

SENATE, No. 2921

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED JUNE 27, 2022

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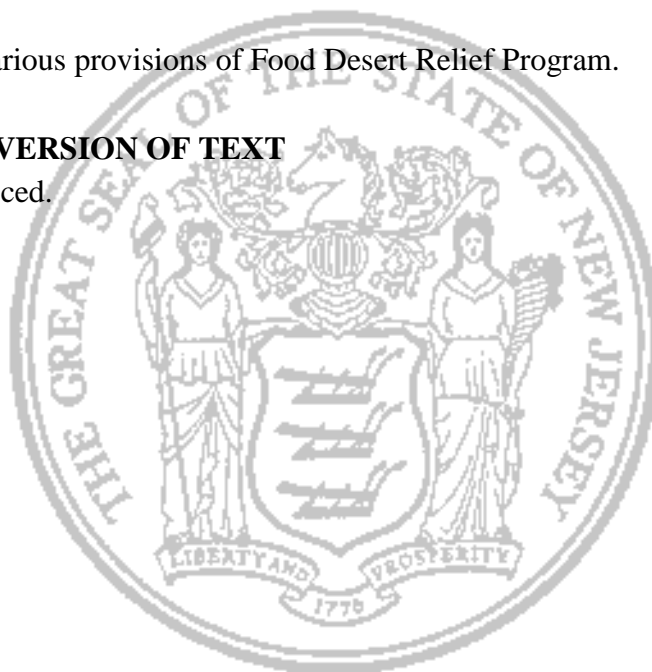
**Assemblyman Mukherji, Assemblywoman McKnight, Assemblymen
Wimberly and Freiman**

SYNOPSIS

Revises various provisions of Food Desert Relief Program.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/29/2022)

1 AN ACT concerning the Food Desert Relief Program and amending,
2 supplementing, and repealing various parts of P.L.2020, c.156.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 37 of P.L.2020, c.156 (C.34:1B-305) is amended to
8 read as follows:

9 37. As used in sections 35 through 42 of P.L.2020, c.156
10 (C.34:1B-303 through C.34:1B-310) and sections 3 and 4 of P.L. ___,
11 c. (C. ___) (pending before the Legislature as this bill):

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

15 "Department" means the Department of Agriculture.

16 "Director" means the Director of the Division of Taxation in the
17 Department of the Treasury.

18 "Eligible equipment costs" means expenditures for the
19 procurement of such equipment as is needed to allow a
20 supermarket, grocery store, mid-sized food retailer, small food
21 retailer, or other eligible entity to store, refrigerate, transport, or
22 otherwise maintain nutritious foods, including fresh fruits and
23 vegetables, for retail purposes, but within a standard range based
24 upon industry standards, as determined by the authority.

25 "Eligible technology costs" means expenditures for the
26 procurement or upgrade of technology systems to support online
27 ordering and e-commerce, including but not limited to computer
28 hardware, software, internet connectivity, and database systems.

29 "First or second new supermarket or grocery store" means the
30 first and second new supermarket or grocery store within each food
31 desert community to be approved for tax credits under the program
32 by the authority, except that a supermarket or grocery store may
33 lose the designation of first or second new supermarket or grocery
34 store if the project does not meet milestones designated by the
35 authority in a timely manner, as determined by the authority.

36 "Food desert community" means a physically contiguous area in
37 the State in which residents have limited access to nutritious foods,
38 such as fresh fruits and vegetables, and which has been designated
39 as a food desert community pursuant to subsection b. of section 38
40 of P.L.2020, c.156 (C.34:1B-306).

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

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 "Mid-sized food retailer" means a medium-sized retail outlet
2 with at least 2,500 but less than 16,000 square feet, of which at least
3 75 percent is occupied by food and related products, which products
4 shall be based on industry standards, as determined by the authority,
5 except that the food and related products shall not include alcoholic
6 beverages and products related to the consumption of such
7 beverages.

8 "New supermarket or grocery store" means a supermarket or
9 grocery store that commenced construction, or commenced
10 rehabilitation of at least 75 percent of its square footage, after the
11 effective date of the "Food Desert Relief Act," as established by
12 sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through
13 C.34:1B-310).

