[Fourth Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 3680

STATE OF NEW JERSEY

215th LEGISLATURE

ADOPTED APRIL 25, 2013

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SYNOPSIS

"New Jersey Economic Opportunity Act of 2013."

CURRENT VERSION OF TEXT

As amended on September 9, 2013 by the General Assembly pursuant to the Governor's recommendations.

(Sponsorship Updated As Of: 9/13/2013)

AN ACT concerning incentives for certain economic development projects, amending [2]**[**and supplementing**]**[2] various parts of the statutory law[2], and supplementing Titles 34 and 52 of the Revised Statutes[2] .

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

1. (New section) This act shall be known and may be cited as the "New Jersey Economic Opportunity Act of 2013."

2. Section 3 of P.L.1996, c.25 (C.34:1B-114) is amended to read as follows:

3. a. The Business Retention and Relocation Assistance Grant Program is hereby established as a program under the jurisdiction of the New Jersey Economic Development Authority and shall be administered by the authority. The purpose of the program is to encourage economic development and job creation and to preserve jobs that currently exist in New Jersey but which are in danger of being relocated to premises outside of the State. To implement that purpose, and to the extent that funding for the program is available, the program may provide grants of tax credits. To be eligible for any grant of tax credits pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.), a business shall demonstrate to the authority, at the time of application, that the grant of tax credits and resultant retention of full-time jobs and any capital investment will yield a net positive benefit to the State. The net benefit resulting from the retention of full-time jobs and any capital investment by a business that has had grant pre-application meetings with the authority and has executed contracts relating to the new business location during the period commencing May 1, 2010 until the enactment of P.L.2010, c.123, shall be calculated from the date of the initial grant pre-application meeting.

b. (1) If an application under P.L.1996, c.25 (C.34:1B-112 et seq.) has been received by the authority prior to the effective date of the "New Jersey Economic Opportunity Act of 2013," P.L. , c. (C.) (pending before the Legislature as this bill), then, to the extent that there remains sufficient financial authorization for the grant of tax credits, the authority is authorized to consider the application and to make a grant of tax credits to an eligible applicant, provided that the authority shall take final action on that

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:
[1] Assembly floor amendments adopted April 29, 2013.
[2] Senate SBA committees amendments adopted June 24, 2013.
[3] Assembly floor amendments adopted June 27, 2013.
[4]Assembly amendments adopted in accordance with Governor's recommendations September 9, 2013.

grant of tax credits no later than [2][90 calendar days after the effective date of the "New Jersey Economic Opportunity Act of 2013," P.L. , c. (C.) (pending before the Legislature as this bill)] December 31, 2013[2].

(2) A business shall apply for a grant of tax credits under the Business Retention and Relocation Assistance Grant Program prior to the effective date of the "New Jersey Economic Opportunity Act of 2013," P.L. , c. (C.) (pending before the Legislature as this bill), and shall submit its documentation for approval of a grant of tax credits no later than [2][July 1, 2013] 90 calendar days after the effective date of the "New Jersey Economic Opportunity Act of 2013," P.L. , c. (C.) (pending before the Legislature as this bill)[2].

(3) If a business has submitted an application under P.L.1996, c.25 (C.34:1B-112 et seq.) and that application has not been approved for any reason, the lack of approval shall not serve to prejudice in any way the consideration of a new application as may be submitted by a business for the provision of incentives offered pursuant to the "New Jersey Economic Opportunity Act of 2013," P.L. , c. (C.) (pending before the Legislature as this bill).

(cf: P.L.2010, c.123, s.2)

3. Section 4 of P.L.1996, c.26 (C.34:1B-127) is amended to read as follows:

4. a. A business may apply to the authority for a grant for any project which:

(1) Will create at least 25 eligible positions in the base years; or

(2) Will create at least 10 eligible positions in the base years if the business is an advanced computing company, an advanced materials company, a biotechnology company, an electronic device technology company, an environmental technology company, or a medical device technology company.

b. In the case of a business which is a landlord, the business may apply to the authority for a grant for any project in which at least 25 eligible positions are created in the base years.

c. A project which consists solely of point-of-final-purchase retail facilities shall not be eligible for a grant under [this act] P.L.1996, c.26 (C.34:1B-124 et seq.). If a project consists of both point-of-final-purchase retail facilities and non-retail facilities, only the portion of the project consisting of non-retail facilities shall be eligible for a grant, and only the withholdings from new employees which are employed in the portion of the project which represents non-retail facilities shall be used to determine the amount of the grant. If a warehouse facility is part of a point-of-final-purchase retail facility and supplies only that facility, the warehouse facility shall not be eligible for a grant. For the purposes of [this act]

P.L.1996, c.26 (C.34:1B-124 et seq.), catalog distribution centers shall not be considered point-of-final-purchase retail facilities.

d. (1) If an application under P.L.1996, c.26 (C.34:1B-124 et seq.) has been received by the authority prior to the effective date of the "New Jersey Economic Opportunity Act of 2013," P.L. , c. (C.) (pending before the Legislature as this bill), and, to the extent that there remains sufficient appropriations for grant issuance, then the authority is authorized to consider the application and to make a grant to an eligible applicant, provided that the authority shall take final action on that grant no later than [2][90 calendar days after the effective date of the "New Jersey Economic Opportunity Act of 2013," P.L. , c. (C.) (pending before the Legislature as this bill)] December 31, 2013[2].

(2) A business shall apply for a grant under the Business Employment Incentive Program prior to the effective date of the "New Jersey Economic Opportunity Act of 2013," P.L. , c. (C.) (pending before the Legislature as this bill), and shall submit its documentation for approval of a grant no later than [2][July 1, 2013] 90 calendar days after the effective date of the "New Jersey Economic Opportunity Act of 2013," P.L. , c. (C.) (pending before the Legislature as this bill)[2].

(3) If a business has submitted an application under P.L.1996, c.26 (C.34:1B-124 et seq.) and that application has not been approved for any reason, the lack of approval shall not serve to prejudice in any way the consideration of a new application as may be submitted by a business for the provision of incentives offered pursuant to the "New Jersey Economic Opportunity Act of 2013," P.L. , c. (C.) (pending before the Legislature as this bill).

(cf: P.L.2003, c.166, s.2)

4. Section 3 of P.L.2007, c.346 (C.34:1B-209) is amended to read as follows:

3. a. (1) A business, upon application to and approval from the authority, shall be allowed a credit of 100 percent of its capital investment, made after the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.) but prior to its submission of documentation pursuant to subsection c. of this section, in a qualified business facility within an eligible municipality, pursuant to the restrictions and requirements of this section. To be eligible for any tax credits authorized under this section, a business shall demonstrate to the authority, at the time of application, that the State's financial support of the proposed capital investment in a qualified business facility will yield a net positive benefit to both the State and the eligible municipality. The value of all credits approved by the authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) shall not exceed $1,750,000,000, except as may be increased by the authority as set forth in paragraph (5) of subsection a. of P.L.2009,

c.90 (C.34:1B-209.3) [2]and section 6 of P.L.2010, c.57 (C.34:1B-209.4)[2] .

(2) A business, other than a tenant eligible pursuant to paragraph (3) of this subsection, shall make or acquire capital investments totaling not less than $50,000,000 in a qualified business facility, at which the business shall employ not fewer than 250 full-time employees to be eligible for a credit under this section. A business that acquires a qualified business facility shall also be deemed to have acquired the capital investment made or acquired by the seller.

(3) A business that is a tenant in a qualified business facility, the owner of which has made or acquired capital investments in the facility totaling not less than $50,000,000, shall occupy a leased area of the qualified business facility that represents at least $17,500,000 of the capital investment in the facility at which the tenant business and up to two other tenants in the qualified business facility shall employ not fewer than 250 full-time employees in the aggregate to be eligible for a credit under this section. The amount of capital investment in a facility that a leased area represents shall be equal to that percentage of the owner's total capital investment in the facility that the percentage of net leasable area leased by the tenant is of the total net leasable area of the qualified business facility. Capital investments made by a tenant shall be deemed to be included in the calculation of the capital investment made or acquired by the owner, but only to the extent necessary to meet the owner's minimum capital investment of $50,000,000. Capital investments made by a tenant and not allocated to meet the owner's minimum capital investment threshold of $50,000,000 shall be added to the amount of capital investment represented by the tenant's leased area in the qualified business facility.

(4) A business shall not be allowed tax credits under this section if the business participates in a business employment incentive grant relating to the same capital and employees that qualify the business for this credit, or if the business receives assistance pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.). A business that is allowed a tax credit under this section shall not be eligible for incentives authorized pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.). A business shall not qualify for a tax credit under this section, based upon capital investment and employment of full-time employees, if that capital investment or employment was the basis for which a grant was provided to the business pursuant to the "InvestNJ Business Grant Program Act," P.L.2008, c.112 (C.34:1B-237 et seq.).

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

(6) The capital investment of the owner of a qualified business facility is that percentage of the capital investment made or acquired by the owner of the building that the percentage of net

leasable area of the qualified business facility not leased to tenants is of the total net leasable area of the qualified business facility.

(7) A business shall be allowed a tax credit of 100 percent of its capital investment, made after the effective date of P.L.2011, c.89 but prior to its submission of documentation pursuant to subsection c. of this section, in a qualified business facility that is part of a mixed use project, provided that (a) the qualified business facility represents at least $17,500,000 of the total capital investment in the mixed use project, (b) the business employs not fewer than 250 full-time employees in the qualified business facility, and (c) the total capital investment in the mixed use project of which the qualified business facility is a part is not less than $50,000,000. The allowance of credits under this paragraph shall be subject to the restrictions and requirements, to the extent that those are not inconsistent with the provisions of this paragraph, set forth in paragraphs (1) through (6) of this subsection, including but not limited to the requirement that the business shall demonstrate to the authority, at the time of application, that the State's financial support of the proposed capital investment in a qualified business facility will yield a net positive benefit to both the State and the eligible municipality.

