, props, makeup,
47 wardrobe, film processing, camera, sound recording, set
48 construction, lighting, shooting, editing, and meals. Payment made

1 to a loan out company or to an independent contractor shall not be
2 deemed a "qualified film production expense" unless the payment is
3 made in connection with a trade, profession, or occupation carried
4 on in this State or for the rendition of personal services performed
5 in this State and the taxpayer has made the withholding required by
6 subsection h. of this section. "Qualified film production expenses"
7 shall not include: expenses incurred in marketing or advertising a
8 film; and payment in excess of \$500,000 to a highly compensated
9 individual for costs for a story, script, or scenario used in the
10 production of a film and wages or salaries or other compensation
11 for writers, directors, including music directors, producers, and
12 performers, other than background actors with no scripted lines,
13 except as follows:

14 (1) for a New Jersey film partner that incurs more than
15 '~~[\$30,000,000]~~ \$15,000,000¹ , but less than '~~[\$100,000,000]~~
16 \$50,000,000¹ , in qualified film production expenses in the State, an
17 amount, not to exceed \$15,000,000, of the wages or salaries or other
18 compensation for writers, directors, including music directors,
19 producers, and performers, other than background actors with no
20 scripted lines, shall constitute qualified film production expenses;

21 (2) ¹for a New Jersey film partner that incurs \$50,000,000 or
22 more, but less than \$100,000,000, in qualified film production
23 expenses in the State, an amount, not to exceed \$25,000,000, of the
24 wages or salaries or other compensation for writers, directors,
25 including music directors, producers, and performers, other than
26 background actors with no scripted lines, shall constitute qualified
27 film production expenses;

28 (3)¹ for a New Jersey film partner that incurs \$100,000,000 or
29 more, but less than \$150,000,000, in qualified film production
30 expenses in the State, an amount, not to exceed '~~[\$30,000,000]~~
31 \$40,000,000¹ , of the wages or salaries or other compensation for
32 writers, directors, including music directors, producers, and
33 performers, other than background actors with no scripted lines,
34 shall constitute qualified film production expenses; and

35 '~~[(3)]~~ (4)¹ for a New Jersey film partner that incurs
36 \$150,000,000 or more in qualified film production expenses in the
37 State, an amount, not to exceed \$60,000,000, of the wages or
38 salaries or other compensation for writers, directors, including
39 music directors, producers, and performers, other than background
40 actors with no scripted lines, shall constitute qualified film
41 production expenses.

42 "Total digital media content production expenses" means costs
43 for services performed and property used or consumed in the
44 production of digital media content.

45 "Total film production expenses" means costs for services
46 performed and tangible personal property used or consumed in the

1 production of a film.
2 (cf: P.L.2019, c.506, s.2)
3

4 ¹112. Section 1 of P.L.1979, c.303 (C.34:1b-5.1) is amended to
5 read as follows:

6 1. a. The New Jersey Economic Development Authority shall
7 adopt rules and regulations requiring that not less than the
8 prevailing wage rate be paid to workers employed in the
9 performance of any construction contract, including contracts for
10 millwork fabrication, undertaken in connection with authority
11 financial assistance or any of its projects, those projects which it
12 undertakes pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.), or
13 undertaken to fulfill any condition of receiving authority financial
14 assistance, including the performance of any contract to construct,
15 renovate or otherwise prepare a facility for operations which are
16 necessary for the receipt of authority financial assistance, unless the
17 work performed under the contract is performed on a facility owned
18 by a landlord of the entity receiving the assistance and less than
19 55% of the facility is leased by the entity at the time of the contract
20 and under any agreement to subsequently lease the facility. The
21 prevailing wage rate shall be the rate determined by the
22 Commissioner of Labor and Workforce Development pursuant to
23 the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.). For the
24 purposes of this section, "authority financial assistance" means any
25 loan, loan guarantee, grant, incentive, tax exemption or other
26 financial assistance that is approved, funded, authorized,
27 administered or provided by the authority to any entity and is
28 provided before, during or after completion of a project, including
29 but not limited to, all authority financial assistance received by the
30 entity pursuant to the "Business Employment Incentive Program
31 Act," P.L.1996, c.26 (C.34:1B-124 et al.) that enables the entity to
32 engage in a construction contract, but this section shall not be
33 construed as requiring the payment of the prevailing wage for
34 construction commencing more than two years after an entity has
35 executed with the authority a commitment letter regarding authority
36 financial assistance and the first payment or other provision of the
37 assistance is received.

38 b. The New Jersey Economic Development Authority shall
39 adopt rules and regulations requiring that not less than the
40 prevailing wage rate be paid to workers employed in the
41 performance of any contract, for construction, demolition,
42 remediation, removal of hazardous substances, alteration, custom
43 fabrication, repair work, or maintenance work, including painting
44 and decorating, or excavation, grading, pile driving, concrete form,
45 or other types of foundation work in connection with the "New
46 Jersey Aspire Program Act," sections 54 through 67 of P.L. , c.
47 (C.) (pending before the Legislature as this bill) and the "New
48 Jersey Community-Anchored Development Act," sections 43

1 through 53 of P.L. , c. (C.) (pending before the Legislature
2 as this bill). The requirements of this subsection shall apply to any
3 site preparation work performed 24 months prior to and during the
4 incentive eligibility period of any project receiving tax credits under
5 the "New Jersey Aspire Program Act," sections 54 through 67 of
6 P.L. , c. (C.) (pending before the Legislature as this bill)
7 and the "New Jersey Community-Anchored Development Act,"
8 sections 43 through 53 of P.L. , c. (C.) (pending before the
9 Legislature as this bill), in which there is a continuity of ownership
10 in the site of the redevelopment project, including work undertaken
11 to fulfill any condition of receiving tax credits under the programs.
12 Work that is subject to the requirements of this subsection shall
13 include the performance of any contract for construction,
14 demolition, remediation, removal of hazardous substances,
15 alteration, custom fabrication, repair work, or maintenance work,
16 including painting and decorating, or excavation, grading, pile
17 driving, concrete form, or other types of foundation work
18 undertaken on a facility for operations which are necessary for the
19 receipt of tax credits under the "New Jersey Aspire Program Act,"
20 sections 54 through 67 of P.L. , c. (C.) (pending before the
21 Legislature as this bill) and the "New Jersey Community-Anchored
22 Development Act," sections 43 through 53 of P.L. , c. (C.)
23 (pending before the Legislature as this bill), unless the work
24 performed under the contract is performed on a facility owned by a
25 landlord of the entity receiving the tax credit and less than 35
26 percent of the facility is leased by the entity at the time of the
27 contract and under any agreement to subsequently lease the facility.
28 The prevailing wage rate shall be the rate determined by the
29 Commissioner of Labor and Workforce Development pursuant to
30 the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.), and all
31 contractors and subcontractors subject to the prevailing wage
32 requirement set forth in this section shall be registered with the
33 Department of Labor and Workforce Development pursuant to the
34 provisions of section 5 of P.L.1999, c.238 (C.34:11-56.52). An
35 applicant for tax credits under the "New Jersey Aspire Program
36 Act," sections 54 through 67 of P.L. , c. (C.) (pending
37 before the Legislature as this bill) and the "New Jersey Community-
38 Anchored Development Act," sections 43 through 53 of P.L. ,
39 c. (C.) (pending before the Legislature as this bill), shall
40 certify under penalty of perjury as part of its application that all
41 construction contracts undertaken on any project in connection with
42 an award under the programs comply with the prevailing wage
43 requirements of this subsection. If at any time the authority
44 determines that the developer made a material misrepresentation
45 regarding compliance with the provisions of this subsection on the
46 developer's application, the developer shall forfeit 35 percent of the
47 tax credits allowed under the programs, and pay to the affected

1 workers back wages in an amount that compensates the workers at
2 the prevailing wage rate for the work performed.

3 (cf: P.L.2007, c.245, s.1)】¹

4
5 ¹112. Section 1 of P.L.1979, c.303 (C.34:1b-5.1) is amended to
6 read as follows:

7 1. a. The New Jersey Economic Development Authority shall
8 adopt rules and regulations requiring that not less than the
9 prevailing wage rate be paid to workers employed in the
10 performance of any construction contract, including contracts for
11 millwork fabrication, undertaken in connection with authority
12 financial assistance or any of its projects, those projects which it
13 undertakes pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.), or
14 undertaken to fulfill any condition of receiving authority financial
15 assistance, including the performance of any contract to construct,
16 renovate or otherwise prepare a facility for operations which are
17 necessary for the receipt of authority financial assistance, unless the
18 work performed under the contract is performed on a facility owned
19 by a landlord of the entity receiving the assistance and less than
20 **【55%】** 35 percent of the facility is leased by the entity at the time
21 of the contract and under any agreement to subsequently lease the
22 facility. The prevailing wage rate shall be the rate determined by
23 the Commissioner of Labor and Workforce Development pursuant
24 to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.). For
25 the purposes of this section, "authority financial assistance" means
26 any loan, loan guarantee, grant, incentive, tax exemption or other
27 financial assistance that is approved, funded, authorized,
28 administered or provided by the authority to any entity and is
29 provided before, during or after completion of a project, including
30 but not limited to, all authority financial assistance received by the
31 entity pursuant to the "Business Employment Incentive Program
32 Act," P.L.1996, c.26 (C.34:1B-124 et al.) that enables the entity to
33 engage in a construction contract, but this section shall not be
34 construed as requiring the payment of the prevailing wage for
35 construction commencing more than two years after an entity has
36 executed with the authority a commitment letter regarding authority
37 financial assistance and the first payment or other provision of the
38 assistance is received.

39 b. The New Jersey Economic Development Authority shall adopt
40 rules and regulations requiring that not less than the prevailing
41 wage rate be paid to workers employed in the performance of any
42 contract, for construction, demolition, remediation, removal of
43 hazardous substances, alteration, custom fabrication, repair work, or
44 maintenance work, including painting and decorating, or
45 excavation, grading, pile driving, concrete form, or other types of
46 foundation work in connection with the "New Jersey Community-
47 Anchored Development Act," sections 43 through 53 of P.L. ____,
48 c. (C. ____) (pending before the Legislature as this bill), the "New

1 Jersey Aspire Program Act," sections 54 through 67 of P.L. ,
2 c. (C.) (pending before the Legislature as this bill), and the
3 "New Jersey Emerge Program Act," sections 68 through 81 of
4 P.L. , c. (C.) (pending before the Legislature as this bill).
5 The requirements of this subsection shall apply to any site
6 preparation work performed 24 months prior to and during the
7 incentive eligibility period of any project receiving tax credits under
8 the "New Jersey Community-Anchored Development Act," sections
9 43 through 53 of P.L. , c. (C.) (pending before the
10 Legislature as this bill), the "New Jersey Aspire Program Act,"
11 sections 54 through 67 of P.L. , c. (C.) (pending before the
12 Legislature as this bill), and the "New Jersey Emerge Program Act,"
13 sections 68 through 81 of P.L. , c. (C.) (pending before the
14 Legislature as this bill), in which there is a continuity of ownership
15 in the site of the redevelopment project, including work undertaken
16 to fulfill any condition of receiving tax credits under the programs.
17 Work that is subject to the requirements of this subsection shall
18 include the performance of any contract for construction,
19 demolition, remediation, removal of hazardous substances,
20 alteration, custom fabrication, repair work, or maintenance work,
21 including painting and decorating, or excavation, grading, pile
22 driving, concrete form, or other types of foundation work
23 undertaken on a facility for operations which are necessary for the
24 receipt of tax credits under the "New Jersey Community-Anchored
25 Development Act," sections 43 through 53 of P.L. , c. (C.)
26 (pending before the Legislature as this bill), the "New Jersey Aspire
27 Program Act," sections 54 through 67 of P.L. , c. (C.)
28 (pending before the Legislature as this bill), and the "New Jersey
29 Emerge Program Act," sections 68 through 81 of P.L. ,
30 c. (C.) (pending before the Legislature as this bill), unless
31 the work performed under the contract is performed on a facility
32 owned by a landlord of the entity receiving the tax credit and less
33 than 35 percent of the facility is leased by the entity at the time of
34 the contract and under any agreement to subsequently lease the
35 facility. The prevailing wage rate shall be the rate determined by
36 the Commissioner of Labor and Workforce Development pursuant
37 to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.), and all
38 contractors and subcontractors subject to the prevailing wage
39 requirement set forth in this section shall be registered with the
40 Department of Labor and Workforce Development pursuant to the
41 provisions of section 5 of P.L.1999, c.238 (C.34:11-56.52). An
42 applicant for tax credits under the "New Jersey Community-
43 Anchored Development Act," sections 43 through 53 of P.L. ,
44 c. (C.) (pending before the Legislature as this bill), the "New
45 Jersey Aspire Program Act," sections 54 through 67 of P.L. ,
46 c. (C.) (pending before the Legislature as this bill), and the
47 "New Jersey Emerge Program Act," sections 68 through 81 of
48 P.L. , c. (C.) (pending before the Legislature as this bill),

1 shall certify under penalty of perjury as part of its application that
2 all construction contracts undertaken on any project in connection
3 with an award under the programs comply with the prevailing wage
4 requirements of this subsection. If at any time the authority
5 determines that the developer made a material misrepresentation
6 regarding compliance with the provisions of this subsection on the
7 developer's application, the developer shall forfeit 35 percent of the
8 tax credits allowed under the programs, and pay to the affected
9 workers back wages in an amount that compensates the workers at
10 the prevailing wage rate for the work performed.¹

11 (cf: P.L.2007, c.245, s.1)

12

13 ¹§113. Section 1 of P.L.1997, c. 334 (C.34:1B-7.42a) is
14 amended to read as follows:

15 1. a. The New Jersey Economic Development Authority shall
16 establish within the New Jersey Emerging Technology and
17 Biotechnology Financial Assistance Program established pursuant
18 to P.L.1995, c.137 (C.34:1B-7.37 et seq.), a corporation business
19 tax benefit certificate transfer program to allow new or expanding
20 emerging technology and biotechnology companies in this State
21 with unused amounts of research and development tax credits
22 otherwise allowable which cannot be applied for the credit's tax
23 year due to the limitations of subsection b. of section 1 of P.L.1993,
24 c.175 (C.54:10A-5.24) and unused net operating loss carryover
25 pursuant to subparagraph (B) of paragraph (6) of subsection (k) of
26 section 4 of P.L.1945, c.162 (C.54:10A-4), to surrender those tax
27 benefits for use by other corporation business taxpayers in this
28 State, provided that the taxpayer receiving the surrendered tax
29 benefits is not affiliated with a corporation that is surrendering its
30 tax benefits under the program established under P.L.1997, c.334.
31 For the purposes of this section, the test of affiliation is whether the
32 same entity directly or indirectly owns or controls 5% or more of
33 the voting rights or 5% or more of the value of all classes of stock
34 of both the taxpayer receiving the benefits and a corporation that is
35 surrendering the benefits. The tax benefits may be used on the
36 corporation business tax returns to be filed by those taxpayers in
37 exchange for private financial assistance to be provided by the
38 corporation business taxpayer that is the recipient of the corporation
39 business tax benefit certificate to assist in the funding of costs
40 incurred by the new or expanding emerging technology and
41 biotechnology company.

42 b. The authority, in cooperation with the Division of Taxation
43 in the Department of the Treasury, shall review and approve
44 applications by new or expanding emerging technology and
45 biotechnology companies in this State with unused but otherwise
46 allowable carryover of research and development tax credits
47 pursuant to section 1 of P.L.1993, c.175 (C.54:10A-5.24), and
48 unused but otherwise allowable net operating loss carryover

1 pursuant to paragraph (6) of subsection (k) of section 4 of P.L.1945,
2 c.162 (C.54:10A-4), to surrender those tax benefits in exchange for
3 private financial assistance to be made by the corporation business
4 taxpayer that is the recipient of the corporation business tax benefit
5 certificate in an amount equal to at least 80% of the amount of the
6 surrendered tax benefit. Provided that the amount of the surrendered
7 tax benefit for a surrendered research and development tax credit
8 carryover is the amount of the credit, and provided that the amount
9 of the surrendered tax benefit for a surrendered net operating loss
10 carryover is the amount of the loss multiplied by the new or
11 expanding emerging technology or biotechnology company's
12 anticipated allocation factor, as determined pursuant to section 6 of
13 P.L.1945, c.162 (C.54:10A-6) for the tax year in which the benefit
14 is transferred and subsequently multiplied by the corporation
15 business tax rate provided pursuant to subsection (c) of section 5 of
16 P.L.1945, c.162 (C.54:10A-5). The authority shall be authorized to
17 approve the transfer of no more than ~~【\$60,000,000】~~ \$75,000,000 of
18 tax benefits in a State fiscal year. If the total amount of transferable
19 tax benefits requested to be surrendered by approved applicants
20 exceeds ~~【\$60,000,000】~~ \$75,000,000 for a State fiscal year, the
21 authority, in cooperation with the Division of Taxation in the
22 Department of the Treasury, shall not be authorized to approve the
23 transfer of more than ~~【\$60,000,000】~~ \$75,000,000 for that State
24 fiscal year and shall allocate the transfer of tax benefits by approved
25 companies using the following method:

26 (1) an eligible applicant with \$250,000 or less of transferable
27 tax benefits shall be authorized to surrender the entire amount of its
28 transferable tax benefits;

29 (2) an eligible applicant with more than \$250,000 of transferable
30 tax benefits shall be authorized to surrender a minimum of
31 \$250,000 of its transferable tax benefits;

32 (3) (Deleted by amendment, P.L.2009, c.90.)

33 (4) an eligible applicant with more than \$250,000 shall also be
34 authorized to surrender additional transferable tax benefits
35 determined by multiplying the applicant's transferable tax benefits
36 less the minimum transferable tax benefits that company is
37 authorized to surrender under paragraph (2) of this subsection by a
38 fraction, the numerator of which is the total amount of transferable
39 tax benefits that the authority is authorized to approve less the total
40 amount of transferable tax benefits approved under paragraphs (1),
41 (2), and (5) of this subsection and the denominator of which is the
42 total amount of transferable tax benefits requested to be surrendered
43 by all eligible applicants less the total amount of transferable tax
44 benefits approved under paragraphs (1), (2), and (5) of this
45 subsection;

46 (5) The authority shall establish the boundaries for three
47 innovation zones to be geographically distributed in the northern,

1 central, and southern portions of this State. Of the **【\$60,000,000】**
2 \$75,000,000 of transferable tax benefits authorized for each State
3 fiscal year, \$10,000,000 shall be allocated for the surrender of
4 transferable tax benefits exclusively by new and expanding
5 emerging technology and biotechnology companies that operate
6 within the boundaries of the innovation zones, except that any
7 portion of the \$10,000,000 that is not so approved shall be available
8 for that State fiscal year for the surrender of transferable tax
9 benefits by new and expanding emerging technology and
10 biotechnology companies that do not operate within the boundaries
11 of an innovation zone.

12 If the total amount of transferable tax benefits that would be
13 authorized using the above method exceeds **【\$60,000,000】**
14 \$75,000,000 for a State fiscal year, then the authority, in
15 cooperation with the Division of Taxation in the Department of the
16 Treasury, shall limit the total amount of tax benefits authorized to
17 be transferred to **【\$60,000,000】** \$75,000,000 by applying the above
18 method on an apportioned basis.

19 For purposes of this section transferable tax benefits include an
20 eligible applicant's unused but otherwise allowable carryover of net
21 operating losses multiplied by the applicant's anticipated allocation
22 factor as determined pursuant to section 6 of P.L.1945, c.162
23 (C.54:10A-6) for the tax year in which the benefit is transferred and
24 subsequently multiplied by the corporation business tax rate as
25 provided in subsection (c) of section 5 of P.L.1945, c.162
26 (C.54:10A-5) plus the total amount of the applicant's unused but
27 otherwise allowable carryover of research and development tax
28 credits. An eligible applicant's transferable tax benefits shall be
29 limited to net operating losses and research and development tax
30 credits that the applicant requests to surrender in its application to
31 the authority and shall not, in total, exceed the maximum amount of
32 tax benefits that the applicant is eligible to surrender.

