

SENATE, No. 2284

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MARCH 16, 2020

Sponsored by:

Senator NILSA I. CRUZ-PEREZ

District 5 (Camden and Gloucester)

Senator BRIAN P. STACK

District 33 (Hudson)

Co-Sponsored by:

Senators Singleton, Ruiz, Addiego, Greenstein, Madden, Bateman, Brown, Holzapfel, Singer and Oroho

SYNOPSIS

Authorizes EDA to make grants during periods of emergency declared by Governor and for duration of economic disruptions due to emergency; allows EDA to grant certain business documentation submission deadline extensions.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/19/2020)

1 AN ACT authorizing the New Jersey Economic Development
2 Authority to make grants during periods of emergency declared
3 by the Governor and for the duration of economic disruptions
4 due to the emergency, and amending various parts of the
5 statutory law.

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

9
10 1. Section 5 of P.L.1974, c.80 (C.34:1B-5) is amended to read
11 as follows:

12 5. The authority shall have the following powers:

13 a. To adopt bylaws for the regulation of its affairs and the
14 conduct of its business;

15 b. To adopt and have a seal and to alter the same at pleasure;

16 c. To sue and be sued;

17 d. To acquire in the name of the authority by purchase or
18 otherwise, on such terms and conditions and such manner as it may
19 deem proper, or by the exercise of the power of eminent domain in
20 the manner provided by the "Eminent Domain Act of 1971,"
21 P.L.1971, c.361 (C.20:3-1 et seq.), any lands or interests therein or
22 other property which it may determine is reasonably necessary for
23 any project; provided, however, that the authority in connection
24 with any project shall not take by exercise of the power of eminent
25 domain any real property except upon consent thereto given by
26 resolution of the governing body of the municipality in which such
27 real property is located; and provided further that the authority shall
28 be limited in its exercise of the power of eminent domain in
29 connection with any project in qualifying municipalities as defined
30 under the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.), or to
31 municipalities which had a population, according to the latest
32 federal decennial census, in excess of 10,000;

33 e. To enter into contracts with a person upon such terms and
34 conditions as the authority shall determine to be reasonable,
35 including, but not limited to, reimbursement for the planning,
36 designing, financing, construction, reconstruction, improvement,
37 equipping, furnishing, operation and maintenance of the project and
38 to pay or compromise any claims arising therefrom;

39 f. To establish and maintain reserve and insurance funds with
40 respect to the financing of the project or the school facilities project
41 and any project financed pursuant to the "Municipal Rehabilitation
42 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et
43 al.);

44 g. To sell, convey or lease to any person all or any portion of a
45 project for such consideration and upon such terms as the authority
46 may determine to be reasonable;

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

Matter underlined thus is new matter.

1 h. To mortgage, pledge or assign or otherwise encumber all or
2 any portion of a project, or revenues, whenever it shall find such
3 action to be in furtherance of the purposes of this act, P.L.2000,
4 c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and
5 Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.),
6 P.L.2007, c.137 (C.52:18A-235 et al.), and sections 3 through 18 of
7 P.L.2009, c.90 (C.52:27D-489c et al.);

8 i. To grant options to purchase or renew a lease for any of its
9 projects on such terms as the authority may determine to be
10 reasonable;

11 j. To contract for and to accept any gifts or grants or loans of
12 funds or property or financial or other aid in any form from the
13 United States of America or any agency or instrumentality thereof,
14 or from the State or any agency, instrumentality or political
15 subdivision thereof, or from any other source and to comply,
16 subject to the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.),
17 section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72
18 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic
19 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), and
20 P.L.2007, c.137 (C.52:18A-235 et al.), with the terms and
21 conditions thereof;

22 k. In connection with any action undertaken by the authority in
23 the performance of its duties and any application for assistance or
24 commitments therefor and modifications thereof, to require and
25 collect such fees and charges as the authority shall determine to be
26 reasonable, including but not limited to fees and charges for the
27 authority's administrative, organizational, insurance, operating,
28 legal, and other expenses;