(8) In determining whether a proposed capital investment will yield a net positive benefit, the authority shall not consider the transfer of an existing job from one location in the State to another location in the State as the creation of a new job, unless (a) the business proposes to transfer existing jobs to a municipality in the State as part of a consolidation of business operations from two or more other locations that are not in the same municipality whether in-State or out-of-State, or (b) the business's chief executive officer, or equivalent officer, submits a certification to the authority indicating that the existing jobs are at risk of leaving the State and that the business's chief executive officer, or equivalent officer, has reviewed the information submitted to the authority and that the representations contained therein are accurate, and the business intends to employ not fewer than 500 full-time employees in the qualified business facility. In the event that this certification by the business's chief executive officer, or equivalent officer, is found to be willfully false, the authority may revoke any award of tax credits in their entirety, which revocation shall be in addition to any other criminal or civil penalties that the business and the officer may be subject to. When considering an application involving intra-State job transfers, the authority shall require the company to submit the following information as part of its application: a full economic analysis of all locations under consideration by the company; all lease agreements, ownership documents, or substantially similar documentation for the business's current in-State locations; and all lease agreements, ownership documents, or substantially similar documentation for the potential out-of-State location alternatives, to

the extent they exist. Based on this information, and any other information deemed relevant by the authority, the authority shall independently verify and confirm, by way of making a factual finding by separate vote of the authority's board, the business's assertion that the jobs are actually at risk of leaving the State, before a business may be awarded any tax credits under this section.

b. (1) If applications under this section have been received by the authority prior to the effective date of the "New Jersey Economic Opportunity Act of 2013," P.L. , c. (C.) (pending before the Legislature as this bill), then, to the extent that there remains sufficient financial authorization for the award of a tax credit, the authority is authorized to consider those applications and to make awards of tax credits to eligible applicants, provided that the authority shall take final action on those applications [2][prior to the 90th day after the date of enactment of the "New Jersey Economic Opportunity Act of 2013," P.L. , c. (C.) (pending before the Legislature as this bill)] no later than December 31, 2013[2].

(2) A business shall apply for the credit under this section prior to [July 1, 2014] the effective date of the "New Jersey Economic Opportunity Act of 2013," P.L. , c. (C.) (pending before the Legislature as this bill), and shall submit its documentation for approval of its credit amount no later than [July 28, 2017] April 26, 2017.

(3) If a business has submitted an application under this section and that application has not been approved for any reason, the lack of approval shall not serve to prejudice in any way the consideration of a new application as may be submitted for the qualified business facility for the provision of incentives offered pursuant to the "New Jersey Economic Opportunity Act of 2013," P.L. , c. (C.) (pending before the Legislature as this bill).

(4) Tax credits awarded pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) for applications submitted to and approved by the authority prior to the effective date of the "New Jersey Economic Opportunity Act of 2013," P.L. , c. (C.) (pending before the Legislature as this bill), shall be administered by the authority in the manner established prior to that date.

[2](5) With respect to an application received by the authority prior to the effective date of the "New Jersey Economic Opportunity Act of 2013," P.L. , c. (C.) (pending before the Legislature as this bill) for a qualified business facility that is located on or adjacent to the campus of an acute care medical facility, (a) the minimum number of full-time employees required for eligibility under the program may be employed by any number of tenants or other occupants of the facility, in the aggregate, and the initial satisfaction of such requirement following completion of the project shall be deemed to satisfy the employment requirements

of the program in all respects, and (b) if the capital investment in the facility exceeds $100,000,000, the determination of the net positive benefit yield shall be based on the benefits generated during a period of up to 30 years following the completion of the project, as determined by the authority.[2]

c. (1) The amount of credit allowed shall, except as otherwise provided, be equal to the capital investment made by the business, or the capital investment represented by the business' leased area, or area owned by the business as a condominium, and shall be taken over a 10-year period, at the rate of one-tenth of the total amount of the business' credit for each tax accounting or privilege period of the business, beginning with the tax period in which the business is first certified by the authority as having met the investment capital and employment qualifications, subject to any reduction or disqualification as provided by subsection d. of this section as determined by annual review by the authority. In conducting its annual review, the authority may require a business to submit any information determined by the authority to be necessary and relevant to its review.

The credit amount for any tax period ending after July 28, 2017 during which the documentation of a business' credit amount remains uncertified shall be forfeited, although credit amounts for the remainder of the years of the 10-year credit period shall remain available to it.

The credit amount that may be taken for a tax period of the business that exceeds the final liabilities of the business for the tax period may be carried forward for use by the business in the next 20 successive tax periods, and shall expire thereafter, provided that the value of all credits approved by the authority against tax liabilities pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) in any fiscal year shall not exceed **[**$150,000,000**]** [2]**[**$250,000,000**]** $260,000,000[2].

The amount of credit allowed for a tax period to a business that is a tenant in a qualified business facility shall not exceed the business' total lease payments for occupancy of the qualified business facility for the tax period.

(2) A business that is a partnership shall not be allowed a credit under this section directly, but the amount of credit of an owner of a business shall be determined by allocating to each owner of the partnership that proportion of the credit of the business that is equal to the owner of the partnership's share, whether or not distributed, of the total distributive income or gain of the partnership for its tax period ending within or with the owner's tax period, or that proportion that is allocated by an agreement, if any, among the owners of the partnership that has been provided to the Director of the Division of Taxation in the Department of the Treasury by such time and accompanied by such additional information as the director may require.

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

d. (1) If, in any tax period, fewer than 200 full-time employees of the business at the qualified business facility are employed in new full-time positions, the amount of the credit otherwise determined pursuant to final calculation of the award of tax credits pursuant to subsection c. of this section shall be reduced by 20 percent for that tax period and each subsequent tax period until the first period for which documentation demonstrating the restoration of the 200 full-time employees employed in new full-time positions at the qualified business facility has been reviewed and approved by the authority, for which tax period and each subsequent tax period the full amount of the credit shall be allowed; provided, however, that for businesses applying before January 1, 2010, there shall be no reduction if a business relocates to an urban transit hub from another location or other locations in the same municipality. For the purposes of this paragraph, a "new full-time position" means a position created by the business at the qualified business facility that did not previously exist in this State.

(2) If, in any tax period, the business reduces the total number of full-time employees in its Statewide workforce by more than 20 percent from the number of full-time employees in its Statewide workforce in the last tax accounting or privilege period prior to the credit amount approval under subsection a. of this section, then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the business' Statewide workforce to the threshold levels required by this paragraph has been reviewed and approved by the authority, for which tax period and each subsequent tax period the full amount of the credit shall be allowed.

(3) If, in any tax period, (a) the number of full-time employees employed by the business at the qualified business facility located in an urban transit hub within an eligible municipality drops below 250, or (b) the number of full-time employees, who are not the subject of intra-State job transfers, pursuant to paragraph (8) of subsection a. of this section, employed by the business at any other business facility in the State, whether or not located in an urban transit hub within an eligible municipality, drops by more than 20 percent from the number of full-time employees in its workforce in the last tax accounting or privilege period prior to the credit amount approval under this section, then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the number of full-time employees employed by the

business at the qualified business facility to 250 or an increase above the 20 percent reduction has been reviewed and approved by the authority, for which tax period and each subsequent tax period the full amount of the credit shall be allowed.

(4) (i) If the qualified business facility is sold in whole or in part during the 10-year eligibility period the new owner shall not acquire the capital investment of the seller and the seller shall forfeit all credits for the tax period in which the sale occurs and all subsequent tax periods, provided however that any credits of tenants shall remain unaffected.

(ii) If a tenant subleases its tenancy in whole or in part during the 10-year eligibility period the new tenant shall not acquire the credit of the sublessor, and the sublessor tenant shall forfeit all credits for the tax period of its sublease and all subsequent tax periods.

e. (1) The Executive Director of the New Jersey Economic Development Authority, in consultation with the Director of the Division of Taxation in the Department of the Treasury, shall adopt rules in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to implement this act, including but not limited to: examples of and the determination of capital investment; the enumeration of eligible municipalities; specific delineation of urban transit hubs; the determination of the limits, if any, on the expense or type of furnishings that may constitute capital improvements; the promulgation of procedures and forms necessary to apply for a credit, including the enumeration of the certification procedures and allocation of tax credits for different phases of a qualified business facility or mixed use project; and provisions for credit applicants to be charged an initial application fee, and ongoing service fees, to cover the administrative costs related to the credit.

(2) Through regulation, the Economic Development Authority shall establish standards based on the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding the use of renewable energy, energy-efficient technology, and non-renewable resources in order to reduce environmental degradation and encourage long-term cost reduction.

(cf: P.L.2012, c.35, s.1)

5. Section 33 of P.L.2009, c.90 (C.34:1B-209.1) is amended to read as follows:

33. A business may apply to the Director of the Division of Taxation in the Department of the Treasury and the executive director of the authority for a tax credit transfer certificate, covering one or more years, in lieu of the business being allowed any amount of the credit against the tax liability of the business. The tax credit transfer certificate, upon receipt thereof by the business from the

director and the executive director of the authority, may be sold or assigned, in full or in part, in an amount not less than $100,000 of tax credits, although one transfer in each tax period may be in an amount less than $100,000 to any other person that may have a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), pursuant to section 1 of P.L.1950, c.231 (C.17:32-15), or pursuant to N.J.S.17B:23-5. The certificate provided to the business shall include a statement waiving the business's right to claim that amount of the credit against the taxes that the business has elected to sell or assign. The sale or assignment of any amount of a tax credit transfer certificate allowed under this section shall not be exchanged for consideration received by the business of less than 75 percent of the transferred credit amount before considering any further discounting to present value which shall be permitted. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability shall be subject to the same limitations and conditions that apply to the use of the credit by the business that originally applied for and was allowed the credit.
(cf: P.L.2009, c.90, s.33)

6. Section 35 of P.L.2009, c.90 (C.34:1B-209.3) is amended to read as follows:

35. a. (1) A developer, upon application to and approval from the authority, shall be allowed a credit of up to 35 percent of its capital investment, [2]or up to 40 percent for a project located in a Garden State Growth Zone,[2] made after the effective date of P.L.2009, c.90 (C.52:27D-489a et al.) but prior to its submission of documentation pursuant to subsection c. of this section, in a qualified residential project, pursuant to the restrictions and requirements of this section. To be eligible for any tax credits authorized under this section, a developer shall demonstrate to the authority, through a project pro forma analysis at the time of application, that the qualified residential project is likely to be realized with the provision of tax credits at the level requested but is not likely to be accomplished by private enterprise without the tax credits. The value of all credits approved by the authority pursuant to [P.L.2009, c.90 (C.52:27D-489a et al.)] this section for qualified residential projects may be up to $150,000,000, except as may be increased by the authority as set forth below and as set forth in paragraph (5) of this subsection; provided, however, that the combined value of all credits approved by the authority pursuant to [both] section 3 of P.L.2007, c.346 (C.34:1B-207 [et seq.]) and [P.L.2009, c.90 (C.52:27D-489a et al.)] this section shall not exceed $1,750,000,000, except as may be increased by the authority as set forth in paragraph (5) of this subsection. The authority shall monitor application and allocation activity under P.L.2007, c.346

(C.34:1B-207 et seq.), and if sufficient credits are available after taking into account allocation under P.L.2007, c.346 (C.34:1B-207 et seq.) to those qualified business facilities for which applications have been filed or for which applications are reasonably anticipated, and if the executive director judges certain qualified residential projects to be meritorious, the aforementioned $150,000,000 cap may, in the discretion of the executive director, from time to time, be exceeded for allocation to qualified residential projects in such amounts as the executive director deems reasonable, justified, and appropriate. In allocating all credits to qualified residential projects under this section, the executive director shall take into account, together with other factors deemed relevant by the executive director: input from the municipality in which the project is to be located, whether the project contributes to the recovery of areas affected by Hurricane Sandy, whether the project furthers specific State or municipal planning and development objectives, or both, and whether the project furthers a public purpose, such as catalyzing urban development or maximizing the value of vacant, dilapidated, outmoded, government-owned, or underutilized property, or both.