14 "Program" means the Food Desert Relief Program established in
15 section 38 of P.L.2020, c.156 (C.34:1B-306).

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

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

40 "Small food retailer" means a small retail outlet, with less than
41 2,500 square feet, that sells a limited selection of foods and other
42 products, such as a bodega, convenience store, corner store,
43 neighborhood store, small grocery, mobile food vendor, farmers'
44 market, food co-op, or small-scale store.

45 "Supermarket or grocery store" means a retail outlet with at least
46 16,000 square feet, of which at least **【90】** 80 percent is occupied by
47 food and related products, which products shall be based on
48 industry standards, as determined by the authority, except that the

1 food and related products shall not include alcoholic beverages and
2 products related to the consumption of such beverages.

3 "Tax credit" means credit against a tax liability pursuant to
4 section 1 of P.L.1950, c.231 (C.17:32-15), N.J.S.17B:23-5, section
5 5 of P.L.1945, c.162 (C.54:10A-5), and sections 2 and 3 of
6 P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3).
7 (cf: P.L.2021, c.160, s.13)

8
9 2. Section 38 of P.L.2020, c.156 (C.34:1B-306) is amended to
10 read as follows:

11 38. a. (1) There is established the Food Desert Relief Program to
12 be administered by the New Jersey Economic Development
13 Authority. The program shall include tax credit components, as
14 provided in sections 39 and 40 of P.L.2020, c.156 (C.34:1B-307
15 and C.34:1B-308), in order to incentivize businesses to establish
16 and retain new supermarkets and grocery stores in food desert
17 communities.

18 (2) The total value of tax credits approved by the authority
19 pursuant to sections 39 and 40 of P.L.2020, c.156 (C.34:1B-307 and
20 C.34:1B-308) shall not exceed the limitations set forth in section 98
21 of P.L.2020, c.156 (C.34:1B-362).

22 b. The authority, in consultation with the Department of
23 Agriculture and the Department of Community Affairs, shall
24 initially designate not more than 50 separate geographic areas that
25 have limited access to nutritious foods as food desert communities
26 in this State. The authority, in consultation with the Department of
27 Agriculture and the Department of Community Affairs, shall
28 develop criteria for the designation of food desert communities, but
29 each separate food desert community shall consist of a distinct
30 geographic area with a single defined border. The criteria shall, at a
31 minimum, incorporate analysis of municipal or census tract poverty
32 statistics, food desert information from the Economic Research
33 Service of the United States Department of Agriculture, healthier
34 food retail tract information from the federal Centers for Disease
35 Control and Prevention, and residents' access to nutritious foods,
36 such as fresh fruits and vegetables, through supermarkets and
37 grocery stores. The authority, in consultation with the departments,
38 may also consider in making food desert community designations
39 pursuant to this subsection, data related to municipal or census tract
40 population size and population density, the number of residents who
41 receive Supplemental Nutrition Assistance Program (SNAP)
42 benefits within a municipality, the extent to which a municipality's
43 residents have access to a personal vehicle, and a municipality's
44 Municipal Revitalization Index distress score, obesity rate, and
45 unemployment rate. The authority, in consultation with the
46 departments, shall continuously evaluate areas previously
47 designated as food desert communities and assess whether they still
48 meet the criteria for designation as a food desert community and

1 may designate additional food desert communities once every three
2 years following the effective date of sections 35 through 42 of
3 P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310).

4 c. To receive a tax credit under section 39 or 40 of P.L.2020,
5 c.156 (C.34:1B-307 or C.34:1B-308), a taxpayer shall submit an
6 application to the authority in the form and manner prescribed by
7 the authority and in accordance with criteria established by the
8 authority, which at minimum will include a commitment to accept
9 benefits from federal nutrition assistance programs, such as the
10 Supplemental Nutrition Assistance Program (SNAP) and the
11 Special Supplemental Nutrition Program for Women, Infants, and
12 Children (WIC). Following the approval of an application, the
13 authority may, pursuant to an award agreement, award tax credits to
14 an eligible taxpayer that:

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

18 (2) owns, leases, or subleases, and operates the first or second
19 new supermarket or grocery store in a designated food desert
20 community.