29 l. To adopt, amend and repeal regulations to carry out the
30 provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of
31 P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.),
32 the "Municipal Rehabilitation and Economic Recovery Act,"
33 P.L.2002, c.43 (C.52:27BBB-1 et al.), and P.L.2007, c.137
34 (C.52:18A-235 et al.);

35 m. To acquire, purchase, manage and operate, hold and dispose
36 of real and personal property or interests therein, take assignments
37 of rentals and leases and make and enter into all contracts, leases,
38 agreements and arrangements necessary or incidental to the
39 performance of its duties;

40 n. To purchase, acquire and take assignments of notes,
41 mortgages and other forms of security and evidences of
42 indebtedness;

43 o. To purchase, acquire, attach, seize, accept or take title to any
44 project or school facilities project by conveyance or by foreclosure,
45 and sell, lease, manage or operate any project or school facilities
46 project for a use specified in this act, P.L.2000, c.72 (C.18A:7G-1
47 et al.), the "Municipal Rehabilitation and Economic Recovery Act,"
48 P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-

1 235 et al.), and sections 3 through 18 of P.L.2009, c.90 (C.52:27D-
2 489c et al.);

3 p. To borrow money and to issue bonds of the authority and to
4 provide for the rights of the holders thereof, as provided in
5 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401
6 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal
7 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
8 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and
9 sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.);

10 q. To extend credit or make loans to any person for the
11 planning, designing, acquiring, constructing, reconstructing,
12 improving, equipping and furnishing of a project or school facilities
13 project, which credits or loans may be secured by loan and security
14 agreements, mortgages, leases and any other instruments, upon such
15 terms and conditions as the authority shall deem reasonable,
16 including provision for the establishment and maintenance of
17 reserve and insurance funds, and to require the inclusion in any
18 mortgage, lease, contract, loan and security agreement or other
19 instrument, of such provisions for the construction, use, operation
20 and maintenance and financing of a project or school facilities
21 project as the authority may deem necessary or desirable;

22 r. To guarantee up to 90% of the amount of a loan to a person,
23 if the proceeds of the loan are to be applied to the purchase and
24 installation, in a building devoted to industrial or commercial
25 purposes, or in an office building, of an energy improvement
26 system;

27 s. To employ consulting engineers, architects, attorneys, real
28 estate counselors, appraisers, and such other consultants and
29 employees as may be required in the judgment of the redevelopment
30 utility to carry out the purposes of P.L.1974, c.80 (C.34:1B-1 et
31 seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72
32 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic
33 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007,
34 c.137 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009,
35 c.90 (C.52:27D-489c et al.), and to fix and pay their compensation
36 from funds available to the redevelopment utility therefor, all
37 without regard to the provisions of Title 11A of the New Jersey
38 Statutes;

39 t. To do and perform any acts and things authorized by
40 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401
41 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal
42 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
43 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and
44 sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.),
45 under, through or by means of its own officers, agents and
46 employees, or by contract with any person;

- 1 u. To procure insurance against any losses in connection with
2 its property, operations or assets in such amounts and from such
3 insurers as it deems desirable;
- 4 v. To do any and all things necessary or convenient to carry out
5 its purposes and exercise the powers given and granted in P.L.1974,
6 c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-
7 4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal
8 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
9 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and
10 sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.);
- 11 w. To construct, reconstruct, rehabilitate, improve, alter, equip,
12 maintain or repair or provide for the construction, reconstruction,
13 improvement, alteration, equipping or maintenance or repair of any
14 development property and lot, award and enter into construction
15 contracts, purchase orders and other contracts with respect thereto,
16 upon such terms and conditions as the authority shall determine to
17 be reasonable, including, but not limited to, reimbursement for the
18 planning, designing, financing, construction, reconstruction,
19 improvement, equipping, furnishing, operation and maintenance of
20 any such development property and the settlement of any claims
21 arising therefrom and the establishment and maintenance of reserve
22 funds with respect to the financing of such development property;
- 23 x. When authorized by the governing body of a municipality
24 exercising jurisdiction over an urban growth zone, to construct,
25 cause to be constructed or to provide financial assistance to projects
26 in an urban growth zone which shall be exempt from the terms and
27 requirements of the land use ordinances and regulations, including,
28 but not limited to, the master plan and zoning ordinances, of such
29 municipality;
- 30 y. To enter into business employment incentive agreements as
31 provided in the "Business Employment Incentive Program Act,"
32 P.L.1996, c.26 (C.34:1B-124 et al.);
- 33 z. To enter into agreements or contracts, execute instruments,
34 and do and perform all acts or things necessary, convenient or
35 desirable for the purposes of the redevelopment utility to carry out
36 any power expressly provided pursuant to P.L.1974, c.80 (C.34:1B-
37 1 et seq.), P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007, c.137
38 (C.52:18A-235 et al.), including, but not limited to, entering into
39 contracts with the State Treasurer, the Commissioner of Education,
40 districts, the New Jersey Schools Development Authority, and any
41 other entity which may be required in order to carry out the
42 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.2007, c.137
43 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009, c.90
44 (C.52:27D-489c et al.);
- 45 aa. (Deleted by amendment, P.L.2007, c.137);
- 46 bb. To make and contract to make loans to local units to finance
47 the cost of school facilities projects and to acquire and contract to
48 acquire bonds, notes or other obligations issued or to be issued by