(2) A developer shall make or acquire capital investments totaling not less than $50,000,000 in a qualified residential project to be eligible for a credit under this section. A developer that acquires a qualified residential project shall also be deemed to have acquired the capital investment made or acquired by the seller.

(3) The capital investment requirement may be met by the developer or by one or more of its affiliates.

(4) A developer of a mixed use project shall be allowed a credit pursuant to subparagraph (a) or (b) of this paragraph, but not both.

(a) A developer shall be allowed a credit in accordance with this section for a qualified residential project that includes a mixed use project.

(b) A developer shall be allowed a credit of up to 35 percent of its capital investment, [2]or up to 40 percent for a project located in a Garden State Growth Zone,[2] made after the effective date of P.L.2011, c.89 but prior to its submission of documentation pursuant to subsection c. of this section, in a qualified residential project that is part of a mixed use project, provided that: (a) the capital investment in the qualified residential project represents at least $17,500,000 of the total capital investment in the mixed use project; and (b) the total capital investment in the mixed use project of which the qualified residential project is a part is not less than $50,000,000. The allowance of credits under this paragraph shall be subject to the restrictions and requirements, to the extent that those are not inconsistent with the provisions of this paragraph, set forth in paragraphs (1) through (3) of this subsection, including but not limited to the requirement prescribed in paragraph (1) of this subsection that the developer shall demonstrate to the authority,

through a project pro forma analysis at the time of application, that the qualified residential project is likely to be realized with the provision of tax credits at the level requested but is not likely to be accomplished by private enterprise without the tax credits.

As used in this subparagraph:

"Mixed use project" means a project comprising both a qualified residential project and a qualified business facility.

(5) The authority may approve and allocate credits for qualified residential projects in a value sufficient to meet the requirements of all applications that were received by the authority between October 24, 2012 and December 21, 2012, without regard to the terms of any competitive solicitation [2], except for the $33,000,000 per project cap,[2] and without need for reapplication by any applicant. The authority shall take final action on those applications prior to the [2]**[**90th**]** 120th[2] day after the date of enactment of the "New Jersey Economic Opportunity Act of 2013," P.L. , c. (C.) (pending before the Legislature as this bill).

b. (1) A developer shall apply for the credit under this section on or prior to **[**July 1, 2014**]** December 21, 2012 but **[**and a**]** may thereafter supplement an application as may be requested by the authority. A developer shall submit its documentation for approval of its credit amount no later than **[**July 28, 2017**]** April 26, 2017.

(2) If a developer has submitted an application under this section and the application has not been approved for any reason, the lack of approval shall not serve to prejudice in any way the consideration of a new application as may be submitted for the project for the provision of incentives offered pursuant to the "New Jersey Economic Opportunity Act of 2013," P.L. , c. (C.) (pending before the Legislature as this bill).

c. The credit shall be administered in accordance with the provisions of subsections c. and e. of section 3 of P.L.2007, c.346 (C.34:1B-209), as amended by section 32 of P.L.2009, c.90, and section 33 of P.L.2009, c.90 (C.34:1B-209.1), except that (1) all references therein to "business" and "qualified business facility" shall be deemed to refer respectively to "developer" and "qualified residential project," as such terms are defined in section 34 of P.L.2009, c.90 (C.34:1B-209.2) and (2) all references therein to credits claimed by tenants and to reductions or disqualifications in credits as determined by annual review of the authority shall be disregarded. Provided however, for purposes of a "mixed use project" as that term is used and defined pursuant to subparagraph (b) of paragraph (4) of subsection a. of this section, "qualified business facility" means that term as defined pursuant to section 2 of P.L.2007, c.346 (C.34:1B-208).

(cf: P.L.2012, c.35, s.2)

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

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

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

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

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

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

a corporation that is subject to the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) [2][,] ;[2]

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

a partnership [2][,] ;[2]

an S corporation [2][,] ;[2] [or]

a limited liability [corporation] company [2][,] ;[2] or

a non-profit corporation.

[2]If the business or tenant is a cooperative or part of a cooperative, then the cooperative may qualify for credits by counting the full-time employees and capital investments of its member organizations, and the cooperative may distribute credits to its member organizations. If the business or tenant is a cooperative that leases to its member organizations, the lease shall be treated as a lease to an affiliate or affiliates.[2]

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

"Capital investment" in a qualified business facility means expenses by a business or any affiliate of the business incurred after application [, but before the end of the tenth year after, the effective date of P.L.2011, c.149 (C.34:1B-242 et al.)] for [2][either][2] :

a. site [2]acquisition, if purchased within 24 months prior to project application, site[2] preparation and construction, repair, renovation, improvement, equipping, or furnishing on real property or of a building, structure, facility, or improvement to real property; [and] [2][or][2]

b. obtaining and installing furnishings and machinery, apparatus, or equipment, including but not limited to material goods subject to bonus depreciation under sections 168 and 179 of the federal Internal Revenue Code (26 U.S.C. s.168 and s.179), for the operation of a business on real property or in a building, structure, facility, or improvement to real property [2][, or];[2]

c. [2][both] receiving Highlands Development Credits under the Highlands Transfer Development Rights Program authorized pursuant to section 13 of P.L.2004, c.120 (C.13:20-13); or

d. any of the foregoing[2] .

[2]In addition to the foregoing, in a Garden State Growth Zone, the following qualify as a capital investment: any and all redevelopment and relocation costs, including, but not limited to, site acquisition if made within 24 months of application to the authority, engineering, legal, accounting, and other professional services required; and relocation, environmental remediation, and infrastructure improvements for the project area, including, but not limited to, on- and off-site utility, road, pier, wharf, bulkhead, or sidewalk construction or repair.[2]

In addition to the foregoing, if a business acquires or leases a qualified business facility, the capital investment made or acquired by the seller or owner, as the case may be, if pertaining primarily to the premises of the qualified business facility, shall be considered a capital investment by the business and, if pertaining generally to the qualified business facility being acquired or leased, shall be allocated to the premises of the qualified business facility on the basis of the gross leasable area of the premises in relation to the total gross leasable area in the qualified business facility. The capital investment described herein may include any capital investment made or acquired [2]within 24 months[2] prior to the date of application so long as the amount of capital investment made or acquired by the business, any affiliate of the business, or any owner after the date of application equals at least 50 percent of the amount of capital investment, allocated to the premises of the qualified business facility being acquired or leased on the basis of the gross leasable area of such premises in relation to the total gross leasable area in the qualified business facility made or acquired prior to the date of application.

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

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

"Disaster recovery project" means a project located on property that has been wholly or substantially damaged or destroyed as a result of a federally-declared disaster [2]which, after utilizing all disaster funds available from federal, State, county, and local funding sources, demonstrates to the satisfaction of the authority that access to additional funding authorized pursuant to the "New Jersey Economic Opportunity Act of 2013," P.L. , c. (C.) (pending before the Legislature as this bill), is necessary to complete such redevelopment project[2] , and which is located within the qualified incentive area and has been determined by the authority to be in an area appropriate for development and in need of economic development incentive assistance.

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

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

"Eligible position" or "full-time job" means a full-time [employee] position [retained or created by] in a business in this State [for which a business provides employee health benefits under a group health plan as defined under section 14 of P.L.1997, c.146 (C.17B:27-54), a health benefits plan as defined under section 1 of P.L.1992, c.162 (C.17B:27A-17), or a policy or contract of health insurance covering more than one person issued pursuant to Article 2 of chapter 27 of Title 17B of the New Jersey Statutes] which the business has filled with a full-time employee.

"Full-time employee" means a person:

a. who is employed by [the] a business for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, or [a person]

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

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

d. who is provided, by the business, with employee health benefits under a health benefits plan authorized pursuant to State or federal law.

With respect to a logistics, manufacturing, energy, defense, aviation, or maritime business, excluding [2][a][2] primarily warehouse or distribution [2][business] operations[2] , located in a port district having a container terminal:

the requirement that employee health benefits are to be provided shall be deemed to be satisfied if such benefits are provided in accordance with industry practice by a third party obligated to provide such benefits pursuant to a collective bargaining agreement;

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

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

[2]For any project located in a Garden State Growth Zone which qualifies under the “Municipal Rehabilitation and Economic Recovery Act,” P.L.2002, c.43 (C.52:27BBB-1 et al.), or any project located in the Atlantic City Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority, and which will include a retail facility of at least 150,000 square feet, of which at least 50 percent will be occupied by either a full-service

supermarket or grocery store, the authority shall accept a standard of service generally accepted by custom or practice as full-time employment in a supermarket, grocery store, or other like retail industry.[2]

"Full-time employee" shall not include any person who works as an independent contractor or on a consulting basis for the business.

[2]"Garden State Growth Zone" or "growth zone" means the four New Jersey cities with the lowest median family income based on the 2009 American Community Survey from the US Census, (Table 708. Household, Family, and Per Capita Income and Individuals, and Families Below Poverty Level by City: 2009).

"Highlands development credit receiving area or redevelopment area" means an area located within a qualified incentive area and designated by the Highlands Council for the receipt of Highlands Development Credits under the Highlands Transfer Development Rights Program authorized pursuant to section 13 of P.L.2004, c.120 (C.13:20-13).[2]

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

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

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

"Mega project" means:

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

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

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

b. a qualified business facility located in an aviation district housing a business in the aviation industry, [2]in a Garden State Growth Zone, or in a priority area housing the United States headquarters and related facilities of an automobile manufacturer,[2] either:

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

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

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

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

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

[2]"Municipal Revitalization Index" means the 2007 index by the Office for Planning Advocacy within the Department of State measuring or ranking municipal distress.[2]

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

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

[2][**[**"Priority area" means the portions of the qualified incentive area that are not located within a distressed municipality and which:

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

b. intersect with portions of: a deep poverty pocket, a port district, or federally owned land approved for closure under a federal Base Realignment Closing Commission action;

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

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

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

"Port district" means the portions of [2]**[**the**]** a[2] qualified incentive area that are located within [2]**[**a 15-mile radius of the outermost boundary of: each marine terminal facility operated by**]**:

a. the port district of[2] the Port Authority of New York and New Jersey, as defined in Article II of the Compact Between the States of New York and New Jersey of 1921; [2]**[**and**]** or

b. a 15-mile radius of the outermost boundary of[2] each marine terminal [2]facility[2] established, acquired, constructed, rehabilitated[2],[2] or improved by the South Jersey Port District established pursuant to "The South Jersey Port Corporation Act," P.L.1968, c.60 (C.12:11A-1 et seq.).