33 No application for a corporation business tax benefit transfer
34 certificate shall be approved in which the new or expanding
35 emerging technology or biotechnology company (1) has
36 demonstrated positive net operating income in any of the two
37 previous full years of ongoing operations as determined on its
38 financial statements issued according to generally accepted
39 accounting standards endorsed by the Financial Accounting
40 Standards Board; or (2) is directly or indirectly at least 50 percent
41 owned or controlled by another corporation that has demonstrated
42 positive net operating income in any of the two previous full years
43 of ongoing operations as determined on its financial statements
44 issued according to generally accepted accounting standards
45 endorsed by the Financial Accounting Standards Board or is part of
46 a consolidated group of affiliated corporations, as filed for federal
47 income tax purposes, that in the aggregate has demonstrated
48 positive net operating income in any of the two previous full years

1 of ongoing operations as determined on its combined financial
2 statements issued according to generally accepted accounting
3 standards endorsed by the Financial Accounting Standards Board.

4 The maximum lifetime value of surrendered tax benefits that a
5 corporation shall be permitted to surrender pursuant to the program
6 is **【\$15,000,000】** \$20,000,000. Applications must be received on or
7 before June 30 of each State fiscal year.

8 The authority, in consultation with the Division of Taxation,
9 shall establish rules for the recapture of all, or a portion of, the
10 amount of a grant of a corporation business tax benefit certificate
11 from the new or emerging technology and biotechnology company
12 having surrendered tax benefits pursuant to this section in the event
13 the taxpayer fails to use the private financial assistance received for
14 the surrender of tax benefits as required by this section or fails to
15 maintain a headquarters or a base of operation in this State during
16 the five years following receipt of the private financial assistance;
17 except if the failure to maintain a headquarters or a base of
18 operation in this State is due to the liquidation of the new or
19 expanding emerging technology and biotechnology company.

20 c. The authority, in cooperation with the Division of Taxation
21 in the Department of the Treasury, shall review and approve
22 applications by taxpayers under the Corporation Business Tax Act
23 (1945), P.L.1945, c.162 (C.54:10A- 1 et seq.), to acquire
24 surrendered tax benefits approved pursuant to subsection b. of this
25 section which shall be issued in the form of corporation business
26 tax benefit transfer certificates, in exchange for private financial
27 assistance to be made by the taxpayer in an amount equal to at least
28 80% of the amount of the surrendered tax benefit of an emerging
29 technology or biotechnology company in the State. A corporation
30 business tax benefit transfer certificate shall not be issued unless the
31 applicant certifies that as of the date of the exchange of the
32 corporation business tax benefit certificate it is operating as a new
33 or expanding emerging technology or biotechnology company and
34 has no current intention to cease operating as a new or expanding
35 emerging technology or biotechnology company.

36 The private financial assistance shall assist in funding expenses
37 incurred in connection with the operation of the new or expanding
38 emerging technology or biotechnology company in the State,
39 including but not limited to the expenses of fixed assets, such as the
40 construction and acquisition and development of real estate,
41 materials, start-up, tenant fit-out, working capital, salaries, research
42 and development expenditures and any other expenses determined
43 by the authority to be necessary to carry out the purposes of the
44 New Jersey Emerging Technology and Biotechnology Financial
45 Assistance Program.

46 The authority shall require a corporation business taxpayer that
47 acquires a corporation business tax benefit certificate to enter into a
48 written agreement with the new or expanding emerging technology

1 or biotechnology company concerning the terms and conditions of
2 the private financial assistance made in exchange for the certificate.
3 The written agreement may contain terms concerning the
4 maintenance by the new or expanding emerging technology or
5 biotechnology company of a headquarters or a base of operation in
6 this State.

7 d. (Deleted by amendment, P.L.2009, c.90.)
8 (cf: P.L.2009, c.90, s.29)】¹
9

10 ¹113. Section 1 of P.L.1997, c. 334 (C.34:1B-7.42a) is amended
11 to read as follows:

12 1. a. The New Jersey Economic Development Authority shall
13 establish within the New Jersey Emerging Technology and
14 Biotechnology Financial Assistance Program established pursuant
15 to P.L.1995, c.137 (C.34:1B-7.37 et seq.), a corporation business
16 tax benefit certificate transfer program to allow new or expanding
17 emerging technology and biotechnology companies in this State
18 with unused amounts of research and development tax credits
19 otherwise allowable which cannot be applied for the credit's tax
20 year due to the limitations of subsection b. of section 1 of P.L.1993,
21 c.175 (C.54:10A-5.24) and unused prior net operating loss
22 conversion carryover or net operating loss carryover pursuant to
23 section 4 of P.L.1945, c.162 (C.54:10A-4), to surrender those tax
24 benefits for use by other corporation business taxpayers in this
25 State, provided that the taxpayer receiving the surrendered tax
26 benefits is not affiliated with a corporation that is surrendering its
27 tax benefits under the program established under P.L.1997, c.334.
28 For the purposes of this section, the test of affiliation is whether the
29 same entity directly or indirectly owns or controls **【5%】** five
30 percent or more of the voting rights or **【5%】** five percent or more of
31 the value of all classes of stock of both the taxpayer receiving the
32 benefits and a corporation that is surrendering the benefits. The tax
33 benefits may be used on the corporation business tax returns to be
34 filed by those taxpayers in exchange for private financial assistance
35 to be provided by the corporation business taxpayer that is the
36 recipient of the corporation business tax benefit certificate to assist
37 in the funding of costs incurred by the new or expanding emerging
38 technology and biotechnology company. For purposes of this
39 subsection, a member of a combined group may sell prior net
40 operating loss conversion carryover to other members of the
41 combined group, if otherwise applicable and allowable under
42 section 2 of P.L.1997, c.334 (C.54:10A-4.2) and this section;
43 provided, however, such sale of prior net operating loss conversion
44 carryover shall be made at arm's length price at the same rate as
45 though the sale was to an unrelated taxpayer.

46 b. The authority, in cooperation with the Division of Taxation
47 in the Department of the Treasury, shall review and approve

1 applications by new or expanding emerging technology and
2 biotechnology companies in this State with unused but otherwise
3 allowable carryover of research and development tax credits
4 pursuant to section 1 of P.L.1993, c.175 (C.54:10A-5.24), and
5 unused but otherwise allowable prior net operating loss conversion
6 carryover or net operating loss carryover pursuant to section 4 of
7 P.L.1945, c.162 (C.54:10A-4), to surrender those tax benefits in
8 exchange for private financial assistance to be made by the
9 corporation business taxpayer that is the recipient of the corporation
10 business tax benefit certificate in an amount equal to at least 80% of
11 the amount of the surrendered tax benefit. Provided that the amount
12 of the surrendered tax benefit for a surrendered research and
13 development tax credit carryover is the amount of the credit, and
14 provided that the amount of the surrendered tax benefit for a
15 surrendered prior net operating loss conversion carryover or net
16 operating loss carryover is that amount for the tax year in which the
17 benefit is transferred and subsequently multiplied by the
18 corporation business tax rate provided pursuant to subsection (c) of
19 section 5 of P.L.1945, c.162 (C.54:10A-5). The authority shall be
20 authorized to approve the transfer of no more than **【\$60,000,000】**
21 \$75,000,000 of tax benefits in a State fiscal year. If the total
22 amount of transferable tax benefits requested to be surrendered by
23 approved applicants exceeds **【\$60,000,000】** \$75,000,000 for a State
24 fiscal year, the authority, in cooperation with the Division of
25 Taxation in the Department of the Treasury, shall not be authorized
26 to approve the transfer of more than **【\$60,000,000】** \$75,000,000 for
27 that State fiscal year and shall allocate the transfer of tax benefits
28 by approved companies using the following method:

29 (1) an eligible applicant with \$250,000 or less of transferable
30 tax benefits shall be authorized to surrender the entire amount of its
31 transferable tax benefits;

32 (2) an eligible applicant with more than \$250,000 of transferable
33 tax benefits shall be authorized to surrender a minimum of
34 \$250,000 of its transferable tax benefits;

35 (3) (Deleted by amendment, P.L.2009, c.90.)

36 (4) an eligible applicant with more than \$250,000 shall also be
37 authorized to surrender additional transferable tax benefits
38 determined by multiplying the applicant's transferable tax benefits
39 less the minimum transferable tax benefits that company is
40 authorized to surrender under paragraph (2) of this subsection by a
41 fraction, the numerator of which is the total amount of transferable
42 tax benefits that the authority is authorized to approve less the total
43 amount of transferable tax benefits approved under paragraphs (1),
44 (2), and (5) of this subsection and the denominator of which is the
45 total amount of transferable tax benefits requested to be surrendered
46 by all eligible applicants less the total amount of transferable tax
47 benefits approved under paragraphs (1), (2), and (5) of this
48 subsection;

1 (5) The authority shall establish the boundaries for three
2 innovation zones to be geographically distributed in the northern,
3 central, and southern portions of this State. Of the **【\$60,000,000】**
4 \$75,000,000 of transferable tax benefits authorized for each State
5 fiscal year, \$10,000,000 shall be allocated for the surrender of
6 transferable tax benefits exclusively by new and expanding
7 emerging technology and biotechnology companies that operate
8 within the boundaries of the innovation zones, except that any
9 portion of the \$10,000,000 that is not so approved shall be available
10 for that State fiscal year for the surrender of transferable tax
11 benefits by new and expanding emerging technology and
12 biotechnology companies that do not operate within the boundaries
13 of an innovation zone.

14 If the total amount of transferable tax benefits that would be
15 authorized using the above method exceeds **【\$60,000,000】**
16 \$75,000,000 for a State fiscal year, then the authority, in
17 cooperation with the Division of Taxation in the Department of the
18 Treasury, shall limit the total amount of tax benefits authorized to
19 be transferred to **【\$60,000,000】** \$75,000,000 by applying the above
20 method on an apportioned basis.

21 For purposes of this section transferable tax benefits include an
22 eligible applicant's unused but otherwise allowable prior net
23 operating loss conversion carryover or net operating loss carryover
24 determined pursuant to section 4 of P.L.1945, c.162 (C.54:10A-4)
25 for the tax year in which the benefit is transferred and subsequently
26 multiplied by the corporation business tax rate as provided in
27 subsection (c) of section 5 of P.L.1945, c.162 (C.54:10A-5) plus the
28 total amount of the applicant's unused but otherwise allowable
29 carryover of research and development tax credits. An eligible
30 applicant's transferable tax benefits shall be limited to net operating
31 losses and research and development tax credits that the applicant
32 requests to surrender in its application to the authority and shall not,
33 in total, exceed the maximum amount of tax benefits that the
34 applicant is eligible to surrender.

35 No application for a corporation business tax benefit transfer
36 certificate shall be approved in which the new or expanding
37 emerging technology or biotechnology company (1) has
38 demonstrated positive net operating income in any of the two
39 previous full years of ongoing operations as determined on its
40 financial statements issued according to generally accepted
41 accounting standards endorsed by the Financial Accounting
42 Standards Board; or (2) is directly or indirectly at least 50 percent
43 owned or controlled by another corporation that has demonstrated
44 positive net operating income in any of the two previous full years
45 of ongoing operations as determined on its financial statements
46 issued according to generally accepted accounting standards
47 endorsed by the Financial Accounting Standards Board or is part of
48 a consolidated group of affiliated corporations, as filed for federal

1 income tax purposes, that in the aggregate has demonstrated
2 positive net operating income in any of the two previous full years
3 of ongoing operations as determined on its combined financial
4 statements issued according to generally accepted accounting
5 standards endorsed by the Financial Accounting Standards Board.

6 For purposes of this subsection, a member of a combined group
7 may sell prior net operating loss conversion carryover to other
8 members of the combined group, if otherwise applicable and
9 allowable under section 2 of P.L.1997, c.334 (C.54:10A-4.2) and
10 this section; provided, however, such sale of prior net operating loss
11 conversion carryover shall be made at arm's length price at the same
12 rate as though the sale was to an unrelated taxpayer.

13 The maximum lifetime value of surrendered tax benefits that a
14 corporation shall be permitted to surrender pursuant to the program
15 is ~~[\$15,000,000]~~ \$20,000,000. Applications must be received on or
16 before June 30 of each State fiscal year.

17 The authority, in consultation with the Division of Taxation,
18 shall establish rules for the recapture of all, or a portion of, the
19 amount of a grant of a corporation business tax benefit certificate
20 from the new or expanding emerging technology and biotechnology
21 company having surrendered tax benefits pursuant to this section in
22 the event the taxpayer fails to use the private financial assistance
23 received for the surrender of tax benefits as required by this section
24 or fails to maintain a headquarters or a base of operation in this
25 State during the five years following receipt of the private financial
26 assistance; except if the failure to maintain a headquarters or a base
27 of operation in this State is due to the liquidation of the new or
28 expanding emerging technology and biotechnology company.

29 c. The authority, in cooperation with the Division of Taxation
30 in the Department of the Treasury, shall review and approve
31 applications by taxpayers under the Corporation Business Tax Act
32 (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), to acquire
33 surrendered tax benefits approved pursuant to subsection b. of this
34 section which shall be issued in the form of corporation business
35 tax benefit transfer certificates, in exchange for private financial
36 assistance to be made by the taxpayer in an amount equal to at least
37 80% of the amount of the surrendered tax benefit of an emerging
38 technology or biotechnology company in the State. A corporation
39 business tax benefit transfer certificate shall not be issued unless the
40 applicant certifies that as of the date of the exchange of the
41 corporation business tax benefit certificate it is operating as a new
42 or expanding emerging technology or biotechnology company and
43 has no current intention to cease operating as a new or expanding
44 emerging technology or biotechnology company.

45 The managerial member of a combined group shall be the
46 member that acquires a corporation business tax benefit certificate
47 on behalf of the combined group for use on the combined return.

1 The private financial assistance shall assist in funding expenses
2 incurred in connection with the operation of the new or expanding
3 emerging technology or biotechnology company in the State,
4 including but not limited to the expenses of fixed assets, such as the
5 construction and acquisition and development of real estate,
6 materials, start-up, tenant fit-out, working capital, salaries, research
7 and development expenditures and any other expenses determined
8 by the authority to be necessary to carry out the purposes of the
9 New Jersey Emerging Technology and Biotechnology Financial
10 Assistance Program.

11 The authority shall require a corporation business taxpayer that
12 acquires a corporation business tax benefit certificate to enter into a
13 written agreement with the new or expanding emerging technology
14 or biotechnology company concerning the terms and conditions of
15 the private financial assistance made in exchange for the certificate.
16 The written agreement may contain terms concerning the
17 maintenance by the new or expanding emerging technology or
18 biotechnology company of a headquarters or a base of operation in
19 this State.

20 d. (Deleted by amendment, P.L.2009, c.90.)¹

21 (cf: P.L.2020, c.118, s.1)

22

23 114. Section 1 of P.L.1999, c.140 (C.34:1B-7.42b) is amended
24 to read as follows:

25 1. As used in P.L.1997, c.334 (C.34:1B-7.42a et al.):

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

29 “Biotechnology” means the continually expanding body of
30 fundamental knowledge about the functioning of biological systems
31 from the macro level to the molecular and sub-atomic levels, as
32 well as novel products, services, technologies and sub-technologies
33 developed as a result of insights gained from research advances that
34 add to that body of fundamental knowledge. This definition may be
35 modified by regulation to conform to definitions in other programs
36 administered by the authority.

37 “Biotechnology company” means an emerging corporation that
38 has its headquarters or base of operations in this State; that owns,
39 has filed for, or has a valid license to use protected, proprietary
40 intellectual property; and that is engaged in the research,
41 development, production, or provision of biotechnology for the
42 purpose of developing or providing products or processes for
43 specific commercial or public purposes, including but not limited
44 to, medical, pharmaceutical, nutritional, and other health-related
45 purposes, agricultural purposes, and environmental purposes. This
46 definition may be modified by regulation to conform to definitions
47 in other programs administered by the authority.

1 “Full-time employee” means a person employed by a new or
2 expanding emerging technology or biotechnology company for
3 consideration for at least 35 hours a week, or who renders any other
4 standard of service generally accepted by custom or practice as full-
5 time employment and whose wages are subject to withholding as
6 provided in the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1
7 et seq., or who is a partner of a new or expanding emerging
8 technology or biotechnology company who works for the
9 partnership for at least 35 hours a week, or who renders any other
10 standard of service generally accepted by custom or practice as full-
11 time employment, and whose distributive share of income, gain,
12 loss, or deduction, or whose guaranteed payments, or any
13 combination thereof, is subject to the payment of estimated taxes, as
14 provided in the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1
15 et seq. To qualify as a “full-time employee,” an employee shall also
16 receive from the new or expanding emerging technology or
17 biotechnology company health benefits under [a group health plan
18 as defined under section 14 of P.L.1997, c.146 (C.17B:27-54), a
19 health benefits plan as defined under section 1 of P.L.1992, c.162
20 (C.17B:27A-17), or a policy or contract of health insurance
21 covering more than one person issued pursuant to Article 2
22 [N.J.S.17B:27-26 et seq.] of chapter 27 of Title 17B of the New
23 Jersey Statutes] a health benefits plan authorized pursuant to State
24 or federal law. “Full-time employee” shall not include any person
25 who works as an independent contractor or on a consulting basis for
26 the new or expanding emerging technology or biotechnology
27 company.

28 “New or expanding” means a technology or biotechnology
29 company that (1) on June 30 of the year in which the company files
30 an application for surrender of unused but otherwise allowable tax
31 benefits under P.L.1997, c.334 (C.34:1B-7.42a et al.) and on the
32 date of the exchange of the corporation business tax benefit
33 certificate, has fewer than 225 employees in the United States of
34 America; (2) on June 30 of the year in which the company files
35 such an application, has at least one full-time employee working in
36 this State if the company has been incorporated for less than three
37 years, has at least five full-time employees working in this State if
38 the company has been incorporated for more than three years but
39 less than five years, and has at least 10 full-time employees working
40 in this State if the company has been incorporated for more than
41 five years; and (3) on the date of the exchange of the corporation
42 business tax benefit certificate, the company has the requisite
43 number of full-time employees in New Jersey that were required on
44 June 30 as set forth in part (2) of this definition.

45 “Technology company” means an emerging corporation that has
46 its headquarters or base of operations in this State; that owns, has
47 filed for, or has a valid license to use protected, proprietary
48 intellectual property; and that employs some combination of the

1 following: highly educated or trained managers and workers, or
2 both, employed in this State who use sophisticated scientific
3 research service or production equipment, processes or knowledge
4 to discover, develop, test, transfer or manufacture a product or
5 service. This definition may be modified by regulation to conform
6 to definitions in other programs administered by the authority.