1 local units to evidence the loans, all in accordance with the
2 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007,
3 c.137 (C.52:18A-235 et al.);

4 cc. Subject to any agreement with holders of its bonds issued to
5 finance a project or school facilities project, obtain as security or to
6 provide liquidity for payment of all or any part of the principal of
7 and interest and premium on the bonds of the authority or for the
8 purchase upon tender or otherwise of the bonds, lines of credit,
9 letters of credit, reimbursement agreements, interest rate exchange
10 agreements, currency exchange agreements, interest rate floors or
11 caps, options, puts or calls to hedge payment, currency, rate, spread
12 or similar exposure or similar agreements, float agreements,
13 forward agreements, insurance contract, surety bond, commitment
14 to purchase or sell bonds, purchase or sale agreement, or
15 commitments or other contracts or agreements, and other security
16 agreements or instruments in any amounts and upon any terms as
17 the authority may determine and pay any fees and expenses required
18 in connection therewith;

19 dd. To charge to and collect from local units, the State and any
20 other person, any fees and charges in connection with the
21 authority's actions undertaken with respect to school facilities
22 projects, including, but not limited to, fees and charges for the
23 authority's administrative, organization, insurance, operating and
24 other expenses incident to the financing of school facilities projects;

25 ee. To make loans to refinance solid waste facility bonds
26 through the issuance of bonds or other obligations and the execution
27 of any agreements with counties or public authorities to effect the
28 refunding or rescheduling of solid waste facility bonds, or otherwise
29 provide for the payment of all or a portion of any series of solid
30 waste facility bonds. Any county or public authority refunding or
31 rescheduling its solid waste facility bonds pursuant to this
32 subsection shall provide for the payment of not less than fifty
33 percent of the aggregate debt service for the refunded or
34 rescheduled debt of the particular county or public authority for the
35 duration of the loan; except that, whenever the solid waste facility
36 bonds to be refinanced were issued by a public authority and the
37 county solid waste facility was utilized as a regional county solid
38 waste facility, as designated in the respective adopted district solid
39 waste management plans of the participating counties as approved
40 by the department prior to November 10, 1997, and the utilization
41 of the facility was established pursuant to tonnage obligations set
42 forth in their respective interdistrict agreements, the public
43 authority refunding or rescheduling its solid waste facility bonds
44 pursuant to this subsection shall provide for the payment of a
45 percentage of the aggregate debt service for the refunded or
46 rescheduled debt of the public authority not to exceed the
47 percentage of the specified tonnage obligation of the host county for
48 the duration of the loan. Whenever the solid waste facility bonds

1 are the obligation of a public authority, the relevant county shall
2 execute a deficiency agreement with the authority, which shall
3 provide that the county pledges to cover any shortfall and to pay
4 deficiencies in scheduled repayment obligations of the public
5 authority. All costs associated with the issuance of bonds pursuant
6 to this subsection may be paid by the authority from the proceeds of
7 these bonds. Any county or public authority is hereby authorized to
8 enter into any agreement with the authority necessary, desirable or
9 convenient to effectuate the provisions of this subsection.