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

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

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

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

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

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

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

"Qualified business facility" means any building, complex of buildings or structural components of buildings, and all machinery and equipment located within a qualified incentive area, used in connection with the operation of a business [2]that is not engaged in final point of sale retail business at that location unless the building, complex of buildings or structural components of buildings, and all machinery and equipment located within a qualified incentive area, are used in connection with the operation of:

a. a final point of sale retail business located in a Garden State Growth Zone that will include a retail facility of at least 150,000 square feet, of which at least 50 percent is occupied by either a full-service supermarket or grocery store; or

b. a tourism destination project located in the Atlantic City Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219)[2].

"Qualified incentive area" means:

a. [2]an aviation district;

b. a port district;

c. a distressed municipality or urban transit hub municipality;

d.[2] an area (1) designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as:

(a) Planning Area 1 (Metropolitan) [3][,] ;[3]

(b) Planning Area 2 (Suburban) [3][,] ;[3] [or any urban, regional, or town] [3]or[3]

(c) Planning Area 3 (Fringe Planning Area) [3][, [2]or[2]

(d)][3] [2][a designated center under the State Development and Redevelopment Plan][2] [; an area zoned for development pursuant to] [2][, or

(e) a designated growth center in an endorsed plan until June 30, 2013, or until the State Planning Commission revises and readopts New Jersey's State Strategic Plan and adopts regulations to revise this definition as it pertains to Statewide planning areas, whichever is later] [3][Planning Area 4A (Rural Planning Area)[2]][3];

(2) located within a smart growth area and planning area designated in a master plan adopted by the New Jersey Meadowlands Commission pursuant to subsection (i) of section 6 of P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan adopted by the New Jersey Meadowlands Commission pursuant to section 20 of P.L.1968, c.404 (C.13:17-21);

(3) located within any land owned by the New Jersey Sports and Exposition Authority, established pursuant to P.L.1971, c.137 (C.5:10-1 et seq.), within the boundaries of the Hackensack Meadowlands District as delineated in section 4 of P.L.1968, c.404 (C.13:17-4);

(4) located within a [pinelands] regional growth area, [a pinelands] town [2][management area][2], [a pinelands village,]

[2]village,[2] or a military and federal installation area [established pursuant to] designated in the [pinelands] comprehensive management plan prepared and adopted by the Pinelands Commission pursuant to the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.); [an area designated for development, redevelopment, or economic growth within the Highlands Region; federally owned] [2][or][2]

(5) located within [2]the planning area of the Highlands Region as defined in section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands development credit receiving area or redevelopment area;

(6) located within a Garden State Growth Zone;

(7) located within[2] land approved for closure under any federal Base Closure and Realignment Commission action [or any property consisting of a vacant commercial building having over 400,000 square feet of office, laboratory, or industrial space available for occupancy for a period of over one year or is negatively impacted by the approval of a "qualified business facility," as defined pursuant to section 2 of P.L.2007, c.346 (C.34:1B-208)]; [2][but excluding

b. an area designated in the 2008 Highlands Regional Master Plan, adopted pursuant to the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.), unless located within:

(1) (a) the Existing Community Zone, or

(b) a Highlands center, designated by the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4); which area is not located within:

(2) (a) the Protection Zone,

(b) the Conservation Zone, or

(c) an Environmentally Constrained Sub-Zone] or

(8) located only within the following portions of the areas designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et al.), as [3]Planning Area 4A (Rural Planning Area),[3] Planning Area 4B (Rural/Environmentally Sensitive) or Planning Area 5 (Environmentally Sensitive) if [3]Planning Area 4A (Rural Planning Area),[3] Planning Area 4B (Rural/Environmentally Sensitive) or Planning Area 5 (Environmentally Sensitive) is located within:

(a) a designated center under the State Development and Redevelopment Plan;

(b) a designated growth center in an endorsed plan until the State Planning Commission revises and readopts New Jersey's State Strategic Plan and adopts regulations to revise this definition as it pertains to Statewide planning areas;

(c) any area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-

6) or in need of rehabilitation pursuant to section 14 of P.L.1992, c.79 (C.40A:12A-14);

(d) any area on which a structure exists or previously existed including any desired expansion of the footprint of the existing or previously existing structure provided such expansion otherwise complies with all applicable federal, State, county, and local permits and approvals;

(e) [3][any] the[3] planning area of the Highlands Region as defined in section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands development credit receiving area or redevelopment area; or

(f) any area on which an existing tourism destination project is located.

"Qualified incentive area" shall not include any property located within the preservation area of the Highlands Region as defined in the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.)[2] .

“Qualified incubator facility” means a commercial building located within a qualified incentive area: which contains 100,000 or more square feet of office, laboratory, or industrial space; which is located near, and presents opportunities for collaboration with, a research institution, teaching hospital, college, or university; and within which, at least 75 percent of the gross leasable area is restricted for use by one or more technology startup companies during the commitment period.

"Retained full-time job" means an eligible position that currently exists in New Jersey and is filled by a full-time employee but which, because of a potential relocation by the business, is at risk of being lost to another state or country [2], or eliminated[2] . For the purposes of determining a number of retained full-time jobs, the eligible positions of an affiliate shall be considered eligible positions of the business.

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

“SDA municipality” means a municipality in which an SDA district is situate.

“Targeted industry” means any industry identified from time to time by the authority including initially, a transportation, manufacturing, defense, energy, logistics, life sciences, technology, health, and finance business, but excluding a primarily warehouse or distribution business.

“Technology startup company” means a for profit business that has been in operation fewer than five years and is developing or possesses a proprietary technology or business method of a high-technology or life science-related product, process, or service which the business intends to move to commercialization.

“Tourism destination project” means a qualified business facility that will be among the most visited privately owned or operated

tourism or recreation sites in the State [1][as determined at the discretion of the authority] , and which is located within the qualified incentive area and has been determined by the authority to be in an area appropriate for development and in need of economic development incentive assistance[1].

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

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

[2]"Urban transit hub municipality" means a municipality: a. which qualifies for State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.), or which has continued to be a qualified municipality thereunder pursuant to P.L.2007, c.111; and b. in which 30 percent or more of the value of real property was exempt from local property taxation during tax year 2006. The percentage of exempt property shall be calculated by dividing the total exempt value by the sum of the net valuation which is taxable and that which is tax exempt.[2]

(cf: P.L.2011, c.149, s.2)

8. Section 3 of P.L.2011, c.149 (C.34:1B-244) is amended to read as follows:

3. a. The Grow New Jersey Assistance Program is hereby established as a program under the jurisdiction of the New Jersey Economic Development Authority and shall be administered by the authority. The purpose of the program is to encourage economic development and job creation and to preserve jobs that currently exist in New Jersey but which are in danger of being relocated outside of the State. To implement this purpose, [and to the extent that funding for the program is available,] the program may provide tax credits to eligible businesses for an eligibility period not to exceed 10 years.

To be eligible for any tax credits pursuant to P.L.2011, c.149 (C.34:1B-242 et al.), business's chief executive officer or equivalent officer shall demonstrate to the authority, at the time of application, that:

(1) the business, expressly including its landlord or seller, will make, acquire, or lease a capital investment [of at least $20,000,000] equal to, or greater than, the applicable amount set

forth in subsection b. of this section at a qualified business facility at which it will:

(a) [employ at least 100 full-time employees in retained] retain full-time jobs in an amount equal to or greater than the applicable number set forth in subsection c. of this section [, or] ;

(b) create [at least 100] new full-time jobs [in an industry identified by the authority as desirable for the State to maintain or attract; (2)] in an amount equal to or greater than the applicable number set forth in subsection c. of this section; or

(c) in combination, retain full-time jobs and create new full-time jobs in an amount equal to or greater than the applicable number set forth in subsection c. of this section;

(2) the qualified business facility shall be constructed in accordance with the minimum environmental and sustainability standards;

(3) the capital investment resultant from the award of tax credits and the resultant retention and creation of [eligible positions] full-time jobs will yield a net positive benefit to the State, equaling at least 110 percent of the requested tax credit allocation amount, which determination [2]is calculated prior to taking into account the value of the requested tax credit and[2] shall be based on the benefits generated during the first 20 years following the completion of the project, except that for a mega project [2]or a project located in a Garden State Growth Zone[2] , the determination shall be based on the benefits generated during a period of up to 30 years following the completion of the project, as determined by the authority [2], and except that, for a project located in a Garden State Growth Zone which qualified for the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), the net positive benefit determination shall be based on the benefits generated during a period of up to 35 years following completion of the project, as determined by the authority, and shall equal at least 100 percent of the requested tax credit allocation amount and may utilize the value of those property taxes subject to the provisions of section [4][26] 24[4] of P.L. , c. (C.) (pending before the Legislature as this bill) and incremental sales and excise taxes that are derived from activities within the area and which are rebated or retained by the municipality pursuant to the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) or any other law providing for such rebate or retention[2]; and,

(4) except as provided in subsection [d.] f. of this section, [(3)] the award of tax credits will be a material factor in the business's decision to create or retain the minimum number of new or retained full-time jobs for eligibility under the program.

With respect to the provisions of paragraph (3) of this subsection, in the case of a [2][logistics, manufacturing, energy,

defense, aviation, or maritime business, excluding a primarily warehouse or distribution business] project located in a Garden State Growth Zone[2] , the authority, in its discretion, may award [2][bonus points] bonuses[2] in its net positive benefit calculation.

b. The minimum capital investment required to be eligible under this program shall be as follows:

(1) for the rehabilitation [2], improvement, fit-out, or retrofit[2] of an existing industrial premises for continued industrial use by the business, a minimum investment of $20 per square foot of gross leasable area;

(2) for the new construction of an industrial premises for industrial use by the business, a minimum investment of $60 per square foot of gross leasable area;

(3) for the rehabilitation [2], improvement, fit-out, or retrofit[2] of an existing non-industrial premises for continued non-industrial use by the business, a minimum investment of $40 per square foot of gross leasable area; and

(4) for the new construction of a non-industrial premises for non-industrial use by the business, a minimum investment of $120 per square foot of gross leasable area.

[2]The minimum capital investment required by this subsection shall be reduced by one-third for projects located in a Garden State Growth Zone or projects located within Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, or Salem counties.[2]

c. The minimum number of new or retained full-time jobs required to be eligible under this program shall be as follows:

(1) for a business that is a technology startup company or a manufacturing company, a minimum of 10 new or 25 retained full-time jobs;

(2) for a business engaged primarily in a targeted industry other than a technology startup company or a manufacturing company, a minimum of 25 new or 35 retained full-time jobs; and

(3) for any other business, a minimum of 35 new or 50 retained full-time jobs.