21 d. (1) The authority may sell all or a portion of the tax credits
22 made available in a fiscal year pursuant to subsection a. of this
23 section through a competitive auction process or a publicly
24 advertised solicitation for offers and dedicate the proceeds from
25 such sale to provide grants and loans to qualifying supermarkets,
26 grocery stores, mid-sized food retailers, small food retailers, and
27 any other eligible entity. The amount of any grant or loan provided
28 pursuant to this subsection shall be in accordance with the need of
29 the supermarket, grocery store, mid-sized food retailer, small food
30 retailer, or any other eligible entity, as determined by the authority.
31 The authority shall sell tax credits pursuant to this section in the
32 manner determined by the authority; provided, however, the
33 authority shall not sell tax credits for less than 85 percent of the tax
34 credit amount. Any credit sold shall be valid in the privilege period
35 in which the sale is completed, and any unused portion thereof may
36 be carried forward into the next seven privilege periods or until
37 exhausted, whichever is earlier. Grants and loans made available
38 pursuant to this subsection shall be awarded to entities that:

39 (a) **【are eligible for tax credits under subsection c. of this**
40 **section in lieu of tax credits】** operate a supermarket or grocery store
41 that meets criteria established by the authority, which criteria shall,
42 at minimum, include a commitment to accept benefits from federal
43 nutrition assistance programs, including, but not limited to, the
44 Supplemental Nutrition Assistance Program (SNAP) and the
45 Special Supplemental Nutrition Program for Women, Infants, and
46 Children (WIC), in a designated food desert community;

47 (b) own, lease, or sublease, and operate a mid-sized food retailer
48 or small food retailer that commits to selling nutritious foods,

1 including fresh fruits and vegetables, in a designated food desert
2 community; or

3 (c) at the discretion of the authority, support initiatives to
4 strengthen food security of residents in food desert communities.

5 (2) A supermarket, grocery store, mid-sized food retailer, small
6 food retailer, or other eligible entity shall submit an application to
7 the authority to receive a grant or loan pursuant to this subsection.
8 The application shall be submitted in the form and manner
9 prescribed by the authority and in accordance with criteria
10 established by the authority. An entity eligible for a grant or loan
11 under subparagraph (a) of paragraph (1) of this subsection shall not
12 be required to submit a separate application to the authority for the
13 grant or loan, provided that the entity has submitted an application
14 to the authority pursuant to subsection c. of this section.

15 (3) Prior to awarding a grant or loan to an applicant
16 supermarket, grocery store, mid-sized food retailer, small food
17 retailer, or other eligible entity pursuant to this subsection, the
18 authority shall confirm with the Department of Labor and
19 Workforce Development, the Department of Environmental
20 Protection, and the Department of the Treasury whether the
21 applicant is in substantial good standing with the respective
22 department, or has entered into an agreement with the respective
23 department that includes a practical corrective action plan for the
24 applicant. The applicant shall certify that any contractors or
25 subcontractors that perform work at the qualifying supermarket or
26 grocery store: (1) are registered as required by "The Public Works
27 Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et
28 seq.); (2) have not been debarred by Department of Labor and
29 Workforce Development from engaging in or bidding on Public
30 Works Contracts in the State; and (3) possess a tax clearance
31 certificate issued by the Division of Taxation in the Department of
32 the Treasury. The authority may also contract with an independent
33 third party to perform a background check on the entity.

34 (4) An applicant supermarket, grocery store, mid-sized food
35 retailer, small food retailer, or other eligible entity shall, as required
36 at the discretion of the authority, submit to the authority satisfactory
37 information pertaining to the eligible equipment costs and eligible
38 technology costs, as certified by a certified public accountant,
39 certifications that all information provided by the applicant to the
40 authority is true, including information contained in the application,
41 any agreement pertaining to the award of grants or loans under the
42 program, any amendment to such an agreement, and any other
43 information submitted by the applicant to the authority pursuant to
44 sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through
45 C.34:1B-310), and evidence of the eligible equipment costs and
46 eligible technology costs of the applicant. The applicant, or an
47 authorized agent of the applicant, shall certify under the penalty of

1 perjury that the information provided pursuant to this subsection is
2 true.