10 The authority shall not issue bonds or other obligations to effect
11 the refunding or rescheduling of solid waste facility bonds after
12 December 31, 2002. The authority may refund its own bonds issued
13 for the purposes herein at any time;

14 ff. To pool loans for any local government units that are
15 refunding bonds and do and perform any and all acts or things
16 necessary, convenient or desirable for the purpose of the authority
17 to achieve more favorable interest rates and terms for those local
18 governmental units;

19 gg. To finance projects approved by the board, provide staff
20 support to the board, oversee and monitor progress on the part of
21 the board in carrying out the revitalization, economic development
22 and restoration projects authorized pursuant to the "Municipal
23 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
24 (C.52:27BBB-1 et al.) and otherwise fulfilling its responsibilities
25 pursuant thereto;

26 hh. To offer financial assistance to qualified film production
27 companies as provided in the "New Jersey Film Production
28 Assistance Act," P.L.2003, c.182 (C.34:1B-178 et al.); **[and]**

29 ii. To finance or develop private or public parking facilities or
30 structures, which may include the use of solar photovoltaic
31 equipment, in municipalities qualified to receive State aid pursuant
32 to the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.) and
33 municipalities that contain areas designated pursuant to P.L.1985,
34 c.398 (C.52:18A-196 et al.) as Planning Area 1 (Metropolitan),
35 Planning Area 2 (Suburban), or a town center, and to provide
36 appropriate assistance, including but not limited to, extensions of
37 credit, loans, and guarantees, to municipalities qualified to receive
38 State aid pursuant to the provisions of P.L.1978, c.14 (C.52:27D-
39 178 et seq.) and municipalities that contain areas designated
40 pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning
41 Area 1 (Metropolitan), Planning Area 2 (Suburban), or a town
42 center, and their agencies and instrumentalities or to private entities
43 whose projects are located in those municipalities, in order to
44 facilitate the financing and development of parking facilities or
45 structures in such municipalities. The authority may serve as the
46 issuing agent of bonds to finance the undertaking of a project for
47 the purposes of this subsection; and

1 jj. To make grants for the planning, designing, acquiring,
2 constructing, reconstructing, improving, equipping, and furnishing
3 of a project, including, but not limited to, grants for working capital
4 and meeting payroll requirements, upon such terms and conditions
5 as the authority shall deem reasonable, during periods of emergency
6 declared by the Governor and for the duration of economic
7 disruptions due to the emergency.

8 (cf: P.L.2010, c.28, s.3)

10 2. Section 4 of P.L.1992, c.16 (C.34:1B-7.13) is amended to
11 read as follows:

12 4. The authority may use the moneys in the fund to pay
13 principal of, premium, if any, and interest on bonds or notes, which
14 shall be entitled "Economic Recovery Fund Bonds or Notes," as
15 appropriate, the proceeds, or net proceeds, of which shall be
16 deposited into the fund, or used for purposes of the fund, and
17 moneys in the fund, including money received from the sale of
18 bonds shall, in such manner as is determined by the authority, and
19 pursuant to subsections d., e., and f. of this section, be used for the
20 financing of projects as set forth in section 3 of P.L.1974, c.80
21 (C.34:1B-3) and to establish:

22 a. an economic growth account for business programs, which
23 will invest in small and medium-size businesses that have the
24 greatest potential for creating jobs and stimulating economic growth
25 through such elements as a Statewide lending pool for small
26 business, a business composite bond guarantee, a fund to further
27 supplement the export finance program of the authority to provide
28 direct loans and working capital necessary for New Jersey
29 businesses to compete in the global market, real estate partnerships,
30 a Statewide composite bond pool to assist municipalities in
31 acquiring needed financing for capital expenditures, community-
32 based assistance to assist municipalities in establishing local
33 development corporations to stimulate economic development, a
34 venture capital fund for start-up costs for businesses developing
35 new concepts and inventions, a fund to assist businesses with
36 expansion in such areas as manufacturing retooling to improve
37 quality, to reduce production costs and to train employees to apply
38 the latest technology, and a "Main Street Business Assistance
39 Program" to provide guarantees and loans to small and mid-size
40 businesses and not-for-profit corporations to stimulate the economy.
41 The authority may promulgate rules and regulations for the
42 effective implementation of the "Main Street Business Assistance
43 Program." Notwithstanding any provision of the "Administrative
44 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
45 contrary, the authority may adopt, immediately upon filing with the
46 Office of Administrative Law, such regulations as are necessary to
47 implement the provisions of this act, which shall be effective for a
48 period not to exceed 12 months following enactment, and may