[2]The minimum number of new or retained full-time jobs required by this subsection shall be reduced by one-quarter for projects located in a Garden State Growth Zone or projects located within Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, or Salem counties.[2]

d. To assist the authority in determining whether a proposed capital investment will yield a net positive benefit, the business's chief executive officer, or equivalent officer, shall submit a certification to the authority indicating [2]: (1)[2] that any [existing] [2][retained] existing[2] full-time jobs are at risk of leaving the State [2][and the date or dates at which it is expected that those full-time jobs would leave the State,] or being eliminated; (2)[2] that any

projected creation [2]or retention, as applicable,[2] of new full-time jobs would not occur but for the provision of tax credits under the program [2][,];[2] and [2](3)[2] that the business's chief executive officer, or equivalent officer, has reviewed the information submitted to the authority and that the representations contained therein are accurate[2], provided however, that in satisfaction of the provisions of paragraphs (1) and (2) of this subsection, the certification with respect to a project in a Garden State Growth Zone that qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), shall indicate that, the provision of tax credits under the program is a material factor in the business decision to make a capital investment and locate in a Garden State Growth Zone that qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.)[2] . In the event that this certification by the business's chief executive officer, or equivalent officer, is found to be willfully false, the authority may revoke any award of tax credits in their entirety, which revocation shall be in addition to any other criminal or civil penalties that the business and the officer may be subject to. When considering an application involving intra-State job transfers, the authority shall require the business to submit the following information as part of its application: a full economic analysis of all locations under consideration by the business; all lease agreements, ownership documents, or substantially similar documentation for the business's current in-State locations; and all lease agreements, ownership documents, or substantially similar documentation for the potential out-of-State location alternatives, to the extent they exist. Based on this information, and any other information deemed relevant by the authority, the authority shall independently verify and confirm, by way of making a factual finding by separate vote of the authority's board, the business's assertion that the jobs are actually at risk of leaving the State, and as to the date or dates at which the authority expects that those jobs would actually leave the State [2], or, with respect to projects located in a Garden State Growth Zone that qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), the business's assertion that the provision of tax credits under the program is a material factor in the business's decision to make a capital investment and locate in a Garden State Growth Zone that qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.),[2] before a business may be awarded any tax credits under this section.

[c.] e. A project that consists solely of point-of-final-purchase retail facilities shall not be eligible for a grant of tax credits. If a project consists of both point-of-final-purchase retail facilities and non-retail facilities, only the portion of the project consisting of non-retail facilities shall be eligible for a grant of tax credits. [2]In a

Garden State Growth Zone or the Atlantic City Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority, up to 7.5 percent of retail facilities included in a mixed use project shall be eligible for a grant of tax credits along with the non-retail facilities.[2] If a warehouse facility is part of a point-of-final-purchase retail facility and supplies only that facility, the warehouse facility shall not be eligible for a grant of tax credits. For the purposes of this section, [2]a retail facility of at least 150,000 square feet, of which at least 50 percent is occupied by a full-service supermarket or grocery store, located in a Garden State Growth Zone which qualified under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or a tourism destination project in the Atlantic City Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219), or[2] catalog distribution centers shall not be considered point-of-final-purchase retail facilities.

[d.] f. The authority may determine as eligible for tax credits under the program any business that is required to respond to a request for proposals and to fulfill a contract with the federal government although the business's chief executive officer or equivalent officer has not demonstrated to the authority that the award of tax credits will be a material factor in the business's decision to retain [at least 100] the minimum number of retained full-time jobs, as otherwise required by [paragraph (3) of subsection a. of] this section. The authority may, in its discretion, consider the economic benefit of the retained jobs servicing the contract in conducting a net benefit analysis required by paragraph [(2)] [2][4] (4)[2] of subsection a. of this section. For the purposes of this subsection, "retained full-time jobs" includes jobs that are at risk of being eliminated. Applications to the authority for eligibility under the program pursuant to the criteria set forth in this subsection shall be completed by [March] [4][July] December[4] 31, [2012] 2013. Submission of a proposal to the federal government prior to authority approval shall not disqualify a business from the program.

g. Nothing shall preclude a business from applying for tax credits under the program for more than one project pursuant to one or more applications.

(cf: P.L.2011, c.149, s.3)

9. Section 4 of P.L.2011, c.149 (C.34:1B-245) is amended to read as follows:

4. The authority shall require an eligible business to enter into an incentive agreement prior to the issuance of tax credits. The incentive agreement shall include, but shall not be limited to, the following:

a. A detailed description of the proposed project which will result in job creation or retention, and the number of new or retained full-time [employees] jobs that are approved for tax credits.

b. The [term] eligibility period of the tax credits, [and] including the first year for which the tax credits may be claimed.

c. Personnel information that will enable the authority to administer the program.

d. A requirement that the applicant maintain the project at a location in New Jersey [at least 1.5 times the number of years of the term of the tax credits] for the commitment period, with at least the minimum number of full-time employees as required by [section 6 of P.L.2011, c.149 (C.34:1B-247)] this program, and a provision to permit the authority to recapture all or part of any tax [credit] credits awarded, at its discretion, if the business does not remain [at the site] in compliance with this provision for the required term [2], and in the instance of the business terminating an existing incentive agreement in order to participate in an incentive agreement authorized pursuant to the "New Jersey Economic Opportunity Act of 2013," P.L. , c. (C.) (pending before the Legislature as this bill)[2], [2][with][2] such permitted recapture [2][not to exceed the portion of the tax credits as were awarded for periods when the business was not in compliance with this provision] may be calculated to recognize the period of time that the business was in compliance prior to termination[2].

e. A method for the business to certify that it has met the capital investment and employment requirements of the program pursuant to paragraph (1) of subsection a. of section 3 of P.L.2011, c.149 (C.34:1B-244) and to report annually to the authority the number of full-time employees for which the tax credits are to be made.

f. A provision permitting an audit of the payroll records of the business from time to time, as the authority deems necessary.

g. A provision which permits the authority to amend the agreement.

h. A provision establishing the conditions under which the agreement may be terminated [and awarded tax credits are recaptured, in whole or in part, by the authority at its discretion].

[4][i. (1) A requirement that each worker employed to perform construction work at the qualified business facility shall be paid not less than the prevailing wage rate, consistent with the requirements of section 1 of P.L.1979, c.303 (C.34:1B-5.1); and

(2) A requirement that each worker employed to perform building maintenance services at a qualified business facility by a business or a tenant or subcontractor of a business shall be paid not less than the prevailing wage rate for the worker's craft or trade as

determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.).**]**[4] [2]**[**This requirement shall survive the termination of the incentive agreement.**]**[2]
(cf: P.L.2011, c.149, s.4)

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

5. a. The **[**value**]** total amount of **[**each**]** tax credit for an eligible business **[**shall be equal to $5,000 per year for a period of ten years**]** for each new or retained full-time job **[**determined by the authority pursuant to section 3 of P.L.2011, c.149 (C.34:1B-244) to be located at the qualified business facility, subject to the provisions of this section**]** shall be as set forth in subsections b. through [2]**[**e.**]** f.[2] of this section. The total tax credit amount shall be calculated and credited to the business annually for each year of the eligibility period[2]. Notwithstanding any other provisions of P.L. , c. (C.) (pending before the Legislature as this bill), a business may assign its ability to apply for the tax credit under this subsection to a non-profit organization with a mission dedicated to attracting investment and completing development and redevelopment projects in a Garden State Growth Zone[2].

b. **[**In addition to any grant of tax credits determined pursuant to subsection a. of this section, a bonus award of up to an additional $3,000 per job of the amount of the original tax credits may be made to any eligible business as determined by the authority. In making a bonus award to an eligible business, the authority shall consider the following factors, such that whether the business: (1) is an industry identified by the authority as desirable for the State to maintain or attract; (2) locates or relocates to a location within a qualified incentive area adjacent to, or within walking distance or short-distance-shuttle service of, a public transit facility, as determined by the authority, by regulation; (3) creates jobs using full-time employees in eligible positions whose annual salaries, according to the Department of Labor and Workforce Development, are greater than the average full-time salary in this State; or (4) is locating to a project site that is or has been negatively impacted by the approval of a "qualified business facility," as defined pursuant to section 2 of P.L.2007, c.346 (C.34:1B-208).**]** The base amount of the tax credit for each new or retained full-time job shall be as follows:

(1) for a qualified business facility located within an urban transit hub [2]municipality or Garden State Growth Zone[2] or is a mega project, $5,000 per year;

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

(3) for a project in a priority area, [2][$2,500] $3,000[2] per year; and

(4) for a project in other eligible areas, [2][$1,500] $500[2] per year.

c. [Notwithstanding the provisions of subsections a. and b. of this section, (1) the amount of tax credits available to be applied by the business annually shall not exceed the lesser of one tenth of the capital investment certified by the authority pursuant to section 6 of P.L.2011, c.149 (C.34:1B-247) or $4,000,000, and (2) the number of new full-time jobs for which a business receives a tax credit shall not exceed the number of retained full-time jobs for which a business receives a tax credit, unless the business qualifies by creating at least 100 new full-time jobs in an industry identified by the authority as desirable for the State to maintain or attract.] In addition to the base amount of the tax credit, the amount of the tax credit to be awarded for each new or retained full-time job shall be increased if the qualified business facility meets any of the following priority criteria or other additional or replacement criteria determined by the authority from time to time in response to evolving economic or market conditions:

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

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

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

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

(5) [2][for a qualified business facility not eligible for the increase set forth in paragraph (4) of this subsection and at which a shuttle service is available to a commuter rail, bus, or ferry station during rush hour periods on all business days during the commitment period, an increase of $1,000 per year;

(6) for a qualified business facility whose location includes or is directly connected by rail spur to a freight rail line if the applicant utilizes that freight line as a regular part of the operation of its business during the commitment period, an increase of $2,000 per year;

(7) for a qualified business facility not eligible for the increase set forth in paragraph (6) of this subsection and whose location is within one mile of a freight rail line spur if the applicant utilizes that freight line as a regular part of the operation of its business during the commitment period, an increase of $1,000 per year;

(8)]² for a qualified business facility, other than a mega project, at which the capital investment in industrial premises for industrial use by the business is in excess of the minimum capital investment required for eligibility pursuant to subsection b. of section 3 of P.L.2011, c.149 (C.34:1B-244), an increase of $1,000 per year for each additional amount of investment that exceeds the minimum amount required for eligibility by 20 percent, with a maximum increase of ²[$3.000] $3,000² per year;

²[(9)] (6)² for a business with new full-time jobs and retained full-time jobs at the project with an average salary in excess of the existing average salary for the county in which the project is located, ²or, in the case of a project in a Garden State Growth Zone, a business that employs full-time positions at the project with an average salary in excess of the average salary for the Garden State Growth Zone,² an increase of $250 per year during the commitment period for each 35 percent by which the project's average salary levels exceeds the county ²or Garden State Growth Zone² average salary, with a maximum increase of $1,500 per year;

²[(10)] (7)² for a business with large numbers of new full-time jobs and retained full-time jobs during the commitment period, the increases shall be in accordance with the following schedule:

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

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

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

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

(e) ²[if the number of new full-time jobs and retained full-time jobs is between 1,001 and 1,200, $1,500 per year;

(f) if the number of new full-time jobs and retained full-time jobs is between 1,201 and 1,400, $1,750 per year;