3 e. The authority may establish a technical assistance fund to
4 assist any entity that is eligible for a tax credit, grant, or loan under
5 this section. The authority, through the technical assistance fund,
6 may make grants to entities to assist qualifying supermarkets,
7 grocery stores, mid-sized food retailers, small food retailers, or
8 other eligible entities in implementation of best practices for
9 increasing the accessibility of nutritious foods in food desert
10 communities. Technical assistance shall be provided either directly
11 by the authority or through a not-for-profit or for-profit entity and
12 made available in English as well as the two most commonly
13 spoken languages in New Jersey other than English. At the
14 discretion of the authority, funds to support technical assistance
15 may be provided in addition to, or in lieu of, any tax credit, grant,
16 or loan awarded under sections 35 through 42 of P.L.2020, c.156
17 (C.34:1B-303 through C.34:1B-310).

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

22 (a) to mitigate a project financing gap;

23 (b) to mitigate the initial operating costs of the supermarket or
24 grocery store; **[or]**

25 (c) to mitigate the eligible equipment costs or eligible
26 technology costs of the supermarket, grocery store, mid-sized food
27 retailer, small food retailer, or other eligible entity in order to make
28 nutritious foods more accessible and affordable to residents within
29 food **[deserts]** desert communities; or

30 (d) to support initiatives to ensure the food security of residents
31 in food desert communities.

32 (2) The value of tax credits, grants, or loans awarded to
33 individual entities under the program shall not exceed:

34 (a) in the case of an entity eligible under paragraph (1) of
35 subsection c. of this section, 40 percent of the total project cost for
36 the first supermarket or grocery store in a designated food desert
37 community, and 20 percent of the total project cost for the second
38 supermarket or grocery store in the food desert community; and

39 (b) in the case of an entity eligible under paragraph (2) of
40 subsection c. of this section, the initial operating costs of the first
41 supermarket or grocery store in a designated food desert
42 community, and one-half of the initial operating costs of the second
43 supermarket or grocery store in the food desert community; **[and]**

44 (c) in the case of an entity eligible for a grant or loan under
45 subparagraph (b) of paragraph (1) of subsection d. of this section,
46 the eligible equipment costs and eligible technology costs of the
47 supermarket, grocery store, mid-sized food retailer, small food
48 retailer, or other eligible entity; and

1 (d) in the case of an entity eligible for a grant or loan under
2 subparagraph (c) of paragraph (1) of subsection d. of this section,
3 the costs of initiatives to ensure the food security of residents in
4 food desert communities.

5 g. An entity that develops and opens **[a]** the first or second
6 new supermarket or grocery store in a designated food desert
7 community shall be eligible for a tax credit only if the entity
8 demonstrates to the authority at the time of application that: (1)
9 each worker employed to perform construction at the project shall
10 be paid not less than the prevailing wage rate for the worker's craft
11 or trade, as determined by the Commissioner of Labor and
12 Workforce Development pursuant to P.L.1963, c.150 (C.34:11-
13 56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.); (2)
14 without the tax credit award, the project is not economically
15 feasible; (3) a project financing gap exists; and (4) except for
16 demolition and site remediation activities, the entity has not
17 commenced any construction at the site of the project before
18 submitting an application, unless the authority determines that the
19 project would not be completed otherwise.

20 h. (1) Except as provided in paragraph (2) of this subsection, a
21 labor harmony agreement shall be required if the State has a
22 proprietary interest in a supermarket or grocery store and the
23 agreement shall remain in effect for as long as the State acts as a
24 market participant in the project. The provisions of this paragraph
25 shall apply to a supermarket or grocery store that will have more
26 than 10 employees.

27 (2) A labor harmony agreement under paragraph (1) of this
28 subsection shall not be required if the authority determines that the
29 supermarket or grocery store would not be feasible if a labor
30 harmony agreement is required. The authority shall support the
31 determination by a written finding, which provides the specific
32 basis for the determination.