7 (cf: P.L.2010, c.10, s.2)

8
9 115. Section 5 of P.L.1974, c.80 (C.34:1B-5) is amended to read
10 as follows:

11 5. The authority shall have the following powers:

12 a. To adopt bylaws for the regulation of its affairs and the
13 conduct of its business;

14 b. To adopt and have a seal and to alter the same at pleasure;

15 c. To sue and be sued;

16 d. To acquire in the name of the authority by purchase or
17 otherwise, on such terms and conditions and such manner as it may
18 deem proper, or by the exercise of the power of eminent domain in
19 the manner provided by the "Eminent Domain Act of 1971,"
20 P.L.1971, c.361 (C.20:3-1 et seq.), any lands or interests therein or
21 other property which it may determine is reasonably necessary for
22 any project; provided, however, that the authority in connection
23 with any project shall not take by exercise of the power of eminent
24 domain any real property except upon consent thereto given by
25 resolution of the governing body of the municipality in which such
26 real property is located; and provided further that the authority shall
27 be limited in its exercise of the power of eminent domain in
28 connection with any project in qualifying municipalities as defined
29 under the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.), or to
30 municipalities which had a population, according to the latest
31 federal decennial census, in excess of 10,000;

32 e. To enter into contracts with a person upon such terms and
33 conditions as the authority shall determine to be reasonable,
34 including, but not limited to, reimbursement for the planning,
35 designing, financing, construction, reconstruction, improvement,
36 equipping, furnishing, operation and maintenance of the project and
37 to pay or compromise any claims arising therefrom;

38 f. To establish and maintain reserve and insurance funds with
39 respect to the financing of the project or the school facilities project
40 and any project financed pursuant to the "Municipal Rehabilitation
41 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et
42 al.);

43 g. To sell, convey or lease to any person all or any portion of a
44 project for such consideration and upon such terms as the authority
45 may determine to be reasonable;

46 h. To mortgage, pledge or assign or otherwise encumber all or
47 any portion of a project, or revenues, whenever it shall find such
48 action to be in furtherance of the purposes of this act, P.L.2000,

- 1 c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and
2 Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.),
3 P.L.2007, c.137 (C.52:18A-235 et al.), and sections 3 through 18 of
4 P.L.2009, c.90 (C.52:27D-489c et al.);
- 5 i. To grant options to purchase or renew a lease for any of its
6 projects on such terms as the authority may determine to be
7 reasonable;
- 8 j. To contract for and to accept any gifts or grants or loans of
9 funds or property or financial or other aid in any form from the
10 United States of America or any agency or instrumentality thereof,
11 or from the State or any agency, instrumentality or political
12 subdivision thereof, or from any other source and to comply,
13 subject to the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.),
14 section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72
15 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic
16 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), and
17 P.L.2007, c.137 (C.52:18A-235 et al.), with the terms and
18 conditions thereof;
- 19 k. In connection with any action undertaken by the authority in
20 the performance of its duties and any application for assistance or
21 commitments therefor and modifications thereof, to require and
22 collect such fees and charges as the authority shall determine to be
23 reasonable, including but not limited to fees and charges for the
24 authority's administrative, organizational, insurance, operating,
25 legal, and other expenses;
- 26 l. To adopt, amend and repeal regulations to carry out the
27 provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of
28 P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.),
29 the "Municipal Rehabilitation and Economic Recovery Act,"
30 P.L.2002, c.43 (C.52:27BBB-1 et al.), and P.L.2007, c.137
31 (C.52:18A-235 et al.);
- 32 m. To acquire, purchase, manage and operate, hold and dispose
33 of real and personal property or interests therein, take assignments
34 of rentals and leases and make and enter into all contracts, leases,
35 agreements and arrangements necessary or incidental to the
36 performance of its duties;
- 37 n. To purchase, acquire and take assignments of notes,
38 mortgages and other forms of security and evidences of
39 indebtedness;
- 40 o. To purchase, acquire, attach, seize, accept or take title to any
41 project or school facilities project by conveyance or by foreclosure,
42 and sell, lease, manage or operate any project or school facilities
43 project for a use specified in this act, P.L.2000, c.72 (C.18A:7G-1
44 et al.), the "Municipal Rehabilitation and Economic Recovery Act,"
45 P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-
46 235 et al.), and sections 3 through 18 of P.L.2009, c.90 (C.52:27D-
47 489c et al.);

1 p. To borrow money and to issue bonds of the authority and to
2 provide for the rights of the holders thereof, as provided in
3 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401
4 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal
5 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
6 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and
7 sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.);

8 q. To extend credit or make loans to any person for the
9 planning, designing, acquiring, constructing, reconstructing,
10 improving, equipping and furnishing of a project or school facilities
11 project, which credits or loans may be secured by loan and security
12 agreements, mortgages, leases and any other instruments, upon such
13 terms and conditions as the authority shall deem reasonable,
14 including provision for the establishment and maintenance of
15 reserve and insurance funds, and to require the inclusion in any
16 mortgage, lease, contract, loan and security agreement or other
17 instrument, of such provisions for the construction, use, operation
18 and maintenance and financing of a project or school facilities
19 project as the authority may deem necessary or desirable;

20 r. To guarantee up to 90% of the amount of a loan to a person,
21 if the proceeds of the loan are to be applied to the purchase and
22 installation, in a building devoted to industrial or commercial
23 purposes, or in an office building, of an energy improvement
24 system;

25 s. To employ consulting engineers, architects, attorneys, real
26 estate counselors, appraisers, and such other consultants and
27 employees as may be required in the judgment of the redevelopment
28 utility to carry out the purposes of P.L.1974, c.80 (C.34:1B-1 et
29 seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72
30 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic
31 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007,
32 c.137 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009,
33 c.90 (C.52:27D-489c et al.), and to fix and pay their compensation
34 from funds available to the redevelopment utility therefor, all
35 without regard to the provisions of Title 11A of the New Jersey
36 Statutes;

37 t. To do and perform any acts and things authorized by
38 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401
39 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal
40 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
41 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and
42 sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.),
43 under, through or by means of its own officers, agents and
44 employees, or by contract with any person;

45 u. To procure insurance against any losses in connection with
46 its property, operations or assets in such amounts and from such
47 insurers as it deems desirable;

1 v. To do any and all things necessary or convenient to carry out
2 its purposes and exercise the powers given and granted in P.L.1974,
3 c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-
4 4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal
5 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
6 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and
7 sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.);

8 w. To construct, reconstruct, rehabilitate, improve, alter, equip,
9 maintain or repair or provide for the construction, reconstruction,
10 improvement, alteration, equipping or maintenance or repair of any
11 development property and lot, award and enter into construction
12 contracts, purchase orders and other contracts with respect thereto,
13 upon such terms and conditions as the authority shall determine to
14 be reasonable, including, but not limited to, reimbursement for the
15 planning, designing, financing, construction, reconstruction,
16 improvement, equipping, furnishing, operation and maintenance of
17 any such development property and the settlement of any claims
18 arising therefrom and the establishment and maintenance of reserve
19 funds with respect to the financing of such development property;

20 x. When authorized by the governing body of a municipality
21 exercising jurisdiction over an urban growth zone, to construct,
22 cause to be constructed or to provide financial assistance to projects
23 in an urban growth zone which shall be exempt from the terms and
24 requirements of the land use ordinances and regulations, including,
25 but not limited to, the master plan and zoning ordinances, of such
26 municipality;

27 y. To enter into business employment incentive agreements as
28 provided in the "Business Employment Incentive Program Act,"
29 P.L.1996, c.26 (C.34:1B-124 et al.);

30 z. To enter into agreements or contracts, execute instruments,
31 and do and perform all acts or things necessary, convenient or
32 desirable for the purposes of the redevelopment utility to carry out
33 any power expressly provided pursuant to P.L.1974, c.80 (C.34:1B-
34 1 et seq.), P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007, c.137
35 (C.52:18A-235 et al.), including, but not limited to, entering into
36 contracts with the State Treasurer, the Commissioner of Education,
37 districts, the New Jersey Schools Development Authority, and any
38 other entity which may be required in order to carry out the
39 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.2007, c.137
40 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009, c.90
41 (C.52:27D-489c et al.);

42 aa. (Deleted by amendment, P.L.2007, c.137);

43 bb. To make and contract to make loans to local units to finance
44 the cost of school facilities projects and to acquire and contract to
45 acquire bonds, notes or other obligations issued or to be issued by
46 local units to evidence the loans, all in accordance with the
47 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007,
48 c.137 (C.52:18A-235 et al.);

1 cc. Subject to any agreement with holders of its bonds issued to
2 finance a project or school facilities project, obtain as security or to
3 provide liquidity for payment of all or any part of the principal of
4 and interest and premium on the bonds of the authority or for the
5 purchase upon tender or otherwise of the bonds, lines of credit,
6 letters of credit, reimbursement agreements, interest rate exchange
7 agreements, currency exchange agreements, interest rate floors or
8 caps, options, puts or calls to hedge payment, currency, rate, spread
9 or similar exposure or similar agreements, float agreements,
10 forward agreements, insurance contract, surety bond, commitment
11 to purchase or sell bonds, purchase or sale agreement, or
12 commitments or other contracts or agreements, and other security
13 agreements or instruments in any amounts and upon any terms as
14 the authority may determine and pay any fees and expenses required
15 in connection therewith;

16 dd. To charge to and collect from local units, the State and any
17 other person, any fees and charges in connection with the
18 authority's actions undertaken with respect to school facilities
19 projects, including, but not limited to, fees and charges for the
20 authority's administrative, organization, insurance, operating and
21 other expenses incident to the financing of school facilities projects;

22 ee. To make loans to refinance solid waste facility bonds
23 through the issuance of bonds or other obligations and the execution
24 of any agreements with counties or public authorities to effect the
25 refunding or rescheduling of solid waste facility bonds, or otherwise
26 provide for the payment of all or a portion of any series of solid
27 waste facility bonds. Any county or public authority refunding or
28 rescheduling its solid waste facility bonds pursuant to this
29 subsection shall provide for the payment of not less than fifty
30 percent of the aggregate debt service for the refunded or
31 rescheduled debt of the particular county or public authority for the
32 duration of the loan; except that, whenever the solid waste facility
33 bonds to be refinanced were issued by a public authority and the
34 county solid waste facility was utilized as a regional county solid
35 waste facility, as designated in the respective adopted district solid
36 waste management plans of the participating counties as approved
37 by the department prior to November 10, 1997, and the utilization
38 of the facility was established pursuant to tonnage obligations set
39 forth in their respective interdistrict agreements, the public
40 authority refunding or rescheduling its solid waste facility bonds
41 pursuant to this subsection shall provide for the payment of a
42 percentage of the aggregate debt service for the refunded or
43 rescheduled debt of the public authority not to exceed the
44 percentage of the specified tonnage obligation of the host county for
45 the duration of the loan. Whenever the solid waste facility bonds
46 are the obligation of a public authority, the relevant county shall
47 execute a deficiency agreement with the authority, which shall
48 provide that the county pledges to cover any shortfall and to pay

1 deficiencies in scheduled repayment obligations of the public
2 authority. All costs associated with the issuance of bonds pursuant
3 to this subsection may be paid by the authority from the proceeds of
4 these bonds. Any county or public authority is hereby authorized to
5 enter into any agreement with the authority necessary, desirable or
6 convenient to effectuate the provisions of this subsection.

7 The authority shall not issue bonds or other obligations to effect
8 the refunding or rescheduling of solid waste facility bonds after
9 December 31, 2002. The authority may refund its own bonds issued
10 for the purposes herein at any time;

11 ff. To pool loans for any local government units that are
12 refunding bonds and do and perform any and all acts or things
13 necessary, convenient or desirable for the purpose of the authority
14 to achieve more favorable interest rates and terms for those local
15 governmental units;

16 gg. To finance projects approved by the board, provide staff
17 support to the board, oversee and monitor progress on the part of
18 the board in carrying out the revitalization, economic development
19 and restoration projects authorized pursuant to the "Municipal
20 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
21 (C.52:27BBB-1 et al.) and otherwise fulfilling its responsibilities
22 pursuant thereto;

23 hh. To offer financial assistance to qualified film production
24 companies as provided in the "New Jersey Film Production
25 Assistance Act," P.L.2003, c.182 (C.34:1B-178 et al.);

26 ii. To finance or develop private or public parking facilities or
27 structures, which may include the use of solar photovoltaic
28 equipment, in municipalities qualified to receive State aid pursuant
29 to the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.) and
30 municipalities that contain areas designated pursuant to P.L.1985,
31 c.398 (C.52:18A-196 et al.) as Planning Area 1 (Metropolitan),
32 Planning Area 2 (Suburban), or a town center, and to provide
33 appropriate assistance, including but not limited to, extensions of
34 credit, loans, and guarantees, to municipalities qualified to receive
35 State aid pursuant to the provisions of P.L.1978, c.14 (C.52:27D-
36 178 et seq.) and municipalities that contain areas designated
37 pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning
38 Area 1 (Metropolitan), Planning Area 2 (Suburban), or a town
39 center, and their agencies and instrumentalities or to private entities
40 whose projects are located in those municipalities, in order to
41 facilitate the financing and development of parking facilities or
42 structures in such municipalities. The authority may serve as the
43 issuing agent of bonds to finance the undertaking of a project for
44 the purposes of this subsection; **[and]**

45 jj. To make grants for the planning, designing, acquiring,
46 constructing, reconstructing, improving, equipping, and furnishing
47 of a project, including, but not limited to, grants for working capital
48 and meeting payroll requirements, upon such terms and conditions

1 as the authority shall deem reasonable, during periods of emergency
 2 declared by the Governor and for the duration of economic
 3 disruptions due to the emergency;

4 kk. To purchase and lease real property at a nominal rate when it
 5 would result in a net economic benefit to the State, enhance access
 6 to employment and investment for underserved populations, or
 7 increase investment and employment in high-growth technology
 8 sectors; and

9 (cf: P.L.2020, c.8, s.1)

10
 11 116. Section 4 of P.L.1992, c.16 (C.34:1B-7.13) is amended to
 12 read as follows:

13 4. The authority may use the moneys in the fund to pay
 14 principal of, premium, if any, and interest on bonds or notes, which
 15 shall be entitled "Economic Recovery Fund Bonds or Notes," as
 16 appropriate, the proceeds, or net proceeds, of which shall be
 17 deposited into the fund, or used for purposes of the fund, and
 18 moneys in the fund, including money received from the sale of
 19 bonds shall, in such manner as is determined by the authority, and
 20 pursuant to subsections d., e., and f. of this section, be used for the
 21 financing of projects as set forth in section 3 of P.L.1974, c.80
 22 (C.34:1B-3) and to establish:

23 a. an economic growth account for **【business】** programs and
 24 initiatives, which will support and invest in small and medium-size
 25 businesses and other entities engaged in economic, community, and
 26 workforce development that have the greatest potential for creating
 27 jobs and stimulating economic growth through such elements **【as】**
 28 including, but not limited to:

29 (1) a Statewide lending pool and guarantee pool for small
 30 business, whether directly or through a community development
 31 financial institution;

32 (2) a business composite bond guarantee **【.】** ;

33 (3) a fund to further supplement the export finance program of
 34 the authority to provide direct loans and working capital necessary
 35 for New Jersey businesses to compete in the global market, real
 36 estate partnerships **【.】** ;

37 (4) a Statewide composite bond pool to assist municipalities in
 38 acquiring needed financing for capital expenditures **【.】** ;

39 (5) **【community-based】** financial assistance to assist
 40 municipalities **【in establishing local development corporations】** ,
 41 municipal entities, counties, county entities, regional entities, State
 42 instrumentalities, and not-for-profit local economic and community
 43 development entities to execute programs and initiative to stimulate
 44 community and economic development【.】 ;

45 (6) a venture, seed, or angel capital fund for start-up costs for
 46 businesses developing new concepts and inventions **【.】** ;

1 (7) a fund to assist businesses, either directly or through a not-
2 for-profit or for-profit entity with expansion or transition to a new
3 business model in such areas [as] including, but not limited to,
4 manufacturing retooling to improve quality, to reduce production
5 costs and to train employees to apply the latest technology [, and] ;

6 (8) a "Main Street Business Assistance Program" to provide
7 guarantees and loans to small and mid-size businesses and not-for-
8 profit [corporations] entities to stimulate the economy;

9 (9) in consultation with the Department of Labor and Workforce
10 Development and the Office of the Secretary of Higher Education, a
11 fund to support and invest in innovative workforce development
12 approaches and programs, including those that could benefit
13 individuals directly, either undertaken directly by the authority or
14 through a governmental, not-for-profit, or for-profit entity, that
15 align with targeted industries as defined by the authority's board or
16 support a high-demand occupation;

17 (10) a fund to provide grants, financing, or equity to
18 collaborations between large corporations, small-to-medium sized
19 businesses, academic institutions, government entities, or not-for-
20 profit entities, where one of the purposes of the collaboration is to
21 stimulate community or economic development;

22 (11) a fund to provide grants, financing, or equity in innovation
23 centers, research centers, incubators, and accelerators, and other
24 similar innovation-oriented entities, which are focused on the
25 targeted industries as defined by the authority's board or support
26 increasing diversity and inclusion within the state's entrepreneurial
27 economy; the fund may also be used to pay for membership fees, or
28 other similar arrangements, for the authority to join or participate in
29 such innovation-oriented entities;

30 (12) a fund to provide grants or competition prizes to fund
31 initiative-based activities which stimulate growth in targeted
32 industries as defined by the authority's board or supports increasing
33 diversity and inclusion within the ' [state's] State's' entrepreneurial
34 economy; this fund may also support not-for-profit industry, trade,
35 and labor organization initiatives; and

36 (13) a fund to provide grants or competition prizes, either
37 directly or through a not-for-profit entity, that is consistent with
38 economic development priorities as defined by the authority's
39 board, where funds have been specifically allocated to the economic
40 recovery fund for this purpose, including but not limited to an
41 appropriation or transfer from another government entity '[]'.

42 The authority may promulgate rules and regulations for the
43 effective implementation of the "Main Street Business Assistance
44 Program." Notwithstanding any provision of the "Administrative
45 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
46 contrary, the authority may adopt, immediately upon filing with the
47 Office of Administrative Law, such regulations as are necessary to

1 implement the provisions of this act, which shall be effective for a
2 period not to exceed 12 months following enactment, and may
3 thereafter be amended, adopted, or readopted by the authority in
4 accordance with the requirements of the "Administrative Procedure
5 Act," P.L.1968, c.410 (C.52:14B-1 et seq.). **During periods of**
6 **emergency declared by the Governor and for the duration of**
7 **economic disruptions due to the emergency, the** The authority may
8 use the economic growth account for the planning, designing,
9 acquiring, constructing, reconstructing, improving, equipping, and
10 furnishing by small and medium-size businesses and not-for-profit
11 corporations of a project as defined in section 3 of P.L.1974, c. 80
12 (C.34:1B-3), including, but not limited to, grants for working
13 capital and meeting payroll requirements, upon such terms and
14 conditions as the authority shall deem reasonable;

15 b. an economic development infrastructure program account,
16 which shall provide for the financing and development of
17 infrastructure and transportation projects, including but not limited
18 to ports, terminal and transit facilities, roads and airports, parking
19 facilities used in connection with transit facilities, and related
20 facilities, including public-private partnerships, that are integral to
21 economic growth;

22 c. an account for a cultural, recreational, fine and performing
23 arts, military and veterans memorial, historic preservation project
24 and tourism facilities and improvements program, which shall
25 provide for the financing and development of cultural, recreational,
26 fine and performing arts, military and veterans memorial, historic
27 preservation and tourism projects, including partnerships with
28 public, private and nonprofit entities;

29 d. an account, into which shall be deposited an amount not less
30 than \$45,000,000, out of the total amounts deposited or credited to
31 the fund from the proceeds of the sale of Economic Recovery Fund
32 Bonds or Notes, for the financing of capital facilities for primary
33 and secondary schools in the State for the purpose of the
34 renovation, repair or alteration of existing school buildings, the
35 construction of new school buildings or the conversion of existing
36 school buildings to other instructional purposes.

37 (1) Of the amount deposited in the account, not less than
38 \$25,000,000 shall be deposited in the "Public School Facilities
39 Code Compliance Loan Fund" established pursuant to section 4 of
40 P.L.1993, c.102 (C.34:1B-7.23).

41 (2) Of the amount deposited in the account, not less than
42 \$20,000,000 shall be deposited in the "Public School Facilities
43 Loan Assistance Fund" established pursuant to section 5 of
44 P.L.1993, c.102 (C.34:1B-7.24);

45 e. an environmental cleanup assistance account, into which
46 shall be deposited an amount not less than \$10,000,000, out of the
47 total amounts deposited or credited to the fund from the proceeds of
48 the sale of Economic Recovery Fund Bonds or Notes, to provide

1 financial assistance to the persons and other entities entitled to
2 apply for financial assistance pursuant to P.L.1993, c.139; and

3 f. an account, into which shall be deposited an amount not less
4 than \$15,000,000, out of the total amounts deposited or credited to
5 the fund from the proceeds of the sale of Economic Recovery Fund
6 Bonds or Notes, for the financing of shore restoration, maintenance,
7 monitoring, protection and preservation projects pursuant to the
8 shore protection master plan prepared by the Department of
9 Environmental Protection pursuant to P.L.1978, c.157.