1 thereafter be amended, adopted, or readopted by the authority in
2 accordance with the requirements of the "Administrative Procedure
3 Act," P.L.1968, c.410 (C.52:14B-1 et seq.). During periods of
4 emergency declared by the Governor and for the duration of
5 economic disruptions due to the emergency, the authority may use
6 the economic growth account for the planning, designing, acquiring,
7 constructing, reconstructing, improving, equipping, and furnishing
8 by small and medium-size businesses and not-for-profit
9 corporations of a project as defined in section 3 of P.L.1974, c. 80
10 (C.34:1B-3), including, but not limited to, grants for working
11 capital and meeting payroll requirements, upon such terms and
12 conditions as the authority shall deem reasonable;

13 b. an economic development infrastructure program account,
14 which shall provide for the financing and development of
15 infrastructure and transportation projects, including but not limited
16 to ports, terminal and transit facilities, roads and airports, parking
17 facilities used in connection with transit facilities, and related
18 facilities, including public-private partnerships, that are integral to
19 economic growth;

20 c. an account for a cultural, recreational, fine and performing
21 arts, military and veterans memorial, historic preservation project
22 and tourism facilities and improvements program, which shall
23 provide for the financing and development of cultural, recreational,
24 fine and performing arts, military and veterans memorial, historic
25 preservation and tourism projects, including partnerships with
26 public, private and nonprofit entities;

27 d. an account, into which shall be deposited an amount not less
28 than \$45,000,000, out of the total amounts deposited or credited to
29 the fund from the proceeds of the sale of Economic Recovery Fund
30 Bonds or Notes, for the financing of capital facilities for primary
31 and secondary schools in the State for the purpose of the
32 renovation, repair or alteration of existing school buildings, the
33 construction of new school buildings or the conversion of existing
34 school buildings to other instructional purposes.

35 (1) Of the amount deposited in the account, not less than
36 \$25,000,000 shall be deposited in the "Public School Facilities
37 Code Compliance Loan Fund" established pursuant to section 4 of
38 P.L.1993, c.102 (C.34:1B-7.23).

39 (2) Of the amount deposited in the account, not less than
40 \$20,000,000 shall be deposited in the "Public School Facilities
41 Loan Assistance Fund" established pursuant to section 5 of
42 P.L.1993, c.102 (C.34:1B-7.24);

43 e. an environmental cleanup assistance account, into which
44 shall be deposited an amount not less than \$10,000,000, out of the
45 total amounts deposited or credited to the fund from the proceeds of
46 the sale of Economic Recovery Fund Bonds or Notes, to provide
47 financial assistance to the persons and other entities entitled to
48 apply for financial assistance pursuant to P.L.1993, c.139; and

1 f. an account, into which shall be deposited an amount not less
2 than \$15,000,000, out of the total amounts deposited or credited to
3 the fund from the proceeds of the sale of Economic Recovery Fund
4 Bonds or Notes, for the financing of shore restoration, maintenance,
5 monitoring, protection and preservation projects pursuant to the
6 shore protection master plan prepared by the Department of
7 Environmental Protection pursuant to P.L.1978, c.157.
8 (cf: P.L.2010, c.28, s.2)

9
10 3. Section 6 of P.L.2011, c.149 (C.34:1B-247) is amended to
11 read as follows:

12 6. a. (1) The combined value of all credits approved by the
13 authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) and
14 P.L.2011, c.149 (C.34:1B-242 et al.) prior to December 31, 2013
15 shall not exceed \$1,750,000,000, except as may be increased by the
16 authority as set forth in paragraph (5) of subsection a. of section 35
17 of P.L.2009, c.90 (C.34:1B-209.3). Following the enactment of the
18 "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161
19 (C.52:27D-489p et al.), there shall be no monetary cap on the value
20 of credits approved by the authority attributable to the program
21 pursuant to the "New Jersey Economic Opportunity Act of 2013,"
22 P.L.2013, c.161 (C.52:27D-489p et al.).