33 (3) As used in this subsection, "labor harmony agreement"
34 means an agreement between a business that serves as the owner or
35 operator of a supermarket or grocery store and one or more labor
36 organizations, which requires, for the duration of the agreement:
37 that any participating labor organization and its members agree to
38 refrain from picketing, work stoppages, boycotts, or other economic
39 interference against the business; and that the business agrees to
40 maintain a neutral posture with respect to efforts of any
41 participating labor organization to represent employees at a
42 supermarket or grocery store, agrees to permit the labor
43 organization to have access to the employees, and agrees to
44 guarantee to the labor organization the right to obtain recognition as
45 the exclusive collective bargaining representatives of the employees
46 at a supermarket or grocery store by demonstrating to the New
47 Jersey State Board of Mediation, Division of Private Employment
48 Dispute Settlement, or a mutually agreed-upon, neutral, third-party,

1 that a majority of workers in the unit have shown their preference
2 for the labor organization to be their representative by signing
3 authorization cards indicating that preference. The labor
4 organization or organizations shall be from a list of labor
5 organizations that have requested to be on the list and that the
6 Commissioner of Labor and Workforce Development has
7 determined represent substantial numbers of supermarket or grocery
8 store employees in the State.

9 i. A recipient shall certify that all factual representations made
10 by the recipient in the application or award agreement are true
11 under the penalty of perjury. A material misrepresentation of fact
12 in either the application or award agreement may result in recession
13 and recapture of any grants or tax credits awarded, or acceleration
14 of any loans made, under sections 35 through 42 of P.L.2020, c.156
15 (C.34:1B-303 through C.34:1B-310).
16 (cf: P.L.2021, c.160, s.14)

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

35 b. The taxpayer shall not sell or assign, including a collateral
36 assignment, a tax credit transfer certificate allowed under this
37 section for consideration received by the taxpayer of less than 85
38 percent of the transferred credit amount before considering any
39 further discounting to the present value which shall be permitted.
40 The tax credit transfer certificate issued to a taxpayer by the
41 director shall be subject to any limitations and conditions imposed
42 on the application of the original State tax credits issued pursuant to
43 the "Food Desert Relief Act," sections 35 through 41 of P.L.2020,
44 c.156 (C.34:1B-303 through C.34:1B-309), and any other terms and
45 conditions that the director may prescribe.

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

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

- 4 (1) the name of the transferor;
5 (2) the name of the transferee;
6 (3) the value of the tax credit transfer certificate; and
7 (4) the consideration received by the transferor.
8

9 4. (New section) a. A taxpayer who has entered into a tax
10 credit award agreement may, upon notice to and written consent of
11 the authority and State Treasurer, pledge, assign, transfer, or sell
12 any or all of its right, title, and interest in and to the tax credit
13 award agreement and in the tax credit awards payable under the tax
14 credit award agreement, and the right to receive the tax credit
15 awards, along with the rights and remedies provided to the taxpayer
16 under the taxpayer award agreement. Any assignment shall be an
17 absolute assignment for all purposes, including the federal
18 bankruptcy code.

19 b. Any pledge of a tax credit award made by the taxpayer shall
20 be valid and binding from the time the pledge is made and filed in
21 the records of the authority. The tax credit award pledged and
22 thereafter received by the taxpayer shall immediately be subject to
23 the lien of the pledge without any physical delivery thereof or
24 further act, and the lien of any pledge shall be valid and binding
25 against all parties having claims of any kind in tort, contract, or
26 otherwise against the taxpayer irrespective of whether the parties
27 have notice thereof. As a condition of any tax credit grant, the
28 grantee, assignee, pledgee, or subsequent holder of the tax credit
29 grant shall immediately file notice of the same with the clerk of the
30 county in which the project is located.

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

- 34 (1) the name of the person or entity offering the pledge,
35 assignment, transfer, or sale of a right, title, or interest in a tax
36 credit award agreement;
37 (2) the name of the person or entity receiving the pledge,
38 assignment, transfer, or sale of a right, title, or interest in the tax
39 credit award agreement;
40 (3) the value of the right, title, or interest in the tax credit award
41 agreement; and
42 (4) the consideration received by the person or entity offering
43 the pledge, assignment, transfer, or sale of the right, title, or interest
44 in the tax credit award agreement.
45

46 5. Section 40 of P.L.2020, c.156 (C.34:1B-308) is repealed.
47

48 6. This act shall take effect immediately.