10 (cf: P.L.2020, c.8, s.2)

11
12 117. Section 2 of P.L.1997, c.349 (C.54:10A-5.29) is amended
13 to read as follows:

14 2. As used in sections 1 through 3 of P.L.1997, c.349
15 (C.54:10A-5.28 through C.54:10A-5.30):

16 “Advanced computing” means a technology used in the
17 designing and developing of computing hardware and software,
18 including innovations in designing the full spectrum of hardware
19 from hand- held calculators to super computers, and peripheral
20 equipment.

21 “Advanced materials” means materials with engineered
22 properties created through the development of specialized
23 processing and synthesis technology, including ceramics, high
24 value-added metals, electronic materials, composites, polymers, and
25 biomaterials.

26 “Biotechnology” means the continually expanding body of
27 fundamental knowledge about the functioning of biological systems
28 from the macro level to the molecular and sub-atomic levels, as
29 well as novel products, services, technologies, and sub-technologies
30 developed as a result of insights gained from research advances
31 which add to that body of fundamental knowledge.

32 “Carbon footprint reduction technology” means a technology
33 using equipment for the commercial, institutional, and industrial
34 sectors that: increases energy efficiency; develops and delivers
35 renewable or non-carbon-emitting energy technologies; develops
36 innovative carbon emissions abatement with significant carbon
37 emissions reduction potential; or promotes measurable electricity
38 end-use energy efficiency.

39 “Control” with respect to a corporation means ownership,
40 directly or indirectly, of stock possessing 80 percent or more of the
41 total combined voting power of all classes of the stock of the
42 corporation entitled to vote; and “control” with respect to a trust
43 means ownership, directly or indirectly, of 80 percent or more of
44 the beneficial interest in the principal or income of the trust. The
45 ownership of stock in a corporation, of a capital or profits interest in
46 a partnership or association or of a beneficial interest in a trust shall
47 be determined in accordance with the rules for constructive
48 ownership of stock provided in subsection (c) of section 267 of the

1 federal Internal Revenue Code of 1986 (26 U.S.C. § 267), other
2 than paragraph (3) of subsection (c) of that section.

3 “Controlled group” means one or more chains of corporations
4 connected through stock ownership with a common parent
5 corporation if stock possessing at least 80 percent of the voting
6 power of all classes of stock of each of the corporations is owned
7 directly or indirectly by one or more of the corporations and the
8 common parent owns directly stock possessing at least 80 percent of
9 the voting power of all classes of stock of at least one of the other
10 corporations.

11 “Director” means the Director of the Division of Taxation in the
12 Department of the Treasury.

13 “Diverse entrepreneur” means a New Jersey based business that
14 meets the criteria for a minority business or female business set
15 forth in section ‘[2] 3’ of P.L.1983, c.482 (C.52:32-19).

16 “Electronic device technology” means a technology involving
17 microelectronics, semiconductors, electronic equipment and
18 instrumentation, radio frequency, microwave and millimeter
19 electronics, and optical and optic-electrical devices, or data and
20 digital communications and imaging devices.

21 “Information technology” means software publishing, motion
22 picture and video production, television production and post-
23 production services, telecommunications, data processing, hosting
24 and related services, custom computer programming services,
25 computer system design, computer facilities management services,
26 other computer related services, and computer training.

27 “Life sciences” means the production of medical equipment,
28 ophthalmic goods, medical or dental instruments, diagnostic
29 substances, biopharmaceutical products, or physical and biological
30 research.

31 “Medical device technology” means a technology involving any
32 medical equipment or product (other than a pharmaceutical product)
33 that has therapeutic value, diagnostic value, or both, and is
34 regulated by the federal Food and Drug Administration.

35 “Mobile communications technology” means a technology
36 involving the functionality and reliability of the transmission of
37 voice and multimedia data using a communication infrastructure via
38 a computer or a mobile device, that shall include, but not be limited
39 to, smartphones, electronic books and tablets, digital audio players,
40 motor vehicle electronics, home entertainment systems, and other
41 wireless appliances, without having connected to any physical or
42 fixed link.

43 “New Jersey based business” means a company with fewer than
44 225 employees, of whom at least 75 percent are filling a position in
45 New Jersey, that is doing business, employing or owning capital or
46 property, or maintaining an office in this State.

47 “New Jersey emerging technology business” means a company
48 with fewer than 225 employees, of whom at least 75 percent are

1 filling a position in New Jersey, that is doing business, employing
2 or owning capital or property, or maintaining an office in this State
3 and: has qualified research expenses paid or incurred for research
4 conducted in this State; conducts pilot scale manufacturing in this
5 State; or conducts technology commercialization in this State in the
6 fields of advanced computing, advanced materials, biotechnology,
7 carbon footprint reduction technology, electronic device
8 technology, information technology, life sciences, medical device
9 technology, mobile communications technology, or renewable
10 energy technology.

11 “New Jersey emerging technology business holding company”
12 means any corporation, association, firm, partnership, trust, or other
13 form of business organization, but not a natural person, which
14 directly or indirectly, owns, has the power or right to control, or has
15 the power to vote, a controlling share of the outstanding voting
16 securities of a corporation or other form of a New Jersey emerging
17 technology business.

18 “Partnership” means a syndicate, group, pool, joint venture, or
19 other unincorporated organization through or by means of which
20 any business, financial operation, or venture is carried on, and
21 which is not a trust or estate, a corporation, or a sole proprietorship.

22 “Pilot scale manufacturing” means the design, construction, and
23 testing of preproduction prototypes and models in the fields of
24 advanced computing, advanced materials, biotechnology, carbon
25 footprint reduction technology electronic device technology,
26 information technology, life sciences, medical device technology,
27 mobile communications technology, and renewable energy
28 technology, other than for commercial sale, excluding sales of
29 prototypes or sales for market testing if the total gross receipts, as
30 calculated in the manner provided in section 6 of P.L.1945, c.162
31 (C.54:10A-6), from the sales of the product, service, or process do
32 not exceed \$1,000,000.

33 “Qualified investment” means the non-refundable transfer of
34 cash to a New Jersey emerging technology business or to a New
35 Jersey emerging technology business holding company by a
36 taxpayer that is not a related person of the New Jersey emerging
37 technology business or the New Jersey emerging technology
38 business holding company, the transfer of which is in connection
39 with either: a transaction between or among the taxpayer and the
40 New Jersey emerging technology business or the New Jersey
41 emerging technology holding company or both in exchange for
42 stock, interests in partnerships or joint ventures, licenses (exclusive
43 or non-exclusive), rights to use technology, marketing rights,
44 warrants, options, or any items similar to those included herein,
45 including, but not limited to, options or rights to acquire any of the
46 items included herein; or a purchase, production, or research
47 agreement between or among the taxpayer and the New Jersey
48 emerging technology business or the New Jersey emerging

1 technology holding company or both. “Qualified investment” also
2 means the non-refundable transfer of cash or irrevocable contractual
3 commitment to ‘[transfer cash to]’ a qualified venture fund.

4 “Qualified research expenses” means qualified research
5 expenses, as defined in section 41 of the federal Internal Revenue
6 Code of 1986 (26 U.S.C. § 41), as in effect on June 30, 1992, in the
7 fields of advanced computing, advanced materials, biotechnology,
8 carbon footprint reduction technology, electronic device
9 technology, information technology, life sciences, medical device
10 technology, mobile communications technology, or renewable
11 energy technology.

12 “Qualified venture fund” means a venture fund required by
13 contract to invest a minimum of 50 percent of its funds in New
14 Jersey based businesses that the authority, in its sole discretion,
15 based upon the qualified venture fund’s investment history, if any,
16 its private placement memorandum and other relevant information,
17 has determined has the capacity to make the minimum investment.

18 “Related person” means:

19 a corporation, partnership, association or trust controlled by the
20 taxpayer;

21 an individual, corporation, partnership, association or trust that is
22 in the control of the taxpayer;

23 a corporation, partnership, association or trust controlled by an
24 individual, corporation, partnership, association or trust that is in
25 the control of the taxpayer; or

26 a member of the same controlled group as the taxpayer.

27 “Renewable energy technology” means a technology involving
28 the generation of electricity from solar energy; wind energy; wave
29 or tidal action; geothermal energy; the combustion of gas from the
30 anaerobic digestion of food waste and sewage sludge at a biomass
31 generating facility; the combustion of methane gas captured from a
32 landfill; and a fuel cell powered by methanol, ethanol, landfill gas,
33 digester gas, biomass gas, or other renewable fuel but not powered
34 by a fossil fuel.

35 “Tax year” means the fiscal or calendar accounting period of a
36 taxpayer.

37 “Venture fund” means a partnership, corporation, trust, or
38 limited liability company that invests cash in a business during the
39 early or expansion stages of a business in exchange for an equity
40 stake in the business in, ‘[”]’ which the investment is made.
41 Venture firm may include a venture capital fund, a family office
42 fund, or a corporate investor fund, provided that a professional
43 manager administers the venture firm.

44 “Verified transfer of funds” means a non-refundable transfer of
45 funds equal to 100 percent of the taxpayer’s qualified investment in
46 the New Jersey emerging technology business holding company to a
47 New Jersey emerging technology business by the New Jersey
48 emerging technology business holding company that is

1 accompanied by documentation, as required by the New Jersey
2 Economic Development Authority, which provides proof of a cash
3 transaction originating with a taxpayer and concluding with a New
4 Jersey emerging technology business, provided that the transactions
5 from origin to destination occur within the same tax year.

6 The definitions of “advanced computing,” “advanced materials,”
7 “biotechnology,” ¹“carbon footprint reduction technology,”
8 “electronic device technology,” “information technology,” ¹“
9 “life sciences,”¹“ “medical device technology,” ¹“mobile
10 communications technology,” ¹“ “New Jersey emerging
11 technology business,” “pilot scale manufacturing,” and “renewable
12 energy technology¹”¹ may be modified by regulation to conform to
13 definitions in other programs administered by the authority.
14 (cf: P.L.2017, c.40, s.1)
15

16 ¹118. Section 3 of P.L.1997, c.349 (C.54:10A-5.30) is
17 amended to read as follows:

18 3. a. (1) A taxpayer, upon approval of the taxpayer’s
19 application therefor by the New Jersey Economic Development
20 Authority and in consultation with the director, shall be allowed a
21 credit against the tax imposed pursuant to section 5 of P.L.1945,
22 c.162 (C.54:10A-5), in an amount equal to 20 percent of the
23 qualified investment made by the taxpayer in a New Jersey
24 emerging technology business, **[or]** in a New Jersey emerging
25 technology business holding company that makes a verified transfer
26 of funds to a New Jersey emerging technology business, or in a
27 qualified venture fund; provided, however, a taxpayer may be
28 allowed a tax credit in an amount equal to 25 percent of the
29 qualified investment if the taxpayer satisfies one of the
30 requirements set forth in paragraph (2) of this subsection. The value
31 of tax credits allowed to a taxpayer pursuant to this section shall not
32 exceed \$500,000 for the privilege period for each qualified
33 investment made by the taxpayer.

34 (2) Subject to the limits established in paragraph (1) of this
35 subsection, the New Jersey Economic Development Authority, in
36 consultation with the director, shall increase the amount of a tax
37 credit allowed pursuant to this section by five percent if the
38 taxpayer makes a qualified investment in a New Jersey emerging
39 technology business, or in a New Jersey emerging technology
40 business holding company that makes a verified transfer of funds to
41 a New Jersey emerging technology business, or in a qualified
42 venture fund, if the New Jersey emerging technology business is **[**:

43 (a) **]** either located in a qualified opportunity zone pursuant to 26
44 U.S.C. § 1400Z-1, or a low-income community as defined in
45 subparagraph (e) of 26 U.S.C. § 45D **;** **]** or

46 **[(b)]** certified by the State as a minority business or a women’s
47 business pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.) and,

1 in the case of a qualified venture fund, if the qualified venture fund
2 commits by contract to invest 50 percent of its funds in diverse
3 entrepreneurs.

4 b. A credit shall not be allowed pursuant to section 1 of
5 P.L.1993, c.175 (C.54:10A-5.24), for expenses paid from funds for
6 which a credit is allowed, or which are includable in the calculation
7 of a credit allowed, under this section.

8 Notwithstanding any other provision of law, the order of priority in
9 which the credit allowed by this section and any other credits
10 allowed by law may be taken shall be as prescribed by the director.

11 c. Except as provided in subsection d. of this section, the
12 amount of credit otherwise allowable under this section which
13 cannot be applied for the privilege period against tax liability
14 otherwise due for that privilege period may either be carried over, if
15 necessary, to the 15 privilege periods following the privilege period
16 for which the credit was allowed or, at the election of the taxpayer,
17 be claimed as and treated as an overpayment for the purposes of
18 R.S.54:49-15, provided, however, that section 7 of P.L.1992, c.175
19 (C.54:49-15.1) shall not apply.

20 d. A taxpayer may not carry over any amount of credit allowed
21 under subsection a. of this section to a privilege period during
22 which a corporate acquisition with respect to which the taxpayer
23 was a target corporation occurred or during which the taxpayer was
24 a party to a merger or a consolidation, or to any subsequent
25 privilege period, if the credit was allowed for a privilege period
26 prior to the year of acquisition, merger or consolidation, except that
27 if in the case of a corporate merger or corporate consolidation the
28 taxpayer can demonstrate, through the submission of a copy of the
29 plan of merger or consolidation and such other evidence as may be
30 required by the director, the identity of the constituent corporation
31 which was the acquiring person, a credit allowed to the acquiring
32 person may be carried over by the taxpayer. As used in this
33 subsection, "acquiring person" means the constituent corporation
34 the stockholders of which own the largest proportion of the total
35 voting power in the surviving or consolidated corporation after the
36 merger or consolidation.

37 e. The Executive Director of the New Jersey Economic
38 Development Authority, in consultation with the director, shall
39 adopt, pursuant to the "Administrative Procedure Act," P.L.1968,
40 c.410 (C.52:14B-1 et seq.), rules and regulations that are necessary
41 to implement sections 1 through 3 of P.L.1997, c.349 (C.54:10A-
42 5.28 through C.54:10A-5.30) and section 4 of P.L.2013, c.14
43 (C.54A:4-13), including, but not limited to: examples of and the
44 determination of qualified investments of which applicants shall
45 provide documentation with their tax credit application; the
46 promulgation of procedures and forms necessary to apply for a
47 credit; provisions for recapture in the event a taxpayer receives a
48 credit on the basis of its commitment to transfer cash to a qualified

1 venture fund and it does not fund its commitment; and provisions
2 for credit applicants to be charged an initial application fee and
3 ongoing service fees to cover the administrative costs related to the
4 credit.

5 The amount of credits approved by the Executive Director of the
6 New Jersey Economic Development Authority, and in consultation
7 with the director, pursuant to subsection a. of this section and
8 pursuant to section 4 of P.L.2013, c.14 (C.54A:4-13), shall not
9 exceed a cumulative total of **["\$25,000,000"]** \$35,000,000 in any
10 calendar year to apply against the tax imposed pursuant to section 5
11 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to
12 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. If
13 the cumulative amount of credits allowed to taxpayers in a calendar
14 year exceeds the amount of credits available in that year, then
15 taxpayers who have first applied for and have not been allowed a
16 credit amount for that reason shall be allowed, in the order in which
17 they have submitted an application, the amount of the tax credit on
18 the first day of the next succeeding calendar year in which tax
19 credits under this section and section 4 of P.L.2013, c.14 (C.54A:4-
20 13) are not in excess of the amount of credits available.

21 (cf: P.L.2017, c.40, s.2) **】**¹

22
23 ¹118. Section 3 of P.L.1997, c.349 (C.54:10A-5.30) is amended
24 to read as follows:

25 3. a. (1) A taxpayer, upon approval of the taxpayer's
26 application therefor by the New Jersey Economic Development
27 Authority and in consultation with the director, shall be allowed a
28 credit against the tax imposed pursuant to section 5 of P.L.1945,
29 c.162 (C.54:10A-5), in an amount equal to 20 percent of the
30 qualified investment made by the taxpayer in a New Jersey
31 emerging technology business, **【or】** in a New Jersey emerging
32 technology business holding company that makes a verified transfer
33 of funds to a New Jersey emerging technology business, or in a
34 qualified venture fund; provided, however, a taxpayer may be
35 allowed a tax credit in an amount equal to 25 percent of the
36 qualified investment if the taxpayer satisfies one of the
37 requirements set forth in paragraph (2) of this subsection. The value
38 of tax credits allowed to a taxpayer pursuant to this section shall not
39 exceed \$500,000 for the privilege period for each qualified
40 investment made by the taxpayer.

41 (2) Subject to the limits established in paragraph (1) of this
42 subsection, the New Jersey Economic Development Authority, in
43 consultation with the director, shall increase the amount of a tax
44 credit allowed pursuant to this section by five percent if the
45 taxpayer makes a qualified investment in a New Jersey emerging
46 technology business, or in a New Jersey emerging technology
47 business holding company that makes a verified transfer of funds to

1 a New Jersey emerging technology business, or in a qualified
2 venture fund, if the New Jersey emerging technology business is **【**:

3 (a) **】** either located in a qualified opportunity zone pursuant to 26
4 U.S.C. § 1400Z-1, or a low-income community as defined in
5 subparagraph (e) of 26 U.S.C. § 45D **【;】** or

6 **【(b)】** certified by the State as a minority business or a women's
7 business pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.) and,
8 in the case of a qualified venture fund, if the qualified venture fund
9 commits by contract to invest 50 percent of its funds in diverse
10 entrepreneurs.

11 b. A credit shall not be allowed pursuant to section 1 of
12 P.L.1993, c.175 (C.54:10A-5.24), for expenses paid from funds for
13 which a credit is allowed, or which are includable in the calculation
14 of a credit allowed, under this section.

15 Notwithstanding any other provision of law, the order of priority in
16 which the credit allowed by this section and any other credits
17 allowed by law may be taken shall be as prescribed by the director.

18 c. Except as provided in subsection d. of this section, the
19 amount of credit otherwise allowable under this section which
20 cannot be applied for the privilege period against tax liability
21 otherwise due for that privilege period may either be carried over, if
22 necessary, to the 15 privilege periods following the privilege period
23 for which the credit was allowed or, at the election of the taxpayer,
24 be claimed as and treated as an overpayment for the purposes of
25 R.S.54:49-15, provided, however, that section 7 of P.L.1992, c.175
26 (C.54:49-15.1) shall not apply.

27 d. A taxpayer may not carry over any amount of credit allowed
28 under subsection a. of this section to a privilege period during
29 which a corporate acquisition with respect to which the taxpayer
30 was a target corporation occurred or during which the taxpayer was
31 a party to a merger or a consolidation, or to any subsequent
32 privilege period, if the credit was allowed for a privilege period
33 prior to the year of acquisition, merger or consolidation, except that
34 if in the case of a corporate merger or corporate consolidation the
35 taxpayer can demonstrate, through the submission of a copy of the
36 plan of merger or consolidation and such other evidence as may be
37 required by the director, the identity of the constituent corporation
38 which was the acquiring person, a credit allowed to the acquiring
39 person may be carried over by the taxpayer. As used in this
40 subsection, "acquiring person" means the constituent corporation
41 the stockholders of which own the largest proportion of the total
42 voting power in the surviving or consolidated corporation after the
43 merger or consolidation.

44 e. The Executive Director of the New Jersey Economic
45 Development Authority, in consultation with the director, shall
46 adopt, pursuant to the "Administrative Procedure Act," P.L.1968,
47 c.410 (C.52:14B-1 et seq.), rules and regulations that are necessary

1 to implement sections 1 through 3 of P.L.1997, c.349 (C.54:10A-
2 5.28 through C.54:10A-5.30) and section 4 of P.L.2013, c.14
3 (C.54A:4-13), including, but not limited to: examples of and the
4 determination of qualified investments of which applicants shall
5 provide documentation with their tax credit application; the
6 promulgation of procedures and forms necessary to apply for a
7 credit; provisions for recapture in the event a taxpayer receives a
8 credit on the basis of its commitment to transfer cash to a qualified
9 venture fund and it does not fund its commitment; and provisions
10 for credit applicants to be charged an initial application fee and
11 ongoing service fees to cover the administrative costs related to the
12 credit.

