

**SENATE, No. 1986**

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**STATE OF NEW JERSEY**

**220th LEGISLATURE**

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INTRODUCED MARCH 3, 2022

**Sponsored by:**

**Senator NILSA I. CRUZ-PEREZ**

**District 5 (Camden and Gloucester)**

**Senator JAMES BEACH**

**District 6 (Burlington and Camden)**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 3/3/2022)**

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

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

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

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

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

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

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

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

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

1 h. As used in this section:

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

4 “Department” means the Department of Agriculture.

5 “Eligible county” means a county classified as a county of the  
6 third class with a population greater than 150,000, according to the  
7 latest federal decennial census, of the fifth class, or of the sixth  
8 class pursuant to section N.J.S.40A:6-1, and that contains at least  
9 three wineries.

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

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

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

24

25 2. a. For privilege periods beginning on or after January 1,  
26 2023, but before January 1, 2033, a taxpayer shall be allowed a  
27 credit against the tax imposed pursuant to section 5 of P.L.1945,  
28 c.162 (C.54:10A-5), in an amount equal to 25 percent of the  
29 qualified capital expenses, as certified by the Department of  
30 Agriculture pursuant to subsection b. of this section, incurred by the  
31 taxpayer in connection with:

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

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

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

47 c. The order of priority of the application of the credit allowed  
48 pursuant to this section and any other credits allowed against the tax

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

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

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

23 f. As used in this section:

24 "Department" means the Department of Agriculture.

25 "Eligible county" means a county classified as a county of the  
26 third class with a population greater than 150,000, according to the  
27 latest federal decennial census, of the fifth class, or of the sixth  
28 class pursuant to section N.J.S.40A:6-1, and that contains at least  
29 three wineries.

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

35 "Secretary" means the Secretary of Agriculture.

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

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

44

45 3. a. For taxable years beginning on or after January 1, 2023,  
46 but before January 1, 2033, a taxpayer shall be allowed a credit  
47 against the New Jersey gross income tax due pursuant to  
48 N.J.S.54A:1-1 et seq., in an amount equal to 25 percent of the

1 qualified capital expenses, as certified by the Department of  
2 Agriculture pursuant to subsection b. of this section, incurred by the  
3 taxpayer in connection with:

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

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

8 b. To obtain a tax credit pursuant to this section, a taxpayer  
9 shall apply for a certification from the department that certifies: (1)  
10 that the taxpayer's expenses are qualified capital expenses pursuant  
11 to this section; and (2) the amount of the tax credit. The application  
12 shall be made in a form and manner as determined by the  
13 department, and include such information as the department deems  
14 relevant. Upon certification, the Secretary of Agriculture shall  
15 submit a copy thereof to the taxpayer and the director. When filing  
16 a tax return that includes a claim for a credit pursuant to this  
17 section, the taxpayer shall include a copy of the certification issued  
18 by the secretary.

19 c. The order of priority of the application of the credit allowed  
20 pursuant to this section and any other credits allowed against the tax  
21 imposed pursuant to N.J.S.54A:1-1 et seq. for a taxable year shall  
22 be as prescribed by the director. The amount of the credit applied  
23 pursuant to this section against the tax imposed pursuant to  
24 N.J.S.54A:1-1 et seq., shall not reduce a taxpayer's tax liability for  
25 a taxable year to an amount less than zero. Any credit shall be valid  
26 in the taxable year in which the certification is approved and any  
27 unused portion thereof may be carried forward into the next 15  
28 taxable years or until depleted, whichever is earlier.

29 d. A business entity that is classified as a partnership for  
30 federal income tax purposes shall not be allowed the credit directly  
31 under N.J.S.54A:1-1 et seq., but the amount of credit of the  
32 taxpayer in respect of a distributive share of partnership income  
33 shall be determined by allocating to the taxpayer that proportion of  
34 the credit acquired by the partnership that is equal to the taxpayer's  
35 share, whether or not distributed, of the total distributive income or  
36 gain of the partnership for its taxable year ending within or with the  
37 taxpayer's taxable year.

38 A taxpayer that is a New Jersey S corporation shall not be  
39 allowed the credit directly under N.J.S.54A:1-1 et seq., but the  
40 amount of credit of a taxpayer in respect of a pro rata share of S  
41 corporation income shall be determined by allocating to the  
42 taxpayer that proportion of the credit acquired by the New Jersey S  
43 corporation that is equal to the taxpayer's share, whether or not  
44 distributed, of the total pro rata share of S corporation income of the  
45 New Jersey S corporation for its taxable year ending within or with  
46 the taxpayer's taxable year.

47 e. The secretary, in consultation with the director, shall adopt,  
48 pursuant to the "Administrative Procedure Act," P.L.1968, c.410

(C.52:14B-1 et seq.), rules and regulations necessary to carry out the provisions of this section, including, but not limited to, criteria and procedures for the certifications and issuance of tax credits pursuant to this section and a list of qualified capital expenses.

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

g. As used in this section:

“Department” means the Department of Agriculture.

“Eligible county” means a county classified as a county of the third class with a population greater than 150,000, according to the latest federal decennial census, of the fifth class, or of the sixth class pursuant to section N.J.S.40A:6-1, and that contains at least three wineries.

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

“Secretary” means the Secretary of Agriculture.

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

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

4. This act shall take effect immediately.

#### STATEMENT

This bill establishes a loan program and provides tax credits to persons for the establishment of new vineyards and wineries in eligible counties. The bill defines an eligible county as a county of the third class with a population greater than 150,000 according to the latest federal decennial census, a county of the fifth class, or a county of the sixth class, and that contains at least three wineries.

The bill requires the New Jersey Economic Development Authority (authority), in consultation with the Department of Agriculture (department), to develop a 10-year pilot program to provide low interest loans to farmers for qualified costs associated with the installation of new vineyards in eligible counties.

1 Qualified costs include the cost of preparing land for plant  
2 installation, purchasing vines or trees, and purchasing equipment  
3 and supplies for those purposes. It does not include the cost of  
4 tractors, pick-up-trucks, or wine-making equipment.

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

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

22 The bill also allows eligible taxpayers to apply for a tax credit  
23 against either their corporation business tax or gross income tax  
24 liability in an amount equal to 25 percent of the qualified capital  
25 expenses incurred by taxpayers in connection with: (1) the  
26 establishment of a new vineyard or winery in an eligible county; or  
27 (2) capital improvements made to an existing vineyard or winery in  
28 an eligible county. A qualified capital expense is any expenditure  
29 made by the taxpayer for the purchase and installation of equipment  
30 or agricultural materials for use in the production of agricultural  
31 products at a vineyard or in a winery, as specified in regulations.  
32 An eligible taxpayer may apply to the department for the approval  
33 of a tax credit for a tax year beginning on or after January 1, 2023  
34 but before January 1, 2033.

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

**S1986 CRUZ-PEREZ, BEACH**

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1       The secretary would be required to issue a report to the  
2 Governor, State Treasurer, and the Legislature, annually, on the  
3 effectiveness of the tax credit in increasing the acreage of  
4 commercial vineyards and the number of wineries in eligible  
5 counties.