STATEMENT

This bill revises certain requirements of the Food Desert Relief Program, through which the New Jersey Economic Development Authority (EDA) provides incentives for the establishment of supermarkets and grocery stores within food desert communities.

Notably, the bill provides several changes concerning the provision of tax credits under the program. Specifically, the bill permits the recipients of tax credits to transfer the credits to other taxpayers or pledge the credits as collateral, except that the credits may not be sold for less than 85 percent of the full amount of the credits. Under the bill, the EDA would also be required to publish certain information on its website concerning any program tax credits that are transferred, pledged, or otherwise sold. The bill also clarifies that program tax credits could not be applied against the State's gross income tax.

Additionally, the bill clarifies that the tax credits would only be made available to the first or second new supermarkets or grocery stores located in a food desert community. The bill also provides that if a first or second new supermarket or grocery store leases or subleases the spaces that are used for such purposes, the supermarket or grocery would still qualify for tax credits. However, the bill also provides that in addition to the existing requirement to pay prevailing wages, the supermarket or grocery store may only qualify for tax credits if: (1) the project is not economically feasible without the tax credit award; (2) a project financing gap exists; and (3) except for demolition and site remediation activities, the entity has not commenced any construction at the site of the project before submitting an application, unless the EDA determines that the project would not be completed otherwise.

Under the bill, the term "first or second new supermarket or grocery store" is defined as the first and second new supermarket or grocery store in each food desert community to be approved for tax credits under the program, except that a supermarket or grocery store may lose this designation if the project does not meet certain program milestones in a timely manner, as determined by the EDA. The bill also defines the term "new supermarket or grocery store" to include those entities that commenced construction, or commenced rehabilitation of at least 75 percent of their square footage, after the effective date of the "Food Desert Relief Act."

Notably, the bill also revises the definition of "supermarket and grocery store." Under the bill, this term is defined as a retail outlet with at least 16,000 square feet, of which at least 80 percent is occupied by food and related products. Currently, this term is limited to retail outlets with at least 16,000 square feet, of which at least 90 percent is occupied by food and related products. Additionally, the bill provides that when determining whether a

1 retail outlet meets the definition of a “supermarket or grocery store”
2 or “mid-sized food retailer,” the food and related products would be
3 based on industry standards, as determined by the EDA, except that
4 these products would not include alcoholic beverages and products
5 related to the consumption of such beverages.

6 The bill also revises the types of entities that may qualify for
7 grants and loans under the program. In addition to other eligibility
8 criteria, current law provides that if a supermarket or grocery store
9 qualifies for program tax credits, the entity would also qualify for a
10 program grant or loan. Under the bill, these supermarkets and
11 grocery stores would no longer automatically qualify for a grant or
12 loan. Instead, the bill provides that such eligibility would depend
13 on whether the supermarket or grocery store meets criteria
14 established by the EDA, which, at minimum, would include a
15 commitment to accept benefits from federal nutrition assistance
16 programs, such as the Supplemental Nutrition Assistance Program
17 (SNAP) and the Special Supplemental Nutrition Program for
18 Women, Infants, and Children (WIC), in a designated food desert
19 community. The bill also provides that if a mid-sized food retailer
20 or small food retailer leases or subleases the spaces that are used for
21 selling nutritious foods, the retailer would still qualify for a grant or
22 loan.

23 The bill also clarifies that when an entity receives a program
24 grant or loan to support the costs of initiatives to ensure the food
25 security of residents in food desert communities, the amount of the
26 grant or loan would be limited to the costs of such initiatives.

27 Lastly, the bill repeals section 40 of P.L.2020, c.156 (C.34:1B-
28 308), which was enacted as part of the “Food Desert Relief Act.”
29 This statute includes certain duplicative provisions of law
30 concerning the manner in which program tax credits can be
31 claimed.