13 The amount of credits approved by the Executive Director of the
14 New Jersey Economic Development Authority, and in consultation
15 with the director, pursuant to subsection a. of this section and
16 pursuant to section 4 of P.L.2013, c.14 (C.54A:4-13), shall not
17 exceed a cumulative total of ~~【\$25,000,000】~~ \$35,000,000 in any
18 calendar year to apply against the tax imposed pursuant to section 5
19 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to
20 the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1 et seq. If
21 the cumulative amount of credits allowed to taxpayers in a calendar
22 year exceeds the amount of credits available in that year, then
23 taxpayers who have first applied for and have not been allowed a
24 credit amount for that reason shall be allowed, in the order in which
25 they have submitted an application, the amount of the tax credit on
26 the first day of the next succeeding calendar year in which tax
27 credits under this section and section 4 of P.L.2013, c.14 (C.54A:4-
28 13) are not in excess of the amount of credits available.¹
29 (cf: P.L.2019, c.145, s.2)

30
31 119. Section 4 of P.L.2013, c.14 (C.54A:4-13) is amended to
32 read as follows:

33 4. a. (1) A taxpayer, upon approval of the taxpayer's
34 application therefor by the New Jersey Economic Development
35 Authority, and in consultation with the director, shall be allowed a
36 credit against the tax otherwise due for the taxable year under the
37 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an
38 amount equal to 20 percent of the qualified investment made by the
39 taxpayer in a New Jersey emerging technology business, **【or】** in a
40 New Jersey emerging technology business holding company that
41 makes a verified transfer of funds to a New Jersey emerging
42 technology business, or in a qualified venture fund; provided,
43 however, a taxpayer may be allowed a tax credit in an amount equal
44 to 25 percent of the qualified investment if the taxpayer satisfies
45 one of the requirements set forth in paragraph (2) of this subsection.
46 The value of tax credits allowed to a taxpayer pursuant to this
47 section shall not exceed \$500,000 for the taxable year for each
48 qualified investment made by the taxpayer.

(2) Subject to the limits established in paragraph (1) of this subsection, the New Jersey Economic Development Authority, in consultation with the director, shall increase the amount of a tax credit allowed pursuant to this section by five percent if the taxpayer makes a qualified investment in a New Jersey emerging technology business, **or** in a New Jersey emerging technology business holding company that makes a verified transfer of funds to a New Jersey emerging technology business, or in a qualified venture fund, if the New Jersey emerging technology business is:

(a) **either** located in a qualified opportunity zone pursuant to 26 U.S.C. § 1400Z-1, or a low-income community as defined in subparagraph (e) of 26 U.S.C. § 45D **;** **or**

[(b)] certified by the State as a minority business or a women's business pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.) and, in the case of a qualified venture fund, if the qualified venture fund commits by contract to invest 50 percent of its funds in diverse entrepreneurs.

b. The amount of the credit allowed pursuant to this section shall be applied against the tax otherwise due under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., after all other credits and payments. If the credit exceeds the amount of tax liability otherwise due, that amount of excess shall be an overpayment for the purposes of N.J.S.54A:9-7, provided, however, that subsection (f) of N.J.S.54A:9-7 shall not apply.

c. (1) A partnership shall not be allowed a credit under this section directly, but the amount of credit of a taxpayer in respect of a distributive share of partnership income under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be determined by allocating to the taxpayer that proportion of the credit acquired by the partnership that is equal to the taxpayer's share, whether or not distributed, of the total distributive income or gain of the partnership for its taxable year ending within or with the taxpayer's taxable year. For the purposes of subsection b. of this section, the amount of tax liability that would be otherwise due of a taxpayer is that proportion of the total liability of the taxpayer that the taxpayer's share of the partnership income or gain included in gross income bears to the total gross income of the taxpayer.

(2) The credit for a corporation that has made a valid election as a New Jersey S corporation pursuant to section 3 of P.L.1993, c.173 (C.54:10A-5.22) may be applied by the shareholders of the S corporation against the tax liability otherwise due under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., provided that the amount of credit that may be used by a shareholder of the S corporation shall be determined by allocating to each shareholder of the S corporation that proportion of the tax credit of the S corporation that is equal to the shareholder's proportionate share of the S corporation, whether or not distributed, of the total

1 distributive income or gain of the S corporation for its tax period
2 ending with or within the shareholder's tax period, and the credit
3 may be applied by the shareholders against the tax liability
4 otherwise due pursuant to the "New Jersey Gross Income Tax Act,"
5 N.J.S.54A:1-1 et seq.

6 d. The Executive Director of the New Jersey Economic
7 Development Authority, in consultation with the director, shall
8 adopt, pursuant to the "Administrative Procedure Act," P.L.1968,
9 c.410 (C.52:14B-1 et seq.), rules and regulations that are necessary
10 to implement sections 1 through 3 of P.L.1997, c.349 (C.54:10A-
11 5.28 through C.54:10A-5.30) and this section, including, but not
12 limited to: examples of and the determination of qualified
13 investments of which applicants shall provide documentation with
14 their tax credit application; the promulgation of procedures and
15 forms necessary to apply for a credit; provisions for recapture in the
16 event a taxpayer receives a credit on the basis of its commitment to
17 transfer cash to a qualified venture fund and it does not fund its
18 commitment; and provisions for credit applicants to be charged an
19 initial application fee and ongoing service fees to cover the
20 administrative costs related to the credit.

21 The amount of credits approved by the Executive Director of the
22 New Jersey Economic Development Authority and the Director of
23 the Division of Taxation in the Department of the Treasury,
24 pursuant to subsection a. of this section and pursuant to section 3 of
25 P.L.1997, c.349 (C.54:10A-5.30), shall not exceed a cumulative
26 total of ~~【\$25,000,000】~~ \$35,000,000 in any calendar year to apply
27 against the tax imposed pursuant to section 5 of P.L.1945, c.162
28 (C.54:10A-5), and the tax imposed pursuant to the "New Jersey
29 Gross Income Tax Act," N.J.S.54A:1-1 et seq. If the cumulative
30 amount of credits allowed to taxpayers in a calendar year exceeds
31 the amount of credits available in that year, then taxpayers who
32 have first applied for and have not been allowed a credit amount for
33 that reason shall be allowed, in the order in which they have
34 submitted an application, the amount of the tax credit on the first
35 day of the next succeeding calendar year in which tax credits under
36 this section and section 3 of P.L.1997, c.349 (C.54:10A-5.30) are
37 not in excess of the amount of credits available.

38 e. As used in this section:

39 "Advanced computing" means a technology used in the
40 designing and developing of computing hardware and software,
41 including innovations in designing the full spectrum of hardware
42 from hand-held calculators to super computers, and peripheral
43 equipment.

44 "Advanced materials" means materials with engineered
45 properties created through the development of specialized
46 processing and synthesis technology, including ceramics, high
47 value-added metals, electronic materials, composites, polymers, and
48 biomaterials.

1 "Biotechnology" means the continually expanding body of
2 fundamental knowledge about the functioning of biological systems
3 from the macro level to the molecular and sub-atomic levels, as
4 well as novel products, services, technologies, and sub-technologies
5 developed as a result of insights gained from research advances
6 which add to that body of fundamental knowledge.

7 "Carbon footprint reduction technology" means a technology
8 using equipment for the commercial, institutional, and industrial
9 sectors that: increases energy efficiency; develops and delivers
10 renewable or non-carbon-emitting energy technologies; develops
11 innovative carbon emissions abatement with significant carbon
12 emissions reduction potential; or promotes measurable electricity
13 end-use energy efficiency.

14 "Control" with respect to a corporation, means ownership,
15 directly or indirectly, of stock possessing 80 percent or more of the
16 total combined voting power of all classes of the stock of the
17 corporation entitled to vote; and "control," with respect to a trust,
18 means ownership, directly or indirectly, of 80 percent or more of
19 the beneficial interest in the principal or income of the trust. The
20 ownership of stock in a corporation, of a capital or profits interest in
21 a partnership or association or of a beneficial interest in a trust shall
22 be determined in accordance with the rules for constructive
23 ownership of stock provided in subsection (c) of section 267 of the
24 federal Internal Revenue Code of 1986 (26 U.S.C. s.267), other than
25 paragraph (3) of subsection (c) of that section.

26 "Controlled group" means one or more chains of corporations
27 connected through stock ownership with a common parent
28 corporation if stock possessing at least 80 percent of the voting
29 power of all classes of stock of each of the corporations is owned
30 directly or indirectly by one or more of the corporations and the
31 common parent owns directly stock possessing at least 80 percent of
32 the voting power of all classes of stock of at least one of the other
33 corporations.

34 "Director" means the Director of the Division of Taxation in the
35 Department of the Treasury.

36 "Diverse entrepreneur" means a New Jersey based business that
37 meets the criteria for a minority business or female business set
38 forth in section ¹[2] ³ of P.L.1983, c.482 (C.52:32-19).

39 "Electronic device technology" means a technology involving
40 microelectronics, semiconductors, electronic equipment and
41 instrumentation, radio frequency, microwave and millimeter
42 electronics, and optical and optic-electrical devices, or data and
43 digital communications and imaging devices.

44 "Information technology" means software publishing, motion
45 picture and video production, television production and post-
46 production services, telecommunications, data processing, hosting
47 and related services, custom computer programming services,

1 computer system design, computer facilities management services,
2 other computer related services, and computer training.

3 "Life sciences" means the production of medical equipment,
4 ophthalmic goods, medical or dental instruments, diagnostic
5 substances, biopharmaceutical products, or physical and biological
6 research.

7 "Medical device technology" means a technology involving any
8 medical equipment or product (other than a pharmaceutical product)
9 that has therapeutic value, diagnostic value, or both, and is
10 regulated by the federal Food and Drug Administration.

11 "Mobile communications technology" means a technology
12 involving the functionality and reliability of the transmission of
13 voice and multimedia data using a communication infrastructure via
14 a computer or a mobile device, that shall include, but not be limited
15 to, smartphones, electronic books and tablets, digital audio players,
16 motor vehicle electronics, home entertainment systems, and other
17 wireless appliances, without having connected to any physical or
18 fixed link.

19 "New Jersey based business" means a company with fewer than
20 225 employees, of whom at least 75 percent are filling a position in
21 New Jersey, that is doing business, employing or owning capital or
22 property, or maintaining an office in this State.

23 "New Jersey emerging technology business" means a company
24 with fewer than 225 employees, of whom at least 75 percent are
25 filling a position in New Jersey, that is doing business, employing
26 or owning capital or property, or maintaining an office in this State
27 and: has qualified research expenses paid or incurred for research
28 conducted in this State; conducts pilot scale manufacturing in this
29 State; or conducts technology commercialization in this State in the
30 fields of advanced computing, advanced materials, biotechnology,
31 carbon footprint reduction technology, electronic device
32 technology, information technology, life sciences, medical device
33 technology, mobile communications technology, or renewable
34 energy technology.

35 "New Jersey emerging technology business holding company"
36 means any corporation, association, firm, partnership, trust or other
37 form of business organization, but not a natural person, which
38 directly or indirectly, owns, has the power or right to control, or has
39 the power to vote, a controlling share of the outstanding voting
40 securities of a corporation or other form of a New Jersey emerging
41 technology business.

42 "Partnership" means a syndicate, group, pool, joint venture, or
43 other unincorporated organization through or by means of which
44 any business, financial operation, or venture is carried on, and
45 which is not a trust or estate, a corporation, or a sole proprietorship.

46 "Pilot scale manufacturing" means design, construction, and
47 testing of preproduction prototypes and models in the fields of
48 advanced computing, advanced materials, biotechnology, carbon

1 footprint reduction technology electronic device technology,
2 information technology, life sciences, medical device technology,
3 mobile communications technology, or renewable energy
4 technology, other than for commercial sale, excluding sales of
5 prototypes or sales for market testing if the total gross receipts, as
6 calculated in the manner provided in section 6 of P.L.1945, c.162
7 (C.54:10A-6), from the sales of the product, service, or process do
8 not exceed \$1,000,000.

9 "Qualified investment" means the non-refundable transfer of
10 cash to a New Jersey emerging technology business or to a New
11 Jersey emerging technology business holding company by a
12 taxpayer that is not a related person of the New Jersey emerging
13 technology business or the New Jersey emerging technology
14 business holding company, the transfer of which is in connection
15 with either: a transaction between or among the taxpayer and the
16 New Jersey emerging technology business or the New Jersey
17 emerging technology holding company or both in exchange for
18 stock, interests in partnerships or joint ventures, licenses (exclusive
19 or non-exclusive), rights to use technology, marketing rights,
20 warrants, options, or any items similar to those included herein,
21 including, but not limited to, options or rights to acquire any of the
22 items included herein; or a purchase, production, or research
23 agreement between or among the taxpayer and the New Jersey
24 emerging technology business or the New Jersey emerging
25 technology holding company or both. "Qualified investment" also
26 means the non-refundable transfer of cash or irrevocable contractual
27 commitment to transfer cash to a qualified venture fund.

28 "Qualified research expenses" means qualified research
29 expenses, as defined in section 41 of the federal Internal Revenue
30 Code of 1986 (26 U.S.C. s.41), as in effect on June 30, 1992, in the
31 fields of advanced computing, advanced materials, biotechnology,
32 electronic device technology, information technology, life sciences,
33 medical device technology, mobile communications technology, or
34 renewable energy technology.

35 "Qualified venture fund" means a venture fund required by
36 contract to invest a minimum of 50 percent of its funds in New
37 Jersey based businesses that the authority, in its sole discretion,
38 based upon the qualified venture fund's investment history, if any,
39 its private placement memorandum and other relevant information,
40 has determined has the capacity to make the minimum investment.

41 "Related person" means:

42 a corporation, partnership, association or trust controlled by the
43 taxpayer;

44 an individual, corporation, partnership, association or trust that is
45 in the control of the taxpayer;

46 a corporation, partnership, association or trust controlled by an
47 individual, corporation, partnership, association or trust that is in
48 the control of the taxpayer; or

1 a member of the same controlled group as the taxpayer.

2 "Renewable energy technology" means a technology involving
3 the generation of electricity from solar energy; wind energy; wave
4 or tidal action; geothermal energy; the combustion of gas from the
5 anaerobic digestion of food waste and sewage sludge at a biomass
6 generating facility; the combustion of methane gas captured from a
7 landfill; and a fuel cell powered by methanol, ethanol, landfill gas,
8 digester gas, biomass gas, or other renewable fuel but not powered
9 by a fossil fuel.

10 "Venture fund" means a partnership, corporation, trust, or
11 limited liability company that invests cash in a business during the
12 early or expansion stages of a business in exchange for an equity
13 stake in the business in, ¹[""] ¹ which the investment is made.
14 Venture firm may include a venture capital fund, a family office
15 fund, or a corporate investor fund, provided that a professional
16 manager administers the venture firm.

17 "Verified transfer of funds" means a non-refundable transfer of
18 funds equal to 100 percent of the taxpayer's qualified investment in
19 the New Jersey emerging technology business holding company to a
20 New Jersey emerging technology business by the New Jersey
21 emerging technology business holding company that is
22 accompanied by documentation, as required by the New Jersey
23 Economic Development Authority, which provides proof of a cash
24 transaction originating with a taxpayer and concluding with a New
25 Jersey emerging technology business, provided that the transactions
26 from origin to destination occur within the same taxable year.

27 The definitions of "advanced computing," "advanced materials,"
28 "biotechnology," ¹[""] ¹carbon footprint reduction technology,"
29 "electronic device technology," "information technology," ¹[""]
30 ¹life sciences," ¹[""] ¹medical device technology," ¹[""] ¹mobile
31 communications technology," ¹[""] ¹ "New Jersey emerging
32 technology business," "pilot scale manufacturing," and "renewable
33 energy technology" ¹[""] ¹ may be modified by regulation to conform to
34 definitions in other programs administered by the authority.

35 (cf: P.L.2019, c.145, s.3)

36

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

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

40 "Affiliate" means an entity that directly or indirectly controls, is
41 under common control with, or is controlled by the business.
42 Control exists in all cases in which the entity is a member of a
43 controlled group of corporations as defined pursuant to section 1563
44 of the Internal Revenue Code of 1986 (26 U.S.C. s.1563) or the
45 entity is an organization in a group of organizations under common
46 control as defined pursuant to subsection (b) or (c) of section 414 of
47 the Internal Revenue Code of 1986 (26 U.S.C. s.414). A taxpayer

1 may establish by clear and convincing evidence, as determined by
2 the Director of the Division of Taxation in the Department of the
3 Treasury, that control exists in situations involving lesser
4 percentages of ownership than required by those statutes. An
5 affiliate of a business may contribute to meeting either the qualified
6 investment or full-time employee requirements of a business that
7 applies for a credit under section 3 of P.L.2007, c.346 (C.34:1B-
8 209).

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

11 "Aviation district" means all areas within the boundaries of the
12 "Atlantic City International Airport," established pursuant to section
13 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation
14 Administration William J. Hughes Technical Center and the area
15 within a one-mile radius of the outermost boundary of the "Atlantic
16 City International Airport" and the Federal Aviation Administration
17 William J. Hughes Technical Center.

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

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

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

25 a partnership;

26 an S corporation;

27 a limited liability company; or

28 a non-profit corporation.

29 If the business or tenant is a cooperative or part of a cooperative,
30 then the cooperative may qualify for credits by counting the full-
31 time employees and capital investments of its member
32 organizations, and the cooperative may distribute credits to its
33 member organizations. If the business or tenant is a cooperative
34 that leases to its member organizations, the lease shall be treated as
35 a lease to an affiliate or affiliates.

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

39 "Capital investment" in a qualified business facility means
40 expenses by a business or any affiliate of the business incurred after
41 application for:

42 a. site preparation and construction, repair, renovation,
43 improvement, equipping, or furnishing on real property or of a
44 building, structure, facility, or improvement to real property;

45 b. obtaining and installing furnishings and machinery,
46 apparatus, or equipment, including but not limited to material goods
47 subject to bonus depreciation under sections 168 and 179 of the
48 federal Internal Revenue Code (26 U.S.C. s.168 and s.179), for the

1 operation of a business on real property or in a building, structure,
2 facility, or improvement to real property;

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

6 d. any of the foregoing.

7 In addition to the foregoing, in a Garden State Growth Zone, the
8 following qualify as a capital investment: any development,
9 redevelopment, and relocation costs, including, but not limited to,
10 site acquisition if made within 24 months of application to the
11 authority, engineering, legal, accounting, and other professional
12 services required; and relocation, environmental remediation, and
13 infrastructure improvements for the project area, including, but not
14 limited to, on- and off-site utility, road, pier, wharf, bulkhead, or
15 sidewalk construction or repair.

16 In addition to the foregoing, if a business acquires or leases a
17 qualified business facility, the capital investment made or acquired
18 by the seller or owner, as the case may be, if pertaining primarily to
19 the premises of the qualified business facility, shall be considered a
20 capital investment by the business and, if pertaining generally to the
21 qualified business facility being acquired or leased, shall be
22 allocated to the premises of the qualified business facility on the
23 basis of the gross leasable area of the premises in relation to the
24 total gross leasable area in the qualified business facility. The
25 capital investment described herein may include any capital
26 investment made or acquired within 24 months prior to the date of
27 application so long as the amount of capital investment made or
28 acquired by the business, any affiliate of the business, or any owner
29 after the date of application equals at least 50 percent of the amount
30 of capital investment, allocated to the premises of the qualified
31 business facility being acquired or leased on the basis of the gross
32 leasable area of the premises in relation to the total gross leasable
33 area in the qualified business facility made or acquired prior to the
34 date of application.

35 "College or university" means a county college, an independent
36 institution of higher education, a public research university, or a
37 State college.

38 "Commitment period" means the period of time that is 1.5 times
39 the eligibility period.