23 (2) (Deleted by amendment, P.L.2013, c.161)

24 (3) (Deleted by amendment, P.L.2013, c.161)

25 (4) (Deleted by amendment, P.L.2013, c.161)

26 (5) (Deleted by amendment, P.L.2013, c.161)

27 b. (1) A business shall submit an application for tax credits prior
28 to July 1, 2019. The authority shall not approve an application for
29 tax credits unless the application was submitted prior to July 1,
30 2019.

31 (2) (a) A business shall submit its documentation indicating that
32 it has met the capital investment and employment requirements
33 specified in the incentive agreement for certification of its tax credit
34 amount within three years following the date of approval of its
35 application by the authority. The authority shall have the discretion
36 to grant two six-month extensions of this deadline. Except as
37 provided in ~~【subparagraph】~~ subparagraphs (b) and (c) of this
38 paragraph, in no event shall the incentive effective date occur later
39 than four years following the date of approval of an application by
40 the authority.

41 (b) As of the effective date of P.L.2017, c.314, a business which
42 applied for the tax credit prior to July 1, 2014 under P.L.2011,
43 c.149 (C.34:1B-242 et al.), shall submit its documentation to the
44 authority no later than July 28, 2019, indicating that it has met the
45 capital investment and employment requirements specified in the
46 incentive agreement for certification of its tax credit amount.

47 (c) If the Governor declares an emergency, then the chief
48 executive officer of the authority shall have the discretion to grant

1 an extension for the duration of the emergency and the board of the
2 authority, upon recommendation of the chief executive officer, may
3 grant two additional six-month extensions; provided that (i) the
4 extensions are due to the economic disruption cause by the
5 emergency; (ii) the project is delayed due to unforeseeable acts
6 related to the project beyond the eligible business's control and
7 without its fault or negligence; (iii) the eligible business is using
8 best efforts, with all due diligence, to proceed with the completion
9 of the project and the submission of the certification; and (iv) the
10 eligible business has made, and continues to make, all reasonable
11 efforts to prevent, avoid, mitigate, and overcome the delay.

12 (3) Full-time employment for an accounting or privilege period
13 shall be determined as the average of the monthly full-time
14 employment for the period.

15 (4) A business seeking a credit for a mega project shall apply for
16 the credit within four years after the effective date of the "New
17 Jersey Economic Opportunity Act of 2013," P.L.2013, c.161
18 (C.52:27D-489p et al.).

19 c. (1) In conducting its annual review, the authority may require
20 a business to submit any information determined by the authority to
21 be necessary and relevant to its review.

22 The credit amount for any tax period for which the
23 documentation of a business's credit amount remains uncanceled as
24 of a date three years after the closing date of that period shall be
25 forfeited, although credit amounts for the remainder of the years of
26 the eligibility period shall remain available to it.

27 The credit amount may be taken by the tax certificate holder for
28 the tax period for which it was issued or may be carried forward for
29 use by the tax certificate holder in any of the next 20 successive tax
30 periods, and shall expire thereafter. The tax certificate holder may
31 transfer the tax credit amount on or after the date of issuance or at
32 any time within three years of the date of issuance for use by the
33 transferee in the tax period for which it was issued or in any of the
34 next 20 successive tax periods. Notwithstanding the foregoing, no
35 more than the amount of tax credits equal to the total credit amount
36 divided by the duration of the eligibility period in years may be
37 taken in any tax period.

38 (2) Credits granted to a partnership shall be passed through to
39 the partners, members, or owners, respectively, pro-rata or pursuant
40 to an executed agreement among the partners, members, or owners
41 documenting an alternate distribution method provided to the
42 Director of the Division of Taxation in the Department of the
43 Treasury accompanied by any additional information as the director
44 may require.