(g) if the number of new full-time jobs and retained full-time jobs is between 1,401 and 1,600, $2,000 per year;

(h) if the number of new full-time jobs and retained full-time jobs is between 1,601 and 1,800, $2,250 per year;

(i)]² if the number of new full-time jobs and retained full-time jobs is in excess of ²[1,800] 1,000² , ²[$2,500] $1,500² per year;

²[(11)] (8)² for a business in a targeted industry, an increase of $500 per year;

²[(12) for a business that employs a significant number of chronically unemployed or military veterans during the commitment period, an increase of $200 per year for each 10 percent of the new full-time jobs that are filled by full-time employees that are either chronically unemployed or military veterans, with a maximum increase of $1,000 per year;

(13) for a qualified business facility materially exceeding the minimum environmental and sustainability standards by way of energy efficiency or renewable energy features, measures, or upgrades, an increase of $250 per year;

(14)**]** (9)[2] for a qualified business facility exceeding the Leadership in Energy and Environmental Design's "Silver" rating standards [2]or completes substantial environmental remediation[2] , an additional increase of $250 per year; [2]**[**and

(15)**]** (10)[2] for a mega project [2]or a project located within a Garden State Growth Zone[2] at which the capital investment in industrial premises for industrial use by the business is in excess of the minimum capital investment required for eligibility pursuant to subsection b. of section 3 of P.L.2011, c.149 (C.34:1B-244), an increase of $1,000 per year for each additional amount of investment that exceeds the minimum amount by 20 percent, with a maximum increase of $5,000 per year [2];

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

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

(13) for a project located within a half-mile of any light rail station constructed after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), an increase of $1,000 per year;

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

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

(16) for a project that generates solar energy on site for use within the project of an amount that equals at least 50 percent of the project's electric supply service needs, an increase of $250 per year[2].

d. The gross amount of the tax credit for an eligible business for each new or retained full-time job shall be the sum of the base amount as set forth pursuant to subsection b. of this section and the various additional bonus amounts for which the business is eligible

pursuant to subsection c. of this section, subject to the following limitations:

(1) for a mega project [2]or a project in a Garden State Growth Zone[2] , the gross amount for each new or retained full-time job shall not exceed $15,000 per year;

(2) for a qualified business facility located within an urban transit hub [2]municipality[2] , the gross amount for each new or retained full-time job shall not exceed [2][$10,000] $12,000[2] per year;

(3) for a qualified business facility in a distressed municipality the gross amount for each new or retained full-time job shall not exceed [2][$8,000] $11,000[2] per year;

(4) for a qualified business facility in other priority areas, the gross amount for each new or retained full-time job shall not exceed [2][$6,000] $10,500[2] per year; [2][and][2]

(5) for a qualified business facility in other eligible areas, the gross amount for each new or retained full-time job shall not exceed [2][$4,000] $6,000[2] per year [2]and;

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

Notwithstanding anything to the contrary set forth herein and in the provisions of subsections a. through f. of this section, for a project located within a Garden State Growth Zone which qualifies for the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), the total tax credit shall be:

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

(b) for a project which creates 70 or more full-time jobs and makes a capital investment of at least $10,000,000, the total tax credit amount per full-time job shall be the greater of: (i) the total tax credit amount for a qualifying project in a Garden State Growth Zone as calculated pursuant to subsections a. through f. of this section; or (ii) the total capital investment of the project divided by the total number of full-time jobs at that project but not greater than $30,000,000 over the grant term;

(c) for a project which creates 100 or more full-time jobs and makes a capital investment of at least $15,000,000, the total tax credit amount per full-time job shall be the greater of: (i) the total tax credit amount for a qualifying project in a Garden State Growth Zone as calculated pursuant to subsections a. through f. of this section; or (ii) the total capital investment of the project divided by

the total number of full-time jobs at that project but not greater than $40,000,000 over the grant term;

(d) for a project which creates 150 or more full-time jobs and makes a capital investment of at least $20,000,000, the total tax credit amount per full-time job shall be the greater of: (i) the total tax credit amount for a qualifying project in a Garden State Growth Zone as calculated pursuant to subsections a. through f. of this section; or (ii) the total capital investment of the project divided by the total number of full-time jobs at that project but not greater than $50,000,000 over the grant term; or

(e) for a project which creates 250 or more full-time jobs and makes a capital investment of at least $30,000,000, the total tax credit amount per full-time job shall be the greater of: (i) the total tax credit amount for a qualifying project in a Garden State Growth Zone as calculated pursuant to subsections a. through f. of this section; or (ii) the total capital investment of the project divided by the total number of full-time jobs as defined herein at that project[2].

e. After the determination by the authority of the gross amount of tax credits for which a business is eligible pursuant to subsection d. of this section, the final total tax credit amount shall be calculated as follows: (1) for each new full-time job, the business shall be allowed tax credits equaling 100 percent of the gross amount of tax credits for each new full-time job; and (2) for each retained full-time [2]**[**employee**]**[2] job, the business shall be allowed tax credits equaling [2]**[**75**]** 50[2] percent of the gross amount of tax credits for each retained full-time job, [2]unless the jobs are part of a mega project which is the United States headquarters of an automobile manufacturer located within a priority area or in a Garden State Growth Zone, in which case the business shall be entitled to tax credits equaling 100 percent of the gross amount of tax credits for each retained full-time job, or[2] unless the new qualified business facility would replace a facility that has been wholly or substantially damaged as a result of a federally-declared disaster, in which case the business shall be entitled to tax credits equaling 100 percent of the gross amount of tax credits for each retained full-time job.

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

(1) [2]$35,000,000 and provides a net benefit to the State as provided herein with respect to a qualified business facility in a Garden State Growth Zone which qualifies under the “Municipal Rehabilitation and Economic Recovery Act,” P.L.2002, c.43 (C.52:27BBB-1 et al.);

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

[2][(2)] (3)[2] $10,000,000 [2]and provides a net benefit to the State as provided herein[2] with respect to a qualified business facility in an urban transit hub [2]municipality[2] ;

[2][(3)] (4)[2] $8,000,000 [2]and provides a net benefit to the State as provided herein[2] with respect to a qualified business facility in a distressed municipality;

[2][(4)] (5)[2] $4,000,000 [2]and provides a net benefit to the State as provided herein[2] with respect to a qualified business facility in other priority areas [2], but not more than 90 percent of the withholdings of the business from the qualified business facility[2] ; and

[2][(5)] (6)[2] $2,500,000 [2]and provides a net benefit to the State as provided herein[2] with respect to a qualified business facility in other eligible areas [2], but not more than 90 percent of the withholdings of the business from the qualified business facility.

Under paragraphs (1) through (6) of this subsection, for each application for tax credits in excess of $4,000,000 annually, the amount of tax credits available to be applied by the business annually shall be the lesser of the maximum amount under the applicable subsection or an amount determined by the authority necessary to complete the project, with such determination made by the authority's utilization of a full economic analysis of all locations under consideration by the business; all lease agreements, ownership documents, or substantially similar documentation for the business's current in-State locations, as applicable; and all lease agreements, ownership documents, or substantially similar documentation for the potential out-of-State location alternatives, to the extent they exist. Based on this information, and any other information deemed relevant by the authority, the authority shall independently verify and confirm the amount necessary to complete the project[2].

(cf: P.L.2011, c.149, s.5)

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

6. a. (1) The [value of all credits approved by the authority pursuant to P.L.2011, c.149 (C.34:1B-242 et al.) shall not exceed $200,000,000, except that the value of all credits approved by the authority pursuant to this section may exceed $200,000,000 if the board of the authority determines the credits to be reasonable, justifiable, and appropriate; provided, however, the] combined value of all credits approved by the authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) and P.L.2011, c.149 (C.34:1B-242 et

al.) prior to [2][the 90th day after the date of enactment of the "New Jersey Economic Opportunity Act of 2013," P.L. , c. (C.) (pending before the Legislature as this bill)] December 31, 2013[2] shall not exceed $1,750,000,000, except as may be increased by the authority as set forth in paragraph (5) of subsection a. of P.L.2009, c.90 (C.34:1B-209.3). [2]Following the enactment of the "New Jersey Economic Opportunity Act of 2013," P.L. , c. (C.) (pending before the Legislature as this bill), there shall be no monetary cap on the value of credits approved by the authority attributable to the program pursuant to "New Jersey Economic Opportunity Act of 2013," P.L. , c. (C.) (pending before the Legislature as this bill).[2]

(2) [A business, including any affiliate of the business or any business that is a tenant within any qualified business facility, shall make or acquire capital investments totaling not less than $20,000,000 in a qualified business facility, at which the business shall employ not fewer than 100 full-time employees to be eligible for a credit pursuant to P.L.2011, c.149. A business that acquires or leases a qualified business facility shall also be deemed to have acquired the capital investment made or acquired by the seller or landlord, as the case may be.] (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill).

(3) [A business shall not be allowed tax credits pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.) or P.L.1996, c.26 (C.34:1B-124 et seq.) relating to the same capital and employees that qualify the business for tax credits pursuant to P.L.2011, c.149. A business that is allowed a tax credit under this section shall not be eligible for incentives authorized pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.). A business shall not qualify for a tax credit under this section, based upon capital investment and employment of full-time employees, if that capital investment or employment was the basis for which a grant was provided to the business pursuant to the "Urban Transit Hub Tax Credit Act," P.L.2007, c.346 (C.34:1B-207 et seq.).] (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill).

(4) [Full-time employment for an accounting or privilege period shall be determined as the average of the monthly full-time employment for the period.] (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill).

(5) [The capital investment of the owner of a qualified business facility is that percentage of the capital investment made or acquired by the owner of the building that the percentage of net leasable area of the qualified business facility not leased to tenants is of the total net leasable area of the qualified business facility. For a business that is a tenant, the amount of capital investment in a facility that a leased area represents shall be equal to that percentage of the owner's total capital investment in the facility that

the percentage of net leasable area leased by the tenant is of the total net leasable area of the qualified business facility. Capital investments made by a tenant shall be deemed to be included in the calculation of the capital investment made or acquired by the owner, but only to the extent necessary to meet the owner's minimum capital investment of $20,000,000. Capital investments made by a tenant and not allocated to meet the owner's minimum capital investment threshold of $20,000,000 shall be added to the amount of capital investment represented by the tenant's leased area in the qualified business facility.**]** (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill).

b. (1) A business shall **[**apply**]** submit an application for **[**the**]** tax **[**credit**]** credits prior to July 1, **[**2014, and**]** [2]**[**2018**]** 2019[2] . The authority shall not approve an application for tax credits unless the application was submitted prior to July 1, [2]**[**2018**]** 2019[2] .