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

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

1 "Disaster recovery project" means a project located on property
2 that has been wholly or substantially damaged or destroyed as a
3 result of a federally-declared disaster which, after utilizing all
4 disaster funds available from federal, State, county, and local
5 funding sources, demonstrates to the satisfaction of the authority
6 that access to additional funding authorized pursuant to the "New
7 Jersey Economic Opportunity Act of 2013," P.L.2013, c.161
8 (C.52:27D-489p et al.), is necessary to complete the redevelopment
9 project, and which is located within the qualified incentive area and
10 has been determined by the authority to be in an area appropriate
11 for development and in need of economic development incentive
12 assistance.

13 "Distressed municipality" means a municipality that is qualified
14 to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a
15 municipality under the supervision of the Local Finance Board
16 pursuant to the provisions of the "Local Government Supervision
17 Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality
18 identified by the Director of the Division of Local Government
19 Services in the Department of Community Affairs to be facing
20 serious fiscal distress, a SDA municipality, or a municipality in
21 which a major rail station is located.

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

26 "Eligibility period" means the period in which a business may
27 claim a tax credit under the Grow New Jersey Assistance Program,
28 beginning with the tax period in which the authority accepts
29 certification of the business that it has met the capital investment
30 and employment requirements of the Grow New Jersey Assistance
31 Program and extending thereafter for a term of not more than 10
32 years, with the term to be determined solely at the discretion of the
33 applicant.

34 "Eligible position" or "full-time job" means a full-time position
35 in a business in this State which the business has filled with a full-
36 time employee.

37 "Full-time employee" means a person:

38 a. who is employed by a business for consideration for at least
39 35 hours a week, or who renders any other standard of service
40 generally accepted by custom or practice as full-time employment;
41 or

42 b. who is employed by a professional employer organization
43 pursuant to an employee leasing agreement between the business
44 and the professional employer organization, in accordance with
45 P.L.2001, c.260 (C.34:8-67 et seq.) for at least 35 hours a week, or
46 who renders any other standard of service generally accepted by
47 custom or practice as full-time employment, and whose wages are

1 subject to withholding as provided in the "New Jersey Gross
2 Income Tax Act," N.J.S.54A:1-1 et seq.; or

3 c. who is a resident of another State but whose income is not
4 subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
5 et seq. or who is a partner of a business who works for the
6 partnership for at least 35 hours a week, or who renders any other
7 standard of service generally accepted by custom or practice as full-
8 time employment, and whose distributive share of income, gain,
9 loss, or deduction, or whose guaranteed payments, or any
10 combination thereof, is subject to the payment of estimated taxes, as
11 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
12 et seq.; and

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

16 With respect to a logistics, manufacturing, energy, defense,
17 aviation, or maritime business, excluding primarily warehouse or
18 distribution operations, located in a port district having a container
19 terminal:

20 the requirement that employee health benefits are to be provided
21 shall be deemed to be satisfied if the benefits are provided in
22 accordance with industry practice by a third party obligated to
23 provide such benefits pursuant to a collective bargaining agreement;

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

27 35 hours of employment per week at a qualified business facility
28 shall constitute one "full-time employee," regardless of whether or
29 not the hours of work were performed by one or more persons.

30 For any project located in a Garden State Growth Zone which
31 qualifies under the "Municipal Rehabilitation and Economic
32 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or any
33 project located in the Atlantic City Tourism District as established
34 pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated
35 by the Casino Reinvestment Development Authority, and which
36 will include a retail facility of at least 150,000 square feet, of which
37 at least 50 percent will be occupied by either a full-service
38 supermarket or grocery store, 30 hours of employment per week at a
39 qualified business facility shall constitute one "full-time employee,"
40 regardless of whether the hours of work were performed by one or
41 more persons, and the requirement that employee health benefits are
42 to be provided shall be deemed to be satisfied if the employees of
43 the business are covered by a collective bargaining agreement.

44 "Full-time employee" shall not include any person who works as
45 an independent contractor or on a consulting basis for the business.

46 Full-time employee shall also not include any person who at the
47 time of project application works in New Jersey for consideration
48 for at least 35 hours per week, or who renders any other standard of

1 service generally accepted by custom or practice as full-time
2 employment but who prior to project application was not provided,
3 by the business, with employee health benefits under a health
4 benefits plan authorized pursuant to State or federal law.

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

10 "Garden State Growth Zone" or "growth zone" means the four
11 New Jersey cities with the lowest median family income based on
12 the 2009 American Community Survey from the US Census, (Table
13 708. Household, Family, and Per Capita Income and Individuals,
14 and Families Below Poverty Level by City: 2009); a municipality
15 which contains a Tourism District as established pursuant to section
16 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino
17 Reinvestment Development Authority; or an aviation district.

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

24 "Incentive agreement" means the contract between the business
25 and the authority, which sets forth the terms and conditions under
26 which the business shall be eligible to receive the incentives
27 authorized pursuant to the program.

28 "Incentive effective date" means the date **the authority issues a**
29 **tax credit based on** a business submits the documentation
30 **submitted by a business** required pursuant to paragraph (1) of
31 subsection b. of section 6 of P.L.2011, c.149 (C.34:1B-247) in a
32 form satisfactory to the authority.

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

46 "Major rail station" means a railroad station located within a
47 qualified incentive area which provides access to the public to a

1 minimum of six rail passenger service lines operated by the New
2 Jersey Transit Corporation.

3 "Mega project" means:

4 a. a qualified business facility located in a port district housing
5 a business in the logistics, manufacturing, energy, defense, or
6 maritime industries, either:

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

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

12 b. a qualified business facility located in an aviation district
13 housing a business in the aviation industry, in a Garden State
14 Growth Zone, or in a priority area housing the United States
15 headquarters and related facilities of an automobile manufacturer,
16 either:

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

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

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

26 d. a project located in an area designated in need of
27 redevelopment, pursuant to P.L.1992, c.79 (C.40A:12A-1 et al.)
28 prior to the enactment of P.L.2014, c.63 (C.34:1B-251 et al.) within
29 Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester,
30 Ocean, or Salem counties having a capital investment in excess of
31 \$20,000,000, and at which more than 150 full-time employees of
32 the business are created or retained; or

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

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

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

44 "Minimum environmental and sustainability standards" means
45 standards established by the authority in accordance with the green
46 building manual prepared by the Commissioner of Community
47 Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6),
48 regarding the use of renewable energy, energy-efficient technology,

1 and non-renewable resources in order to reduce environmental
2 degradation and encourage long-term cost reduction.

3 "Moderate-income housing" means housing affordable,
4 according to United States Department of Housing and Urban
5 Development or other recognized standards for home ownership
6 and rental costs, and occupied or reserved for occupancy by
7 households with a gross household income equal to more than 50
8 percent but less than 80 percent of the median gross household
9 income for households of the same size within the housing region in
10 which the housing is located.

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

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

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

22 "Partnership" means an entity classified as a partnership for
23 federal income tax purposes.

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

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

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

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

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

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

47 c. are the proposed site of a disaster recovery project, a
48 qualified incubator facility, a highlands development credit

1 receiving area or redevelopment area, a tourism destination project,
2 or transit oriented development; or

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

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

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

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

16 "Qualified business facility" means any building, complex of
17 buildings or structural components of buildings, and all machinery
18 and equipment located within a qualified incentive area, used in
19 connection with the operation of a business that is not engaged in
20 final point of sale retail business at that location unless the building,
21 complex of buildings or structural components of buildings, and all
22 machinery and equipment located within a qualified incentive area,
23 are used in connection with the operation of:

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

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

31 "Qualified incentive area" means:

32 a. an aviation district;

33 b. a port district;

34 c. a distressed municipality or urban transit hub municipality;

35 d. an area (1) designated pursuant to the "State Planning Act,"
36 P.L.1985, c.398 (C.52:18A-196 et seq.), as:

37 (a) Planning Area 1 (Metropolitan);

38 (b) Planning Area 2 (Suburban); or

39 (c) Planning Area 3 (Fringe Planning Area);

40 (2) located within a smart growth area and planning area
41 designated in a master plan adopted by the New Jersey
42 Meadowlands Commission pursuant to subsection (i) of section 6 of
43 P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan
44 adopted by the New Jersey Meadowlands Commission pursuant to
45 section 20 of P.L.1968, c.404 (C.13:17-21);

46 (3) located within any land owned by the New Jersey Sports and
47 Exposition Authority, established pursuant to P.L.1971, c.137
48 (C.5:10-1 et seq.), within the boundaries of the Hackensack

1 Meadowlands District as delineated in section 4 of P.L.1968, c.404
2 (C.13:17-4);

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

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

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

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

15 (8) located only within the following portions of the areas
16 designated pursuant to the "State Planning Act," P.L.1985, c.398
17 (C.52:18A-196 et seq.), as Planning Area 4A (Rural Planning
18 Area), Planning Area 4B (Rural/Environmentally Sensitive) or
19 Planning Area 5 (Environmentally Sensitive) if Planning Area 4A
20 (Rural Planning Area), Planning Area 4B (Rural/Environmentally
21 Sensitive) or Planning Area 5 (Environmentally Sensitive) is
22 located within:

23 (a) a designated center under the State Development and
24 Redevelopment Plan;

25 (b) a designated growth center in an endorsed plan until the
26 State Planning Commission revises and readopts New Jersey's State
27 Strategic Plan and adopts regulations to revise this definition as it
28 pertains to Statewide planning areas;

29 (c) any area determined to be in need of redevelopment pursuant
30 to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and
31 C.40A:12A-6) or in need of rehabilitation pursuant to section 14 of
32 P.L.1992, c.79 (C.40A:12A-14);

33 (d) any area on which a structure exists or previously existed
34 including any desired expansion of the footprint of the existing or
35 previously existing structure provided the expansion otherwise
36 complies with all applicable federal, State, county, and local
37 permits and approvals;

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

41 (f) any area on which an existing tourism destination project is
42 located.

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

46 "Qualified incubator facility" means a commercial building
47 located within a qualified incentive area: which contains 50,000 or
48 more square feet of office, laboratory, or industrial space; which is

1 located near, and presents opportunities for collaboration with, a
2 research institution, teaching hospital, college, or university; and
3 within which, at least 50 percent of the gross leasable area is
4 restricted for use by one or more technology startup companies
5 during the commitment period.

6 "Retained full-time job" means an eligible position that currently
7 exists in New Jersey and is filled by a full-time employee but
8 which, because of a potential relocation by the business, is at risk of
9 being lost to another state or country, or eliminated. For the
10 purposes of determining a number of retained full-time jobs, the
11 eligible positions of an affiliate shall be considered eligible
12 positions of the business. For the purposes of the certifications and
13 annual reports required in the incentive agreement pursuant to
14 subsection e. of section 4 of P.L.2011, c.149 (C.34:1B-245), to the
15 extent an eligible position that was the basis of the award no longer
16 exists, a business shall include as a retained full-time job a new
17 eligible position that is filled by a full-time employee provided that
18 the position is included in the order of date of hire and is not the
19 basis for any other incentive award. For a project located in a
20 Garden State Growth Zone which qualified for the "Municipal
21 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
22 (C.52:27BBB-1 et al.), retained full-time job shall include any
23 employee previously employed in New Jersey and transferred to the
24 new location in the Garden State Growth Zone which qualified for
25 the "Municipal Rehabilitation and Economic Recovery Act,"
26 P.L.2002, c.43 (C.52:27BBB-1 et al.).

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

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

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

33 "Targeted industry" means any industry identified from time to
34 time by the authority which shall initially include advanced
35 transportation and logistics, advanced manufacturing, aviation,
36 autonomous vehicle and zero-emission vehicle research or
37 development, clean energy, life sciences, hemp processing,
38 information and high technology, finance and insurance,
39 professional services, film and digital media, and non-retail food
40 and beverage businesses, including food innovation and other
41 innovative industries that disrupt current technologies or business
42 models.

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

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

10 "Transit oriented development" means a qualified business
11 facility located within a 1/2-mile radius, or one-mile radius for
12 projects located in a Garden State Growth Zone, surrounding the
13 mid-point of a New Jersey Transit Corporation, Port Authority
14 Transit Corporation, or Port Authority Trans-Hudson Corporation
15 rail, bus, or ferry station platform area, including all light rail
16 stations.

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

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

30 (cf: P.L.2018, c.120, s.1)]¹

31
32 ¹120. Section 2 of P.L.2011, c.149 (C.34:1B-243) is amended to
33 read as follows:

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

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

1 applies for a credit under section 3 of P.L.2007, c.346 (C.34:1B-
2 209).

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

5 "Aviation district" means all areas within the boundaries of the
6 "Atlantic City International Airport," established pursuant to section
7 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation
8 Administration William J. Hughes Technical Center and the area
9 within a one-mile radius of the outermost boundary of the "Atlantic
10 City International Airport" and the Federal Aviation Administration
11 William J. Hughes Technical Center.

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

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

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

19 a partnership;

20 an S corporation;

21 a limited liability company; or

22 a non-profit corporation.

23 If the business or tenant is a cooperative or part of a cooperative,
24 then the cooperative may qualify for credits by counting the full-
25 time employees and capital investments of its member
26 organizations, and the cooperative may distribute credits to its
27 member organizations. If the business or tenant is a cooperative
28 that leases to its member organizations, the lease shall be treated as
29 a lease to an affiliate or affiliates.

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

33 "Capital investment" in a qualified business facility means
34 expenses by a business or any affiliate of the business incurred after
35 application for:

36 a. site preparation and construction, repair, renovation,
37 improvement, equipping, or furnishing on real property or of a
38 building, structure, facility, or improvement to real property;

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

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

48 d. any of the foregoing.

1 In addition to the foregoing, in a Garden State Growth Zone, the
2 following qualify as a capital investment: any development,
3 redevelopment, and relocation costs, including, but not limited to,
4 site acquisition if made within 24 months of application to the
5 authority, engineering, legal, accounting, and other professional
6 services required; and relocation, environmental remediation, and
7 infrastructure improvements for the project area, including, but not
8 limited to, on- and off-site utility, road, pier, wharf, bulkhead, or
9 sidewalk construction or repair.

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

29 "College or university" means a county college, an independent
30 institution of higher education, a public research university, or a
31 State college.

32 "Commitment period" means the period of time that is 1.5 times
33 the eligibility period.

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

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

42 "Disaster recovery project" means a project located on property
43 that has been wholly or substantially damaged or destroyed as a
44 result of a federally-declared disaster which, after utilizing all
45 disaster funds available from federal, State, county, and local
46 funding sources, demonstrates to the satisfaction of the authority
47 that access to additional funding authorized pursuant to the "New
48 Jersey Economic Opportunity Act of 2013," P.L.2013, c.161

1 (C.52:27D-489p et al.), is necessary to complete the redevelopment
2 project, and which is located within the qualified incentive area and
3 has been determined by the authority to be in an area appropriate
4 for development and in need of economic development incentive
5 assistance.

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

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

19 "Eligibility period" means the period in which a business may
20 claim a tax credit under the Grow New Jersey Assistance Program,
21 beginning with the tax period in which the authority accepts
22 certification of the business that it has met the capital investment
23 and employment requirements of the Grow New Jersey Assistance
24 Program and extending thereafter for a term of not more than 10
25 years, with the term to be determined solely at the discretion of the
26 applicant.

27 "Eligible position" or "full-time job" means a full-time position
28 in a business in this State which the business has filled with a full-
29 time employee.

30 "Full-time employee" means a person:

31 a. who is employed by a business for consideration for at least
32 35 hours a week, or who renders any other standard of service
33 generally accepted by custom or practice as full-time employment;
34 or

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

43 c. who is a resident of another State but whose income is not
44 subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
45 et seq. or who is a partner of a business who works for the
46 partnership for at least 35 hours a week, or who renders any other
47 standard of service generally accepted by custom or practice as full-
48 time employment, and whose distributive share of income, gain,

1 loss, or deduction, or whose guaranteed payments, or any
2 combination thereof, is subject to the payment of estimated taxes, as
3 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
4 et seq.; and

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

8 With respect to a logistics, manufacturing, energy, defense,
9 aviation, or maritime business, excluding primarily warehouse or
10 distribution operations, located in a port district having a container
11 terminal:

12 the requirement that employee health benefits are to be provided
13 shall be deemed to be satisfied if the benefits are provided in
14 accordance with industry practice by a third party obligated to
15 provide such benefits pursuant to a collective bargaining agreement;

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

19 35 hours of employment per week at a qualified business facility
20 shall constitute one "full-time employee," regardless of whether or
21 not the hours of work were performed by one or more persons.

22 For any project located in a Garden State Growth Zone which
23 qualifies under the "Municipal Rehabilitation and Economic
24 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or any
25 project located in the Atlantic City Tourism District as established
26 pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated
27 by the Casino Reinvestment Development Authority, and which
28 will include a retail facility of at least 150,000 square feet, of which
29 at least 50 percent will be occupied by either a full-service
30 supermarket or grocery store, 30 hours of employment per week at a
31 qualified business facility shall constitute one "full-time employee,"
32 regardless of whether the hours of work were performed by one or
33 more persons, and the requirement that employee health benefits are
34 to be provided shall be deemed to be satisfied if the employees of
35 the business are covered by a collective bargaining agreement.

36 "Full-time employee" shall not include any person who works as
37 an independent contractor or on a consulting basis for the business.

38 Full-time employee shall also not include any person who at the
39 time of project application works in New Jersey for consideration
40 for at least 35 hours per week, or who renders any other standard of
41 service generally accepted by custom or practice as full-time
42 employment but who prior to project application was not provided,
43 by the business, with employee health benefits under a health
44 benefits plan authorized pursuant to State or federal law.

45 "Garden State Create Zone" means the campus of a doctoral
46 university, and the area within a three-mile radius of the outermost
47 boundary of the campus of a doctoral university, according to a map

1 appearing in the doctoral university's official catalog or other
2 official publication on the effective date of P.L.2017, c.221.

3 "Garden State Growth Zone" or "growth zone" means the four
4 New Jersey cities with the lowest median family income based on
5 the 2009 American Community Survey from the US Census, (Table
6 708. Household, Family, and Per Capita Income and Individuals,
7 and Families Below Poverty Level by City: 2009); a municipality
8 which contains a Tourism District as established pursuant to section
9 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino
10 Reinvestment Development Authority; or an aviation district.

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

17 "Incentive agreement" means the contract between the business
18 and the authority, which sets forth the terms and conditions under
19 which the business shall be eligible to receive the incentives
20 authorized pursuant to the program.

21 "Incentive effective date" means the date **the authority issues a**
22 **tax credit based on** a business submits the documentation
23 **submitted by a business** required pursuant to paragraph (1) of
24 subsection b. of section 6 of P.L.2011, c.149 (C.34:1B-247) in a
25 form satisfactory to the authority.

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

39 "Major rail station" means a railroad station located within a
40 qualified incentive area which provides access to the public to a
41 minimum of six rail passenger service lines operated by the New
42 Jersey Transit Corporation.

43 "Mega project" means:

44 a. a qualified business facility located in a port district housing
45 a business in the logistics, manufacturing, energy, defense, or
46 maritime industries, either:

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

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

6 b. a qualified business facility located in an aviation district
7 housing a business in the aviation industry, in a Garden State
8 Growth Zone, or in a priority area housing the United States
9 headquarters and related facilities of an automobile manufacturer,
10 either:

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

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

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

20 d. a project located in an area designated in need of
21 redevelopment, pursuant to P.L.1992, c.79 (C.40A:12A-1 et al.)
22 prior to the enactment of P.L.2014, c.63 (C.34:1B-251 et al.) within
23 Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester,
24 Ocean, or Salem counties having a capital investment in excess of
25 \$20,000,000, and at which more than 150 full-time employees of
26 the business are created or retained; or

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

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

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

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

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

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

5 "Municipal Revitalization Index" means the 2007 index by the
6 Office for Planning Advocacy within the Department of State
7 measuring or ranking municipal distress.

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

13 "Other eligible area" means the portions of the qualified
14 incentive area that are not located within a distressed municipality,
15 or the priority area.

16 "Partnership" means an entity classified as a partnership for
17 federal income tax purposes.