45 (3) The amount of credit allowed may be applied against the tax
46 liability otherwise due pursuant to section 5 of P.L.1945, c.162
47 (C.54:10A-5), pursuant to sections 2 and 3 of P.L.1945, c.132

1 (C.54:18A-2 and C.54:18A-3), pursuant to section 1 of P.L.1950,
2 c.231 (C.17:32-15), or pursuant to N.J.S.17B:23-5.

3 d. (1) If, in any tax period, the business reduces the total number
4 of full-time employees in its Statewide workforce by more than 20
5 percent from the number of full-time employees in its Statewide
6 workforce in the last tax period prior to the credit amount approval
7 under section 3 of P.L.2011, c.149 (C.34:1B-244), then the business
8 shall forfeit its credit amount for that tax period and each
9 subsequent tax period, until the first tax period for which
10 documentation demonstrating the restoration of the business's
11 Statewide workforce to the threshold levels required by the
12 incentive agreement has been reviewed and approved by the
13 authority, for which tax period and each subsequent tax period the
14 full amount of the credit shall be allowed.

15 (2) If, in any tax period, the number of full-time employees
16 employed by the business at the qualified business facility located
17 within a qualified incentive area drops below 80 percent of the
18 number of new and retained full-time jobs specified in the incentive
19 agreement, then the business shall forfeit its credit amount for that
20 tax period and each subsequent tax period, until the first tax period
21 for which documentation demonstrating the restoration of the
22 number of full-time employees employed by the business at the
23 qualified business facility to 80 percent of the number of jobs
24 specified in the incentive agreement.

25 (3) (a) If the qualified business facility is sold by the owner
26 in whole or in part during the eligibility period, the new owner shall
27 not acquire the capital investment of the seller and the seller shall
28 forfeit all credits for the tax period in which the sale occurs and all
29 subsequent tax periods, provided however that any credits of the
30 business shall remain unaffected.

31 (b) In connection with a regional distribution facility of
32 foodstuffs, the business entity or entities which own or lease the
33 facility shall qualify as a business regardless of: (i) the type of the
34 business entity or entities which own or lease the facility; (ii) the
35 ownership or leasing of the facility by more than one business
36 entity; or (iii) the ownership of the business entity or entities which
37 own or lease the facility. The ownership or leasing, whether by
38 members, shareholders, partners, or other owners of the business
39 entity or entities, shall be treated as ownership or leasing by
40 affiliates. The members, shareholders, partners, or other ownership
41 or leasing participants and others that are tenants in the facility shall
42 be treated as affiliates for the purpose of counting the full-time
43 employees and capital investments in the facility. The business
44 entity or entities may distribute credits to members, shareholders,
45 partners, or other ownership or leasing participants in accordance
46 with their respective interests. If the business entity or entities or
47 their members, shareholders, partners, or other ownership or leasing
48 participants lease space in the facility to members, shareholders,

1 partners, or other ownership or leasing participants or others as
2 tenants in the facility, the leases shall be treated as a lease to an
3 affiliate, and the business entity or entities shall not be subject to
4 forfeiture of the credits. For the purposes of this section, leasing
5 shall include subleasing and tenants shall include subtenants.

6 (4) (a) For a project located within a Garden State Growth Zone,
7 if, in any tax period, the number of full-time employees employed
8 by the business at the qualified business facility located within a
9 qualified incentive area increases above the number of full-time
10 employees specified in the incentive agreement, then the business
11 shall be entitled to an increased base credit amount for that tax
12 period and each subsequent tax period, for each additional full-time
13 employee added above the number of full-time employees specified
14 in the incentive agreement, until the first tax period for which
15 documentation demonstrating a reduction of the number of full-time
16 employees employed by the business at the qualified business
17 facility, at which time the tax credit amount will be adjusted
18 accordingly pursuant to this section.