(2) A business shall submit its documentation indicating that it has met the capital investment and employment requirements specified in the **[**project**]** incentive agreement for certification of its tax credit amount **[**no later than July 28, 2017.**]** within three years following the date of approval of its application by the authority. The authority shall have the discretion to grant two six-month extensions of this deadline. In no event shall the incentive effective date occur later than four years following the date of approval of an application by the authority.

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

(4) A business seeking a credit for a mega project shall apply for the credit within four years after the effective date of the "New Jersey Economic Opportunity Act of 2013," P.L. , c. (C.) (pending before the Legislature as this bill).

c. (1) **[**The amount of credit allowed shall not exceed the capital investment made by the business or the capital investment represented by the business' leased area, as certified by the authority pursuant to subsection b. of this section, as having met the investment capital and employment qualifications, subject to any reduction or disqualification as provided by subsection d. of this section as determined by annual review by the authority.**]** In conducting its annual review, the authority may require a business to submit any information determined by the authority to be necessary and relevant to its review.

The credit amount for any tax period **[**ending after July 28, 2017, during**]** for which the documentation of a business' credit amount remains uncertified as of a date three years after the closing date of that period shall be forfeited, although credit amounts for the remainder of the years of the **[**10-year credit**]** eligibility period shall remain available to it.

The credit amount that may be taken for a tax period of the business that exceeds the final liabilities of the business for the tax period may be carried forward for use by the business in the next 20 successive tax periods, and shall expire thereafter **[**, provided that the value of all credits approved by the authority against tax liabilities pursuant to P.L.2011, c.149, in any fiscal year shall not exceed $150,000,000 and the combined value of all credits approved by the authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) and P.L.2011, c.149 (C.34:1B-242 et al.) shall not exceed $1,750,000,000**]**.

[The amount of credit allowed for a tax period to a business that is a tenant in a qualified business facility shall not exceed the business' total lease payments for occupancy of the qualified business facility for the tax period.**]**

(2) A business that is a partnership shall not be allowed a credit under this section directly, but the amount of credit of an owner of a business shall be determined by allocating to each owner of the partnership that proportion of the credit of the business that is equal to the owner of the partnership's share, whether or not distributed, of the total distributive income or gain of the partnership for its tax period ending within or with the owner's tax period, or that proportion that is allocated by an agreement, if any, among the owners of the partnership that has been provided to the Director of the Division of Taxation in the Department of the Treasury by such time and accompanied by such additional information as the director may require.

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

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

(2) If, in any tax period, the number of full-time employees employed by the business at the qualified business facility located within a qualified incentive area drops below [2]**[**100 or**]**[2] 80 percent of the number of new and retained full-time jobs specified in the

[project] incentive agreement, then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the number of full-time employees employed by the business at the qualified business facility to [2][100] 80 percent of the number of jobs specified in the incentive agreement[2] .

(3) (a) If the qualified business facility is sold by the owner in whole or in part during the [10-year] eligibility period, the new owner shall not acquire the capital investment of the seller and the seller shall forfeit all credits for the tax period in which the sale occurs and all subsequent tax periods, provided however that any credits of [tenants] the business shall remain unaffected.

(b) [2][If a][2] [tenant] [2][business leases or subleases its][2] [tenancy] [2][premises in the qualified business facility in whole or in part during the][2] [10-year] [2][eligibility period, the new tenant or subtenant shall not acquire the][2] [credit] [2][tax credits of the][2] [sublessor] [2][business, and the][2] [sublessor tenant] [2][business shall forfeit all credits for the tax period of its lease or sublease and all subsequent tax periods.][2] [1][Notwithstanding such forfeiture, a business that leases or subleases less than all of its premises and does not thereby reduce its new or retained full-time job count below the minimum number required under section 3 of P.L.2011, c.149 (C.34:1B-244) shall not be affected by this paragraph.][1] [2]In connection with a regional distribution facility of foodstuffs, the business entity or entities which own or lease such facility shall qualify as a business regardless of: (i) the type of the business entity or entities which own or lease such facility; (ii) the ownership or leasing of such facility by more than one business entity; or (iii) the ownership of the business entity or entities which own or lease such facility. Such ownership or leasing, whether by members, shareholders, partners, or other owners of the business entity or entities, shall be treated as ownership or leasing by affiliates. Such members, shareholders, partners, or other ownership or leasing participants and others that are tenants in the facility shall be treated as affiliates for the purpose of counting the full-time employees and capital investments in the facility. The business entity or entities may distribute credits to members, shareholders, partners, or other ownership or leasing participants in accordance with their respective interests. If the business entity or entities or their members, shareholders, partners, or other ownership or leasing participants lease space in the facility to members, shareholders, partners, or other ownership or leasing participants or others as tenants in the facility, the leases shall be treated as a lease to an affiliate, and the business entity or entities shall not be subject to forfeiture of the credits. For the purposes of this section, leasing shall include subleasing and tenants shall include subtenants.

(4) For a project located within a Garden State Growth Zone, if, in any tax period, the number of full-time employees employed by the business at the qualified business facility located within a qualified incentive area increases above the number of full-time employees specified in the incentive agreement, then the business shall be entitled to an increased base credit amount for that tax period and each subsequent tax period, for each additional full-time employee added above the number of full-time employees specified in the incentive agreement, until the first tax period for which documentation demonstrating a reduction of the number of full-time employees employed by the business at the qualified business facility, at which time the tax credit amount will be adjusted accordingly pursuant to this section.[2]

e. The authority shall not enter into an incentive agreement with a business that has previously received incentives pursuant to the "Business Retention and Relocation Assistance Act," P.L.1996, c.25 (C.34:1B-112 et seq.), the "Business Employment Incentive Program Act," P.L.1996, c.26 (C.34:1B-124 et seq.), or any other program administered by the authority unless:

(1) the business has satisfied all of its obligations underlying the previous award of incentives [2]or is compliant with section 4 of P.L.2011, c.149 (C.34:1B-245)[2] ; or

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

[2]f. A business which has already applied for a tax credit incentive award prior to the effective date of the “New Jersey Economic Opportunity Act of 2013,” P.L. , c. (C.) (pending before the Legislature as this bill), but who has not yet been approved for such tax credits, or has not executed an agreement with the authority, may proceed under that application or seek to amend such application or reapply for a tax credit incentive award for the same project or any part thereof for the purpose of availing itself of any more favorable provisions of the program.[2]

(cf: P.L.2012, c.35, s.4)

12. Section 8 of P.L.2011, c.149 (C.34:1B-249) is amended to read as follows:

8. a. The chief executive officer of the authority, in consultation with the Director of the Division of Taxation in the Department of the Treasury, shall adopt rules in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to implement P.L.2011, c.149 (C.34:1B-242 et al.), including but not limited to: examples of and the determination of capital investment; the enumeration of qualified incentive areas; the enumeration of specific targeted industries;

specific delineation of ⟦these⟧ the incentive areas; the determination of the limits, if any, on the expense or type of furnishings that may constitute capital improvements; the promulgation of procedures and forms necessary to apply for a tax credit, including the enumeration of the certification procedures and allocation of tax credits for different phases of a qualified business facility; and provisions for tax credit applicants to be charged an initial application fee, and ongoing service fees, to cover the administrative costs related to the tax credit.

b. Through regulation, the authority shall establish standards by which qualified business facilities shall be constructed or renovated ⟦based on the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding the use of renewable energy, energy-efficient technology, and non-renewable resources in order to reduce environmental degradation and encourage long-term cost reduction⟧ in compliance with the minimum environmental and sustainability standards.

(cf: P.L.2011, c.149, s.8)

13. Section 1 of P.L.2009, c.136 (C.52:18-42) is amended to read as follows:

1. As used in ⟦this act⟧ P.L.2009, c.136 (C.52:18-42 et seq.):

"Business" means a corporation; sole proprietorship; partnership; corporation that has made an election under Subchapter S of Chapter One of Subtitle A of the Internal Revenue Code of 1986, or any other business entity through which income flows as a distributive share to its owners; limited liability company; nonprofit corporation; or any other form of business organization located either within or outside this State, but excluding any public or private institution of higher education.

"Environmental infrastructure project" means the acquisition, construction, improvement, repair or reconstruction of all or part of any structure, facility or equipment, or real or personal property necessary for or ancillary to any (1) wastewater treatment system project, including any stormwater management or combined sewer overflow abatement projects; or (2) water supply project, as authorized pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.), including any water resources project, as authorized pursuant to P.L.2003, c.162, but excluding the acquisition, construction, repair, or reconstruction of any building or other improvements to real property, or the acquisition or installation of any equipment or other personal property, that, upon completion, shall constitute a qualified employment incentive facility.

"Financial assistance" means funds made available as a grant or loan, including funds derived as proceeds from the issuance of tax-

exempt bonds by the entity providing such assistance, but excluding proceeds from the issuance of any bonds which are issued on a conduit basis or which are not supported by a full faith and credit pledge of a public entity.

[2]"Garden State Growth Zone" or "growth zone" means the four New Jersey cities with the lowest median family income based on the 2009 American Community Survey from the US Census, (Table 708. Household, Family, and Per Capita Income and Individuals, and Families Below Poverty Level by City: 2009).[2]

"Lead public agency" means the public entity designated by the State Treasurer pursuant to section 4 of [this act] P.L.2009, c.136 (C.52:18-45) to serve as the point of contact between a business and every State governmental entity having oversight of, or involvement in, a project for which the entity or entities are providing or will provide the business with financial assistance.

"Public entity" means the State, other than the Judicial branch of State government, any county, municipality, district, or other political subdivision thereof, and any agency, authority, or instrumentality of the foregoing, including, but not limited to, any county improvement authority and any economic development agency, authority, or other entity.

"Qualified employment incentive facility" means any building or other structure or portion of a building or other structure that, following the date on which occupation of the building or structure shall have commenced, shall be used exclusively as the premises of a project, related to the creation, relocation, or retention of jobs, that qualifies for incentives under the Business Retention and Relocation Assistance Grant Program established by section 3 of P.L.1996, c.25 (C.34:1B-114), the Business Employment Incentive Program established by section 3 of P.L.1996, c.26 (C.34:1B-126), the Grow New Jersey Assistance Program established by P.L.2011, c.149 (C.34:1B-242 et seq.), the Economic Redevelopment and Growth Grant program established by sections 3 though 18 of P.L.2009, c.90 (C.52:27D-489c et al.), [2]sections [4][24] 22[4] through [4][26] 24[4] of the "New Jersey Economic Opportunity Act of 2013," P.L. , c. (C.) (pending before the Legislature as this bill) allowing for the establishment of a Garden State Growth Zone,[2] the corporation business tax credit and insurance premium tax credit certificate transfer program established pursuant to section 17 of P.L.2004, c.65 (C.34:1B-120.2), the sales and use tax exemption certificate program established pursuant to section 20 of P.L.2004, c.65 (C.34:1B-186), the exemption of retail sales of energy and utility service to qualified businesses within an urban enterprise zone from the sales and use tax pursuant to section 23 of P.L.2004, c.65 (C.52:27H-87.1), the urban transit hub tax credit program established pursuant to [section 3 of] P.L.2007, c.346 [(C.34:1B-209)] (C:34:1B-207 et seq.), or any other program as the State

Treasurer shall deem to be of similar kind and purpose; provided, however, that such exclusive use shall continue for the minimum period of time prescribed by the applicable law or any regulation adopted pursuant thereto, or under any project agreement or other contract executed pursuant to such law or regulation, or if no such minimum period shall be so prescribed, for a period of four years.