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

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

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

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

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

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

41 c. are the proposed site of a disaster recovery project, a
42 qualified incubator facility, a highlands development credit
43 receiving area or redevelopment area, a tourism destination project,
44 or transit oriented development; or

45 d. contain: a vacant commercial building having over 400,000
46 square feet of office, laboratory, or industrial space available for
47 occupancy for a period of over one year; or a site that has been
48 negatively impacted by the approval of a "qualified business

1 facility," as defined pursuant to section 2 of P.L.2007, c.346
2 (C.34:1B-208).

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

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

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

10 "Qualified business facility" means any building, complex of
11 buildings or structural components of buildings, and all machinery
12 and equipment located within a qualified incentive area, used in
13 connection with the operation of a business that is not engaged in
14 final point of sale retail business at that location unless the building,
15 complex of buildings or structural components of buildings, and all
16 machinery and equipment located within a qualified incentive area,
17 are used in connection with the operation of:

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

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

25 "Qualified incentive area" means:

26 a. an aviation district;

27 b. a port district;

28 c. a distressed municipality or urban transit hub municipality;

29 d. an area (1) designated pursuant to the "State Planning Act,"
30 P.L.1985, c.398 (C.52:18A-196 et seq.), as:

31 (a) Planning Area 1 (Metropolitan);

32 (b) Planning Area 2 (Suburban); or

33 (c) Planning Area 3 (Fringe Planning Area);

34 (2) located within a smart growth area and planning area
35 designated in a master plan adopted by the New Jersey
36 Meadowlands Commission pursuant to subsection (i) of section 6 of
37 P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan
38 adopted by the New Jersey Meadowlands Commission pursuant to
39 section 20 of P.L.1968, c.404 (C.13:17-21);

40 (3) located within any land owned by the New Jersey Sports and
41 Exposition Authority, established pursuant to P.L.1971, c.137
42 (C.5:10-1 et seq.), within the boundaries of the Hackensack
43 Meadowlands District as delineated in section 4 of P.L.1968, c.404
44 (C.13:17-4);

45 (4) located within a regional growth area, rural development
46 area zoned for industrial use as of the effective date of P.L.2016,
47 c.75, town, village, or a military and federal installation area
48 designated in the comprehensive management plan prepared and

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

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

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

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

9 (8) located only within the following portions of the areas
10 designated pursuant to the "State Planning Act," P.L.1985, c.398
11 (C.52:18A-196 et seq.), as Planning Area 4A (Rural Planning
12 Area), Planning Area 4B (Rural/Environmentally Sensitive) or
13 Planning Area 5 (Environmentally Sensitive) if Planning Area 4A
14 (Rural Planning Area), Planning Area 4B (Rural/Environmentally
15 Sensitive) or Planning Area 5 (Environmentally Sensitive) is
16 located within:

17 (a) a designated center under the State Development and
18 Redevelopment Plan;

19 (b) a designated growth center in an endorsed plan until the
20 State Planning Commission revises and readopts New Jersey's State
21 Strategic Plan and adopts regulations to revise this definition as it
22 pertains to Statewide planning areas;

23 (c) any area determined to be in need of redevelopment pursuant
24 to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and
25 C.40A:12A-6) or in need of rehabilitation pursuant to section 14 of
26 P.L.1992, c.79 (C.40A:12A-14);

27 (d) any area on which a structure exists or previously existed
28 including any desired expansion of the footprint of the existing or
29 previously existing structure provided the expansion otherwise
30 complies with all applicable federal, State, county, and local
31 permits and approvals;

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

35 (f) any area on which an existing tourism destination project is
36 located.

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

40 "Qualified incubator facility" means a commercial building
41 located within a qualified incentive area: which contains 50,000 or
42 more square feet of office, laboratory, or industrial space; which is
43 located near, and presents opportunities for collaboration with, a
44 research institution, teaching hospital, college, or university; and
45 within which, at least 50 percent of the gross leasable area is
46 restricted for use by one or more technology startup companies
47 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 "State college" means a State college or university established
27 pursuant to chapter 64 of Title 18A of the New Jersey Statutes.

28 "Targeted industry" means any industry identified from time to
29 time by the authority **[including]** which shall initially [, a] include
30 advanced transportation and logistics, advanced manufacturing,
31 **[defense, energy, logistics]** aviation, autonomous vehicle and zero-
32 emission vehicle research or development, clean energy, life
33 sciences, hemp processing, information and high technology,
34 **[health, and]** finance [business, but excluding a primarily
35 warehouse or distribution business] and insurance, professional
36 services, film and digital media, [and] non-retail food and beverage
37 businesses [,] including food innovation, and other innovative
38 industries that disrupt current technologies or business models.

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

44 "Tourism destination project" means a qualified non-gaming
45 business facility that will be among the most visited privately
46 owned or operated tourism or recreation sites in the State, and
47 which is located within the qualified incentive area and has been

1 determined by the authority to be in an area appropriate for
2 development and in need of economic development incentive
3 assistance, including a non-gaming business within an established
4 Tourism District with a significant impact on the economic viability
5 of that District.

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

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

17 "Urban transit hub municipality" means a municipality: a. which
18 qualifies for State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et
19 seq.), or which has continued to be a qualified municipality
20 thereunder pursuant to P.L.2007, c.111; and b. in which 30 percent
21 or more of the value of real property was exempt from local
22 property taxation during tax year 2006. The percentage of exempt
23 property shall be calculated by dividing the total exempt value by
24 the sum of the net valuation which is taxable and that which is tax
25 exempt.¹

26 (cf: P.L.2018, c.120, s.1)

27
28 121. Section 4 of P.L.2011, c.149 (C.34:1B-245) is amended to
29 read as follows:

30 4. The authority shall require an eligible business to enter into
31 an incentive agreement prior to the issuance of tax credits. The
32 incentive agreement shall include, but shall not be limited to, the
33 following:

34 a. A detailed description of the proposed project which will
35 result in job creation or retention, and the number of new or
36 retained full-time jobs that are approved for tax credits.

37 b. The eligibility period of the tax credits, including the first
38 year for which the tax credits may be claimed.

39 c. Personnel information that will enable the authority to
40 administer the program.

41 d. A requirement that the applicant maintain the project at a
42 location in New Jersey for the commitment period, with at least the
43 minimum number of full-time employees as required by this
44 program, except as otherwise agreed to pursuant to subsection h. of
45 section 6 of P.L.2011, c.159 (C.34:1B-247) and a provision to
46 permit the authority to recapture all or part of any tax credits
47 awarded, at its discretion, if the business does not remain in
48 compliance with this provision for the required term, and in the

1 instance of the business terminating an existing incentive agreement
2 in order to participate in an incentive agreement authorized pursuant
3 to the "New Jersey Economic Opportunity Act of 2013," P.L.2013,
4 c.161 (C.52:27D-489p et al.), such permitted recapture may be
5 calculated to recognize the period of time that the business was in
6 compliance prior to termination.

7 e. A method for the business to certify that it has met the
8 capital investment and employment requirements of the program
9 pursuant to paragraph (1) of subsection a. of section 3 of P.L.2011,
10 c.149 (C.34:1B-244) and to report annually to the authority the
11 number of full-time employees for which the tax credits are to be
12 made.

13 f. A provision permitting an audit of the payroll records of the
14 business from time to time, as the authority deems necessary.

15 g. A provision which permits the authority to amend the
16 agreement.

17 h. A provision establishing the conditions under which the
18 agreement may be terminated.

19 (cf: P.L.2013, c.161, s.9)
20

21 122. Section 5 of P.L.2009, c.90 (C.52:27D-489e) is amended to
22 read as follows:

23 5. a. The New Jersey Economic Development Authority, in
24 consultation with the State Treasurer, shall establish an Economic
25 Redevelopment and Growth Grant program for the purpose of
26 encouraging redevelopment projects in qualifying economic
27 redevelopment and growth grant incentive areas that do not qualify
28 as such areas solely by virtue of being a transit village, through the
29 provision of incentive grants to reimburse developers for certain
30 project financing gap costs.

31 b. (1) A developer shall submit an application for a State
32 incentive grant prior to July 1, 2019, except: (a) a developer of a
33 qualified residential project or a mixed use parking project seeking
34 an award of credits toward the funding of its incentive grant for a
35 project restricted under category (viii) of subparagraph (b) of
36 paragraph (3) of subsection b. of section 6 of P.L.2009, c.90
37 (C.52:27D-489f) shall submit an incentive grant application prior to
38 December 31, 2021 and (b) a developer seeking an award of credits
39 toward the funding of its incentive grant under subparagraphs (f)
40 and (g) of paragraph (3) of subsection b. of section 6 of P.L.2009,
41 c.90 (C.52:27D-489f) shall submit an incentive grant application
42 prior to December 31, 2021. A developer that submits an
43 application for a State incentive grant shall indicate on the
44 application whether it is also applying for a local incentive grant.
45 Tax credits awarded to developers who apply after the effective
46 date of P.L. , c. (C.)(pending before the Legislature as this
47 bill) under subparagraphs (f) and (g) of paragraph (3) of subsection
48 b. of section 6 of P.L.2009, c.90 (C.52:27D-489f) shall not exceed

1 \$200,000,000 subject to the limitations of subparagraphs (f) and (g)
2 of that paragraph.

3 (2) When an applicant indicates it is also applying for a local
4 incentive grant, the authority shall forward a copy of the application
5 to the municipality wherein the redevelopment project is to be
6 located for approval by municipal ordinance.

7 c. An application for a State incentive grant shall be reviewed
8 and approved by the authority. The authority shall not approve an
9 application for a State incentive grant unless the application was
10 submitted prior to July 1, 2019, except: (1) the authority shall not
11 approve an application for a State incentive grant by a developer of
12 a qualified residential project or a mixed use parking project
13 seeking an award of credits toward the funding of its incentive grant
14 for a project restricted under category (viii) of subparagraph (b) of
15 paragraph (3) of subsection b. of section 6 of P.L.2009, c.90
16 (C.52:27D-489f) unless the application was submitted prior to
17 December 31, 2021 and (2) the authority shall not approve an
18 application for a State incentive grant by a developer under
19 subparagraphs (f) and (g) of paragraph (3) of subsection b. of
20 section 6 of P.L.2009, c.90 (C.52:27D-489f) unless the application
21 was submitted prior to December 31, 2021.

22 d. A developer shall not be required to purchase pinelands
23 development credits under the "Pinelands Protection Act,"
24 P.L.1979, c.111 (C.13:18A-1 et seq.), the pinelands comprehensive
25 management plan, or any other rule or regulation adopted pursuant
26 to that act in connection with any approval or relief obtained related
27 to a redevelopment project located in an aviation district on or after
28 the effective date of P.L.2018, c.120, except if seeking to develop in
29 permanently protected open space pursuant to the Pinelands
30 Protection Act. The provisions of this subsection shall not apply to
31 a developer of a qualified residential project.

32 (cf: P.L.2018, c.120, s.6)

33

34 123. Section 6 of P.L.2009, c.90 (C.52:27D-489f) is amended to
35 read as follows:

36 6. a. Up to the limits established in subsection b. of this
37 section and in accordance with a redevelopment incentive grant
38 agreement, beginning upon the receipt of occupancy permits for any
39 portion of the redevelopment project, or upon any other event
40 evidencing project completion as set forth in the incentive grant
41 agreement, the State Treasurer shall pay to the developer
42 incremental State revenues directly realized from businesses
43 operating at the site of the redevelopment project from the
44 following taxes: the Corporation Business Tax Act (1945),
45 P.L.1945, c.162 (C.54:10A-1 et seq.), the tax imposed on marine
46 insurance companies pursuant to R.S.54:16-1 et seq., the tax
47 imposed on insurers generally, pursuant to P.L.1945, c.132
48 (C.54:18A-1 et seq.), the public utility franchise tax, public utilities

1 gross receipts tax and public utility excise tax imposed on sewerage
2 and water corporations pursuant to P.L.1940, c.5 (C.54:30A-49 et
3 seq.), those tariffs and charges imposed by electric, natural gas,
4 telecommunications, water and sewage utilities, and cable television
5 companies under the jurisdiction of the New Jersey Board of Public
6 Utilities, or comparable entity, except for those tariffs, fees, or taxes
7 related to societal benefits charges assessed pursuant to section 12
8 of P.L.1999, c.23 (C.48:3-60), any charges paid for compliance
9 with the "Global Warming Response Act," P.L.2007, c.112
10 (C.26:2C-37 et seq.), transitional energy facility assessment unit
11 taxes paid pursuant to section 67 of P.L.1997, c.162 (C.48:2-21.34),
12 and the sales and use taxes on public utility and cable television
13 services and commodities, the tax derived from net profits from
14 business, a distributive share of partnership income, or a pro rata
15 share of S corporation income under the "New Jersey Gross Income
16 Tax Act," N.J.S.54A:1-1 et seq., the tax derived from a business at
17 the site of a redevelopment project that is required to collect the tax
18 pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-
19 1 et seq.), the tax imposed pursuant to P.L.1966, c.30 (C.54:32B-1
20 et seq.) from the purchase of furniture, fixtures and equipment, or
21 materials for the remediation, the construction of new structures at
22 the site of a redevelopment project, the hotel and motel occupancy
23 fee imposed pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1),
24 or the portion of the fee imposed pursuant to section 3 of P.L.1968,
25 c.49 (C.46:15-7) derived from the sale of real property at the site of
26 the redevelopment project and paid to the State Treasurer for use by
27 the State, that is not credited to the "Shore Protection Fund" or the
28 "Neighborhood Preservation Nonlapsing Revolving Fund" ("New
29 Jersey Affordable Housing Trust Fund") pursuant to section 4 of
30 P.L.1968, c.49 (C.46:15-8). Any developer shall be allowed to
31 assign their ability to apply for the tax credit under this subsection
32 to a non-profit organization with a mission dedicated to attracting
33 investment and completing development and redevelopment
34 projects in a Garden State Growth Zone. The non-profit
35 organization may make an application on behalf of a developer
36 which meets the requirements for the tax credit, or a group of non-
37 qualifying developers, such that these will be considered a unified
38 project for the purposes of the incentives provided under this
39 section.

40 b. (1) Up to an average of 75 percent of the projected annual
41 incremental revenues or 85 percent of the projected annual
42 incremental revenues in a Garden State Growth Zone may be
43 pledged towards the State portion of an incentive grant.

44 (2) In the case of a qualified residential project or a project
45 involving university infrastructure, if the authority determines that
46 the estimated amount of incremental revenues pledged towards the
47 State portion of an incentive grant is inadequate to fully fund the
48 amount of the State portion of the incentive grant, then in lieu of an

1 incentive grant based on the incremental revenues, the developer
2 shall be awarded tax credits equal to the full amount of the
3 incentive grant.

4 (3) In the case of a mixed use parking project, if the authority
5 determines that the estimated amount of incremental revenues
6 pledged towards the State portion of an incentive grant is
7 inadequate to fully fund the amount of the State portion of the
8 incentive grant, then, in lieu of an incentive grant based on the
9 incremental revenues, the developer shall be awarded tax credits
10 equal to the full amount of the incentive grant.

11 The value of all credits approved by the authority pursuant to
12 paragraphs (2) and (3) of this subsection shall not exceed
13 **[\$823,000,000]** \$1,043,000,000, of which:

14 (a) \$250,000,000 shall be restricted to qualified residential
15 projects within Atlantic, Burlington, Camden, Cape May,
16 Cumberland, Gloucester, Ocean, and Salem counties, of which
17 \$175,000,000 of the credits shall be restricted to the following
18 categories of projects: (i) qualified residential projects located in a
19 Garden State Growth Zone located within the aforementioned
20 counties; and (ii) mixed use parking projects located in a Garden
21 State Growth Zone or urban transit hub located within the
22 aforementioned counties; (iii) and \$75,000,000 of the credits shall
23 be restricted to qualified residential projects in municipalities with a
24 2007 Municipal Revitalization Index of 400 or higher as of the date
25 of enactment of the "New Jersey Economic Opportunity Act of
26 2013," P.L.2013, c.161 (C.52:27D-489p et al.) and located within
27 the aforementioned counties;

28 (b) \$395,000,000 shall be restricted to the following categories
29 of projects: (i) qualified residential projects located in urban transit
30 hubs that are commuter rail in nature that otherwise do not qualify
31 under subparagraph (a) of this paragraph; (ii) qualified residential
32 projects located in Garden State Growth Zones that do not qualify
33 under subparagraph (a) of this paragraph; (iii) mixed use parking
34 projects located in urban transit hubs or Garden State Growth Zones
35 that do not qualify under subparagraph (a) of this paragraph,
36 provided however, an urban transit hub shall be allocated no more
37 than \$25,000,000 for mixed use parking projects; (iv) qualified
38 residential projects which are disaster recovery projects that
39 otherwise do not qualify under subparagraph (a) of this paragraph;
40 (v) qualified residential projects in SDA municipalities located in
41 Hudson County that were awarded State Aid in State Fiscal Year
42 2013 through the Transitional Aid to Localities program and
43 otherwise do not qualify under subparagraph (a) of this paragraph;
44 (vi) \$25,000,000 of credits shall be restricted to mixed use parking
45 projects in Garden State Growth Zones which have a population in
46 excess of 125,000 and do not qualify under subparagraph (a) of this
47 paragraph; (vii) \$40,000,000 of credits shall be restricted to
48 qualified residential projects that include a theater venue for the

1 performing arts and do not qualify under subparagraph (a) of this
2 paragraph, which projects are located in a municipality with a
3 population of less than 100,000 according to the latest federal
4 decennial census, and within which municipality is located an urban
5 transit hub and a campus of a public research university, as defined
6 in section 1 of P.L.2009, c.308 (C.18A:3B-46); and (viii)
7 **【\$105,000,000】** \$125,000,000 of credits shall be restricted to
8 qualified residential projects and mixed use parking projects in
9 Garden State Growth Zones having a population in excess of
10 125,000 and do not qualify under subparagraph (a) of this
11 paragraph;

12 (c) \$87,000,000 shall be restricted to the following categories of
13 projects: (i) qualified residential projects located in distressed
14 municipalities, deep poverty pockets, highlands development credit
15 receiving areas or redevelopment areas, otherwise not qualifying
16 pursuant to subparagraph (a) or (b) of this paragraph; and (ii) mixed
17 use parking projects that do not qualify under subparagraph (a) or
18 (b) of this paragraph, and which are used by an independent
19 institution of higher education, a school of medicine, a nonprofit
20 hospital system, or any combination thereof; provided, however,
21 that \$20,000,000 of the \$87,000,000 shall be allocated to mixed use
22 parking projects that do not qualify under subparagraph (a) or (b) of
23 this paragraph;

24 (d) (i) \$16,000,000 shall be restricted to qualified residential
25 projects that are located within a qualifying economic
26 redevelopment and growth grant incentive area otherwise not
27 qualifying under subparagraph (a), (b), or (c) of this paragraph; and

28 (ii) an additional \$50,000,000 shall be restricted to qualified
29 residential projects which, as of the effective date of P.L.2016, c.51,
30 are located in a city of the first class with a population in excess of
31 270,000, are subject to a Renewal Contract for a Section 8 Mark-
32 Up-To-Market Project from the United States Department of
33 Housing and Urban Development, and for which an application for
34 the award of tax credits under this subsection was submitted prior to
35 January 1, 2016; **【and】**

36 (e) \$25,000,000 shall be restricted to projects involving
37 university infrastructure;

38 (f) \$150,000,000 shall be restricted to applications submitted
39 after the effective date of P.L. , c. (C.)(pending before the
40 Legislature as this bill) for projects which are predominantly
41 commercial and contain 100,000 or more square feet of office and
42 retail space, or industrial space for purchase or lease and may
43 include a parking component; and

44 (g) \$50,000,000 shall be restricted to applications submitted after
45 the effective date of P.L. , c. (C.)(pending before the
46 Legislature as this bill) for residential projects in any county of the
47 State.