19 (b) For a project located within a Garden State Growth Zone
20 which qualifies under the "Municipal Rehabilitation and Economic
21 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or which
22 contains a Tourism District as established pursuant to section 5 of
23 P.L.2011, c.18 (C.5:12-219) and regulated by the Casino
24 Reinvestment Development Authority, and which qualifies for a tax
25 credit pursuant to subsubparagraph (ii) of subparagraphs (a) through
26 (e) of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149
27 (C.34:1B-246), if, in any tax period the number of full-time
28 employees employed by the business at the qualified business
29 facility located within a qualified incentive area increases above the
30 number of full-time employees specified in the incentive agreement
31 such that the business shall then meet the minimum number of
32 employees required in subparagraph (b), (c), (d), or (e) of paragraph
33 (6) of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246),
34 then the authority shall recalculate the total tax credit amount per
35 full-time job by using the certified capital investment of the project
36 allowable under the applicable subsubparagraph and the number of
37 full-time jobs certified on the date of the recalculation and applying
38 those numbers to subparagraph (b), (c), (d), or (e) of paragraph (6)
39 of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246),
40 until the first tax period for which documentation demonstrating a
41 reduction of the number of full-time employees employed by the
42 business at the qualified business facility, at which time the tax
43 credit amount shall be adjusted accordingly pursuant to this section.

44 e. The authority shall not enter into an incentive agreement
45 with a business that has previously received incentives pursuant to
46 the "Business Retention and Relocation Assistance Act," P.L.1996,
47 c.25 (C.34:1B-112 et seq.), the "Business Employment Incentive

1 Program Act," P.L.1996, c.26 (C.34:1B-124 et al.), or any other
2 program administered by the authority unless:

3 (1) the business has satisfied all of its obligations underlying the
4 previous award of incentives or is compliant with section 4 of
5 P.L.2011, c.149 (C.34:1B-245); or

6 (2) the capital investment incurred and new or retained full-time
7 jobs pledged by the business in the new incentive agreement are
8 separate and apart from any capital investment or jobs underlying
9 the previous award of incentives.

10 f. A business which has already applied for a tax credit
11 incentive award prior to the effective date of the "New Jersey
12 Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-
13 489p et al.), but who has not yet been approved for the tax credits,
14 or has not executed an agreement with the authority, may proceed
15 under that application or seek to amend the application or reapply
16 for a tax credit incentive award for the same project or any part
17 thereof for the purpose of availing itself of any more favorable
18 provisions of the program.

19 (cf: P.L.2018, c.120, s.3)

20

21 4. This act shall take effect immediately.

22

23

24 STATEMENT

25

26 This bill authorizes the New Jersey Economic Development
27 Authority (authority) to provide grants during periods of emergency
28 declared by the Governor, such as the declaration regarding the
29 Coronavirus disease 2019, and for the duration of economic
30 disruptions due to the emergency. The bill gives the authority the
31 power to offer grants for the planning, designing, acquiring,
32 constructing, reconstructing, improving, equipping, and furnishing
33 of a project, including, but not limited to, grants for working capital
34 and meeting payroll requirements, upon such terms and conditions
35 as the authority deems reasonable, during such period of time. The
36 bill also extends the uses of the economic growth account in the
37 Economic Recovery Fund to the planning, designing, acquiring,
38 constructing, reconstructing, improving, equipping, and furnishing
39 by small and medium-size businesses and not-for-profit
40 corporations of certain projects, including, but not limited to, grants
41 for working capital and meeting payroll requirements, upon such
42 terms and conditions as the authority deems reasonable, during such
43 periods of time.

44 Further, the bill provides that, for projects that were approved by
45 the authority under the Grow New Jersey Assistance Program, if the
46 Governor declares an emergency, then the chief executive officer of
47 the authority has the discretion to grant a business documentation
48 submission extension for the duration of the emergency and the

1 board of the authority, upon recommendation of the chief executive
2 officer, may grant two additional six-month extensions; provided
3 that (i) the extensions are due to the economic disruption cause by
4 the emergency; (ii) the project is delayed due to unforeseeable acts
5 related to the project beyond the eligible business's control and
6 without its fault or negligence; (iii) the eligible business is using
7 best efforts, with all due diligence, to proceed with the completion
8 of the project and the submission of the certification; and (iv) the
9 eligible business has made, and continues to make, all reasonable
10 efforts to prevent, avoid, mitigate, and overcome the delay.