1 **[(f)] (h)** For subparagraphs (a) through (d) of this paragraph,
2 not more than \$40,000,000 of credits shall be awarded to any
3 qualified residential project in a deep poverty pocket or distressed
4 municipality and not more than \$20,000,000 of credits shall be
5 awarded to any other qualified residential project. The developer of
6 a qualified residential project seeking an award of credits towards
7 the funding of its incentive grant shall submit an incentive grant
8 application prior to July 1, 2016 and if approved after September
9 18, 2013, the effective date of P.L.2013, c.161 (C.52:27D-489p et
10 al.) shall submit a temporary certificate of occupancy for the project
11 no later than **[July 28, 2021]** December 31, 2023. The developer of
12 a mixed use parking project seeking an award of credits towards the
13 funding of its incentive grant pursuant to subparagraph (c) of this
14 paragraph and if approved after the effective date of P.L.2015,
15 c.217, shall submit a temporary certificate of occupancy for the
16 project no later than **[July 28, 2021]** December 31, 2023. The
17 developer of a qualified residential project or a mixed use parking
18 project seeking an award of credits toward the funding of its
19 incentive grant for a project restricted under categories (vi) and
20 (viii) of subparagraph (b) of this paragraph shall submit an
21 incentive grant application prior to July 1, 2019 or, in the case of a
22 project restricted under category (viii) of subparagraph (b) of this
23 paragraph, December 31, 2021, and if approved after the effective
24 date of P.L.2017, c.59, shall submit a temporary certificate of
25 occupancy for the project no later than **[July 28, 2022]** December
26 31, 2023 provided that the municipality in which the project is
27 located shall have submitted to the chief executive officer of the
28 authority a letter of support identifying up to six projects prior to
29 July 1, 2018. The letter of support is to contain a project scope for
30 each of the projects and may be supplemented or amended from
31 time to time until July 1, 2019 or, in the case of a project restricted
32 under category (viii) of subparagraph (b) of this paragraph,
33 December 31, 2021. Applications for tax credits pursuant to this
34 subsection relating to an ancillary infrastructure project or
35 infrastructure improvement in the public right-of-way, or both, shall
36 be accompanied with a letter of support relating to the project or
37 improvement by the governing body or agency in which the project
38 is located. Credits awarded to a developer pursuant to this
39 subsection shall be subject to the same financial and related analysis
40 by the authority, the same term of the grant, and the same
41 mechanism for administering the credits, and shall be utilized or
42 transferred by the developer as if the credits had been awarded to
43 the developer pursuant to section 35 of P.L.2009, c.90 (C.34:1B-
44 209.3) for qualified residential projects thereunder. No portion of
45 the revenues pledged pursuant to the "New Jersey Economic
46 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.)
47 shall be subject to withholding or retainage for adjustment, in the

1 event the developer or taxpayer waives its rights to claim a refund
2 thereof.

3 (i) The developer of a project seeking an award of credits for a
4 project restricted under subparagraphs (f) and (g) of this paragraph
5 shall submit an incentive grant application prior to December 31,
6 2021, and if approved after the effective date of P.L. _____,
7 c. (C. _____)(pending before the Legislature as this bill), shall
8 submit a temporary certificate of occupancy for the project no later
9 than December 31, 2024. In addition to the requirements for an
10 award of credits set forth in P.L.2009, c.90 (C.52:27D-489a et al.),
11 a developer shall be eligible to receive an award of credits for a
12 project restricted under subparagraphs (f) and (g) of this paragraph
13 only if the developer demonstrates to the authority at that time of
14 application that: (i) the project shall comply with minimum
15 environmental and sustainability standards; (ii) the project shall
16 comply with the authority's affirmative action requirements,
17 adopted pursuant to section 4 of P.L.1979, c.303 (C.34:1B-5.4); (iii)
18 each worker employed by the developer or subcontractor of a
19 developer working at the project shall be paid not less than \$15 per
20 hour or 120 percent of the minimum wage fixed under subsection a.
21 of section 5 of P.L.1966, c.113 (C.34:11-56a4), whichever is
22 higher; and (iv) during the eligibility period, each worker employed
23 to perform construction work or building services work at the
24 project shall be paid not less than the prevailing wage rate for the
25 worker's craft or trade, as determined by the Commissioner of
26 Labor and Workforce Development pursuant to P.L.1963, c.150
27 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.).

28 Prior to the board considering an application submitted by a
29 developer for a project restricted under subparagraphs (f) and (g) of
30 this paragraph, the Department of Labor and Workforce
31 Development, the Department of Environmental Protection, and the
32 Department of the Treasury shall each report to the chief executive
33 officer of the authority whether the developer is in substantial good
34 standing with the respective department, or has entered into an
35 agreement with the respective department that includes a practical
36 corrective action plan for the developer. The developer, or an
37 authorized agent of the developer, shall certify to the authority that
38 all factual assertions made in the developer's application are true
39 under the penalty of perjury. If at any time the authority determines
40 that the developer made a material misrepresentation on the
41 developer's application, the developer shall forfeit the award of
42 credits and the authority shall recapture any tax credits awarded to
43 the developer.

44 (4) A developer may apply to the Director of the Division of
45 Taxation in the Department of the Treasury and the chief executive
46 officer of the authority for a tax credit transfer certificate, if the
47 developer is awarded a tax credit pursuant to paragraph (2) or
48 paragraph (3) of this subsection, covering one or more years, in lieu

1 of the developer being allowed any amount of the credit against the
2 tax liability of the developer. The tax credit transfer certificate,
3 upon receipt thereof by the developer from the director and the
4 chief executive officer of the authority, may be sold or assigned, in
5 full or in part, to any other person who may have a tax liability
6 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2
7 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1
8 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The certificate
9 provided to the developer shall include a statement waiving the
10 developer's right to claim that amount of the credit against the taxes
11 that the developer has elected to sell or assign. The sale or
12 assignment of any amount of a tax credit transfer certificate allowed
13 under this paragraph shall not be exchanged for consideration
14 received by the developer of less than 75 percent of the transferred
15 credit amount before considering any further discounting to present
16 value that may be permitted. Any amount of a tax credit transfer
17 certificate used by a purchaser or assignee against a tax liability
18 shall be subject to the same limitations and conditions that apply to
19 the use of the credit by the developer who originally applied for and
20 was allowed the credit.

21 c. All administrative costs associated with the incentive grant
22 shall be assessed to the applicant and be retained by the State
23 Treasurer from the annual incentive grant payments.

24 d. The incremental revenue for the revenues listed in subsection
25 a. of this section shall be calculated as the difference between the
26 amount collected in any fiscal year from any eligible revenue
27 source included in the State redevelopment incentive grant
28 agreement, less the revenue increment base for that eligible
29 revenue.

30 e. The municipality is authorized to collect any information
31 necessary to facilitate grants under this program and remit that
32 information in order to assist in the calculation of incremental
33 revenue.

34 (cf: P.L.2018, c.44, s.2)

35
36 124. Section 8 of P.L.2009, c.90 (C.52:27D-489h) is amended to
37 read as follows:

38 8. a. (1) The authority, in consultation with the State
39 Treasurer, shall promulgate an incentive grant application form and
40 procedure for the Economic Redevelopment and Growth Grant
41 program.

42 (2) (a) The Local Finance Board, in consultation with the
43 authority, shall develop a minimum standard incentive grant
44 application form for municipal Economic Redevelopment and
45 Growth Grant programs.

46 (b) Through regulation, the authority shall establish standards
47 for redevelopment projects seeking State or local incentive grants
48 based on the green building manual prepared by the Commissioner

- 1 of Community Affairs pursuant to section 1 of P.L.2007, c.132
2 (C.52:27D-130.6), regarding the use of renewable energy, energy-
3 efficient technology, and non-renewable resources in order to
4 reduce environmental degradation and encourage long-term cost
5 reduction.
- 6 b. Within each incentive grant application, a developer shall
7 certify information concerning:
- 8 (1) the status of control of the entire redevelopment project site;
9 (2) all required State and federal government permits that have
10 been issued for the redevelopment project, or will be issued pending
11 resolution of financing issues;
12 (3) local planning and zoning board approvals, as required, for
13 the redevelopment project;
14 (4) estimates of the revenue increment base, the eligible
15 revenues for the project, and the assumptions upon which those
16 estimates are made.
- 17 c. (1) With regard to State tax revenues proposed to be
18 pledged for an incentive grant the authority and the State Treasurer
19 shall review the project costs, evaluate and validate the project
20 financing gap estimated by the developer, and conduct a State fiscal
21 impact analysis to ensure that the overall public assistance provided
22 to the project, except with regards to a qualified residential project,
23 a mixed use parking project, or a project involving university
24 infrastructure, will result in net benefits to the State including,
25 without limitation, both direct and indirect economic benefits and
26 non-financial community revitalization objectives, including but not
27 limited to, the promotion of the use of public transportation in the
28 case of the ancillary infrastructure project portion of any transit
29 project.
- 30 (2) With regard to local incremental revenues proposed to be
31 pledged for an incentive grant the authority and the Local Finance
32 Board shall review the project costs, and except with respect to an
33 application by a municipal redeveloper, evaluate and validate the
34 project financing gap projected by the developer, and conduct a
35 local fiscal impact analysis to ensure that the overall public
36 assistance provided to the project, except with regards to a qualified
37 residential project, a mixed use parking project, or a project
38 involving university infrastructure, will result in net benefits to the
39 municipality wherein the redevelopment project is located
40 including, without limitation, both direct and indirect economic
41 benefits and non-financial community revitalization objectives,
42 including but not limited to, the promotion of the use of public
43 transportation in the case of the ancillary infrastructure project
44 portion of any transit project.
- 45 (3) The authority, State Treasurer, and Local Finance Board
46 may act cooperatively to administer and review applications, and
47 shall consult with the Office of State Planning on matters

1 concerning State, regional, and local development and planning
2 strategies.

3 (4) The costs of the aforementioned reviews shall be assessed to
4 the applicant as an application fee, except for applications
5 submitted on or after January 1, 2018, but before June 30, 2018,
6 which are amended after the effective date of P.L. , c. (C.)
7 (pending before the Legislature as this bill), the authority may
8 waive fees.

9 (5) A developer who has already applied for an incentive grant
10 award prior to the effective date of the "New Jersey Economic
11 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.),
12 but who has not yet been approved for the grant, or has not
13 executed an agreement with the authority, may proceed under that
14 application or seek to amend the application or reapply for an
15 incentive grant award for the same project or any part thereof for
16 the purpose of availing himself or herself of any more favorable
17 provisions of the Economic Redevelopment and Growth Grant
18 program established pursuant to the "New Jersey Economic
19 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.),
20 except that projects with costs exceeding \$200,000,000 shall not be
21 eligible for revised percentage caps under subsection d. of section
22 19 of P.L.2013, c.161 (C.52:27D-489i).
23 (cf: P.L.2015, c.242, s.3)
24

25 125. R.S.54:50-8 is amended to read as follows:

26 54:50-8. a. The records and files of the director respecting the
27 administration of the State Uniform Tax Procedure Law or of any
28 State tax law shall be considered confidential and privileged and
29 neither the director nor any employee engaged in the administration
30 thereof or charged with the custody of any such records or files, nor
31 any former officer or employee, nor any person who may have
32 secured information therefrom under subsection d., e., f., g., p.,
33 **【or】** q., or r. of R.S.54:50-9 or any other provision of State law,
34 shall divulge, disclose, use for their own personal advantage, or
35 examine for any reason other than a reason necessitated by the
36 performance of official duties any information obtained from the
37 said records or files or from any examination or inspection of the
38 premises or property of any person. Neither the director nor any
39 employee engaged in such administration or charged with the
40 custody of any such records or files shall be required to produce any
41 of them for the inspection of any person or for use in any action or
42 proceeding except when the records or files or the facts shown
43 thereby are directly involved in an action or proceeding under the
44 provisions of the State Uniform Tax Procedure Law or of the State
45 tax law affected, or where the determination of the action or
46 proceeding will affect the validity or amount of the claim of the
47 State under some State tax law, or in any lawful proceeding for the
48 investigation and prosecution of any violation of the criminal

1 provisions of the State Uniform Tax Procedure Law or of any State
2 tax law.

3 b. The prohibitions of this section, against unauthorized
4 disclosure, use or examination by any present or former officer or
5 employee of this State or any other individual having custody of
6 such information obtained pursuant to the explicit authority of State
7 law, shall specifically include, without limitation, violations
8 involving the divulgence or examination of any information from or
9 any copy of a federal return or federal return information required
10 by New Jersey law to be attached to or included in any New Jersey
11 return. Any person violating this section by divulging, disclosing or
12 using information shall be guilty of a crime of the fourth degree.
13 Any person violating this section by examining records or files for
14 any reason other than a reason necessitated by the performance of
15 official duties shall be guilty of a disorderly persons offense.

16 c. Whenever records and files are used in connection with the
17 prosecution of any person for violating the provisions of this section
18 by divulging, disclosing or using records or files or examining
19 records and files for any reason other than a reason necessitated by
20 the performance of official duties, the defendant shall be given
21 access to those records and files. The court shall review such
22 records and files in camera, and that portion of the court record
23 containing the records and files shall be sealed by the court.

24 (cf: P.L.2019, c.367, s.1)

25

26 126. R.S.54:50-9 is amended to read as follows:

27 54:50-9. Nothing herein contained shall be construed to prevent:

28 a. The delivery to a taxpayer or the taxpayer's duly authorized
29 representative of a copy of any report or any other paper filed by
30 the taxpayer pursuant to the provisions of this subtitle or of any
31 such State tax law;

32 b. The publication of statistics so classified as to prevent the
33 identification of a particular report and the items thereof;

34 c. The director, in the director's discretion and subject to
35 reasonable conditions imposed by the director, from disclosing the
36 name and address of any licensee under any State tax law, unless
37 expressly prohibited by such State tax law;

38 d. The inspection by the Attorney General or other legal
39 representative of this State of the reports or files relating to the
40 claim of any taxpayer who shall bring an action to review or set
41 aside any tax imposed under any State tax law or against whom an
42 action or proceeding has been instituted in accordance with the
43 provisions thereof;

44 e. The examination of said records and files by the
45 Comptroller, State Auditor or State Commissioner of Finance, or by
46 their respective duly authorized agents;

47 f. The furnishing, at the discretion of the director, of any
48 information contained in tax reports or returns or any audit thereof

1 or the report of any investigation made with respect thereto, filed
2 pursuant to the tax laws, to the taxing officials of any other state,
3 the District of Columbia, the United States and the territories
4 thereof, providing said jurisdictions grant like privileges to this
5 State and providing such information is to be used for tax purposes
6 only;

7 g. The furnishing, at the discretion of the director, of any
8 material information disclosed by the records or files to any law
9 enforcing authority of this State who shall be charged with the
10 investigation or prosecution of any violation of the criminal
11 provisions of this subtitle or of any State tax law;

12 h. The furnishing by the director to the State agency
13 responsible for administering the Child Support Enforcement
14 program pursuant to Title IV-D of the federal Social Security Act,
15 Pub.L.93-647 (42 U.S.C. s.651 et seq.), with the names, home
16 addresses, social security numbers and sources of income and assets
17 of all absent parents who are certified by that agency as being
18 required to pay child support, upon request by the State agency and
19 pursuant to procedures and in a form prescribed by the director;

20 i. The furnishing by the director to the Board of Public
21 Utilities any information contained in tax information statements,
22 reports or returns or any audit thereof or a report of any
23 investigation made with respect thereto, as may be necessary for the
24 administration of P.L.1991, c.184 (C.54:30A-18.6 et al.) and
25 P.L.1997, c.162 (C.54:10A-5.25 et al.);

26 j. The furnishing by the director to the Director of the Division
27 of Alcoholic Beverage Control in the Department of Law and
28 Public Safety any information contained in tax information
29 statements, reports or returns or any audit thereof or a report of any
30 investigation made with respect thereto, as may be relevant, in the
31 discretion of the director, in any proceeding conducted for the
32 issuance, suspension or revocation of any license authorized
33 pursuant to Title 33 of the Revised Statutes;

34 k. The inspection by the Attorney General or other legal
35 representative of this State of the reports or files of any tobacco
36 product manufacturer, as defined in section 2 of P.L.1999, c.148
37 (C.52:4D-2), for any period in which that tobacco product
38 manufacturer was not or is not in compliance with subsection a. of
39 section 3 of P.L.1999, c.148 (C.52:4D-3), or of any licensed
40 distributor as defined in section 102 of P.L.1948, c.65 (C.54:40A-
41 2), for the purpose of facilitating the administration of the
42 provisions of P.L.1999, c.148 (C.52:4D-1 et seq.);

43 l. The furnishing, at the discretion of the director, of
44 information as to whether a contractor or subcontractor holds a
45 valid business registration as defined in section 1 of P.L.2001, c.134
46 (C.52:32-44);

47 m. The furnishing by the director to a State agency as defined in
48 section 1 of P.L.1995, c.158 (C.54:50-24) the names of licensees

1 subject to suspension for non-payment of State tax indebtedness
2 pursuant to P.L.2004, c.58 (C.54:50-26.1 et al.);

3 n. The release to the United States Department of the Treasury,
4 Bureau of Financial Management Service, or its successor of
5 relevant taxpayer information for purposes of implementing a
6 reciprocal collection and offset of indebtedness agreement entered
7 into between the State of New Jersey and the federal government
8 pursuant to section 1 of P.L.2006, c.32 (C.54:49-12.7);

9 o. The examination of said records and files by the
10 Commissioner of Health and Senior Services, the Commissioner of
11 Human Services, the Medicaid Inspector General, or their
12 respective duly authorized agents, pursuant to section 5 of
13 P.L.2007, c.217 (C.26:2H-18.60e), section 3 of P.L.1968, c.413
14 (C.30:4D-3), or section 5 of P.L.2005, c.156 (C.30:4J-12);

15 p. The furnishing at the discretion of the director of employer
16 provided wage and tax withholding information contained in tax
17 reports or returns filed pursuant to N.J.S.54A:7-2, 54A:7-4 and
18 54A:7-7, to the designated municipal officer of a municipality
19 authorized to impose an employer payroll tax pursuant to the
20 provisions of Article 5 (Employer Payroll Tax) of the "Local Tax
21 Authorization Act," P.L.1970, c.326 (C.40:48C-14 et seq.), for the
22 limited purpose of verifying the payroll information reported by
23 employers subject to the employer payroll tax;

24 q. The furnishing by the director to the Commissioner of Labor
25 and Workforce Development of any information, including, but not
26 limited to, tax information statements, reports, audit files, returns,
27 or reports of any investigation for the purpose of labor market
28 research or assisting in investigations pursuant to any State wage,
29 benefit or tax law as enumerated in section 1 of P.L.2009, c.194
30 (C.34:1A-1.11); or pursuant to P.L.1940, c.153 (C.34:2-21.1 et
31 seq.).

32 r. The furnishing by the director to the New Jersey Economic
33 Development Authority any information contained in tax
34 information statements, reports or returns, or any audit thereof or a
35 report of any investigation made with respect thereto, as may be
36 relevant to assist the authority in the implementation of programs
37 through which grants, loans, tax credits, or other forms of financial
38 assistance are provided. The director shall provide to the New
39 Jersey Economic Development Authority, upon request, such
40 information.

41
42 127. There is appropriated from the General Fund:

43 a. to the Main Street Recovery Fund, the sum of \$50,000,000 to
44 implement the provisions of sections 82 through 88 of P.L. ,

45 c. (C.) (pending before the Legislature as this bill)

46 b. to the ¹Office of the Economic Development Inspector
47 General in the¹ Economic Development Authority, the sum of

1 \$250,000 to implement the provisions of sections 99 through 105 of
2 P.L. , c. (C.) (pending before the Legislature as this bill);
3 c. to the Economic Development Authority, the sum of \$250,000
4 to implement the provisions of sections 92 through 97 of P.L. ,
5 c. (C.) (pending before the Legislature as this bill); and
6 d. to the Economic Development Authority, the sum of
7 \$5,000,000 to be used to award competitive grants for zoning and
8 economic planning services in government-restricted municipalities
9 or economic redevelopment plans for distressed assets in other
10 municipalities.

11

12 128. This act shall take effect immediately.

13

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16

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