"Redevelopment project" means a specific work or improvement, including lands, buildings, structures, improvements, real and personal property or any interest therein, including lands under water, riparian rights, space rights and air rights, acquired, owned, cleared, graded, developed or redeveloped, constructed, reconstructed, rehabilitated or improved, undertaken by a developer, but excluding the acquisition, construction, repair, or reconstruction of any building or other improvements to real property, or the acquisition or installation of any equipment or other personal property, that, upon completion, shall constitute a qualified employment incentive facility.

"Remediation" or "remediate" means all necessary actions to investigate and clean up or respond to any known, suspected, or threatened discharge of contaminants, including, as necessary, the preliminary assessment, site investigation, remedial investigation, and remedial action, provided, however, that "remediation" or "remediate" shall not include the payment of compensation for damage to, or loss of, natural resources, and shall not include [2]**[**<u>the investigation or clean up of real property that shall be used to construct a qualified employment incentive facility, or</u>**]**[2] the acquisition, construction, repair, or reconstruction of any building or other improvements to real property, or the acquisition or installation of any equipment or other personal property, that, upon completion, shall constitute a qualified employment incentive facility.

"State governmental entity" means the Executive and Legislative branches of the State government, any agency or instrumentality of the State, including any board, bureau, commission, corporation, department, or division, any independent State authority, including, but not limited to, any economic development authority or agency, and any State institution of higher education. A county, municipality, or school district, or any agency or instrumentality thereof, shall not be deemed a State governmental entity.

(cf: P.L.2009, c.136, s.1)

14. Section 3 of P.L.2009, c.90 (C.52:27D-489c) is amended to read as follows:

3. As used in sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.):

"Applicant" means a developer proposing to enter into a redevelopment incentive grant agreement.

"Ancillary infrastructure project" means [public] structures or improvements [2][that are located][2] [in the public right-of-way] that are located within the incentive area but outside the project area of a redevelopment project, including, but not limited to, docks, bulkheads, parking garages, freight rail spurs, roadway overpasses, and train station platforms, provided a developer or municipal redeveloper has demonstrated that the redevelopment project would not be economically viable or promote the use of public transportation without such improvements [2], as approved by the State Treasurer[2] .

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

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

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

"Developer" means any person who enters or proposes to enter into a redevelopment incentive grant agreement pursuant to the provisions of section 9 of P.L.2009, c.90 (C.52:27D-489i), or its successors or assigns, including but not limited to a lender that completes a redevelopment project, operates a redevelopment project, or completes and operates a redevelopment project. A developer also may be a municipal government or a redevelopment agency as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3).

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

"Disaster recovery project" means a redevelopment project located on property that has been wholly or substantially damaged or destroyed as a result of a federally-declared disaster, and which is located within the incentive area and has been determined by the authority to be in an area appropriate for development and in need of economic development incentive assistance.

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

"Eligibility period" means the period of time specified in a redevelopment incentive grant agreement for the payment of reimbursements to a developer, which period shall not exceed 20 years, with the term to be determined solely at the discretion of the applicant.

"Eligible revenue" means the property tax increment and any other incremental revenues set forth in section 11 of P.L.2009, c.90 (C.52:27D-489k) [2], except in the case of a Garden State Growth Zone, in which such property tax increment and any other incremental revenues are calculated as those incremental revenues that would have existed notwithstanding the provisions of the "New Jersey Economic Opportunity Act of 2013," P.L. , c. (C.) (pending before the Legislature as this bill)[2] .

[2][**[**"Exempt business" means a business unrelated to the developer that operates a premises at the site of the redevelopment project but whose incurred costs to construct its respective premises are excluded from the project cost. An exempt business shall not be subject to the requirements of the Economic Redevelopment and Growth Grant program.**]**

"Garden State Growth Zone" or "growth zone" means the four New Jersey cities with the lowest median family income based on the 2009 American Community Survey from the US Census, (Table 708. Household, Family, and Per Capita Income and Individuals, and Families Below Poverty Level by City: 2009).

"Highlands development credit receiving area or redevelopment area" means an area located within an incentive area and designated by the Highlands Council for the receipt of Highlands Development Credits under the Highlands Transfer Development Rights Program authorized under section 13 of P.L.2004, c.120 (C.13:20-13).[2]

"Incentive grant" means reimbursement of all or a portion of the project financing gap of a redevelopment project through the State or a local Economic Redevelopment and Growth Grant program pursuant to section 4 or section 5 of P.L.2009, c.90 (C.52:27D-489d or C.52:27D-489e).

"Infrastructure improvements in the public right-of-way" mean public structures or improvements located in the public right of way that are located within a project area or that constitute an ancillary infrastructure project, [2]either of which are dedicated to or owned by a governmental body or agency upon completion,[2] or any required payment in lieu of such structures, improvements or projects or any costs of remediation associated with such structures, improvements or projects, and that are determined by the authority, in consultation with applicable State agencies, to be consistent with and in furtherance of State public infrastructure objectives and initiatives.

"Low-income housing" means housing affordable according to federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs and

occupied or reserved for occupancy by households with a gross household income equal to 50 percent or less of the median gross household income for households of the same size within the housing region in which the housing is located.

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

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

"Municipal redeveloper" means a municipal government or a redevelopment agency acting on behalf of a municipal government as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3) that is an applicant for a redevelopment incentive grant agreement.

[2]"Municipal Revitalization Index" means the 2007 index by the Office for Planning Advocacy within the Department of State measuring or ranking municipal distress.[2]

"Project area" means land or lands located within the incentive area under common ownership or control including through [2][one or more property owners associations, a joint venture between one or more property owners,][2] a redevelopment agreement with a municipality, or as otherwise established by a municipality or a redevelopment agreement executed by a State entity to implement a redevelopment project.

"Project cost" means the costs incurred in connection with the redevelopment project by the developer [2][and such landlords, tenants, or other business occupants as may be part of the project][2] until the issuance of a permanent certificate of occupancy, or until such other time specified by the authority, for a specific investment or improvement, including the costs relating to [2]receiving Highlands Development Credits under the Highlands Transfer Development Rights Program authorized pursuant to section 13 of P.L.2004, c.120 (C.13:20-13),[2] lands, buildings, improvements, real or personal property, or any interest therein, including leases discounted to present value, including lands under water, riparian rights, space rights and air rights acquired, owned, developed or redeveloped, constructed, reconstructed, rehabilitated or improved, any environmental remediation costs, plus costs not directly related to construction, of an amount not to exceed 20 percent of the total costs, capitalized interest paid to third parties, and the cost of infrastructure improvements, including ancillary infrastructure

projects, [2]and, for projects located in a Garden State Growth Zone only, the cost of infrastructure improvements including any ancillary infrastructure project and the amount by which total project cost exceeds the cost of an alternative location for the redevelopment project,[2] but excluding any particular costs for which the project has received federal, State, or local funding.

"Project financing gap" means: a. the part of the total [redevelopment] project cost, including return on investment, that remains to be financed after all other sources of capital have been accounted for, including, but not limited to, developer-contributed capital, [2]which shall not be less than 20 percent of the total project cost,[2] which may include the value of any existing land and improvements in the project area owned or controlled by the developer, and [2][which shall not be less than 20 percent of the total project cost, excluding the cost of infrastructure improvements in the public right of way] the cost of infrastructure improvements in the public right-of-way, subject to review by the State Treasurer,[2] and investor or financial entity capital or loans for which the developer, after making all good faith efforts to raise additional capital, certifies that additional capital cannot be raised from other sources on a non-recourse basis; [2]and[2] b. [2][the cost of infrastructure improvements including any ancillary infrastructure project; and c.][2] the amount by which total project cost exceeds the cost of an alternative location for the [2]out-of-State[2] redevelopment project.

"Project revenue" means all rents, fees, sales, and payments generated by a project, less taxes or other government payments.

"Property tax increment" means the amount obtained by:

(1) multiplying the general tax rate levied each year by the taxable value of all the property assessed within a project area in the same year, excluding any special assessments; and

(2) multiplying that product by a fraction having a numerator equal to the taxable value of all the property assessed within the project area, minus the property tax increment base, and having a denominator equal to the taxable value of all property assessed within the project area.

For the purpose of this definition, "property tax increment base" means the aggregate taxable value of all property assessed which is located within the redevelopment project area as of October 1st of the year preceding the year in which the redevelopment incentive grant agreement is authorized.

“Qualified incubator facility” means a commercial building located within an incentive area: which contains 100,000 or more square feet of office, laboratory, or industrial space; which is located near, and presents opportunities for collaboration with, a research institution, teaching hospital, college, or university; and within which, at least 75 percent of the gross leasable area is

restricted for use by one or more technology startup companies during the commitment period.

"Qualified residential project" means a redevelopment project that is predominantly residential and includes multi-family residential units [1]for purchase or lease [2][and may also include[1] hotel units][2] , or dormitory units for purchase or lease, [1][that represents] having a total project cost of[1] at least $17,500,000 [1][of the total project cost][1] , if the project is located in any municipality with a population greater than 200,000 according to the latest federal decennial census, or [1]having a total project cost of at least[1] $10,000,000 [1][of the total project cost,][1] if the project is located in any municipality with a population less than 200,000 according to the latest federal decennial census, or is a disaster recovery project[2], or having a total project cost of $5,000,000 if the project is in a Garden State Growth Zone[2].

"Qualifying economic redevelopment and growth grant incentive area" or "incentive area" means:

a. [2]an aviation district;

b. a port district;

c. a distressed municipality; or

d.[2] an area (1) designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as:

(a) Planning Area 1 (Metropolitan) [3][,] ;[3]

(b) Planning Area 2 (Suburban) [3][,] ;[3] [or a center as designated by the State Planning Commission; an area zoned for development pursuant to] [3]or[3]

(c) Planning Area 3 (Fringe Planning Area) [3][, [2]or[2]

(d)][3] [2][a designated center under the State Development and Redevelopment Plan, or

(e) a designated growth center in an endorsed plan until June 30, 2013, or until the State Planning Commission revises and readopts New Jersey's State Strategic Plan and adopts regulations to revise this definition as it pertains to Statewide planning areas, whichever is later;] [3][Planning Area 4A (Rural Planning Area)][3];[2]

(2) located within a smart growth area and planning area designated in a master plan adopted by the New Jersey Meadowlands Commission pursuant to subsection (i) of section 6 of P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan adopted by the New Jersey Meadowlands Commission pursuant to section 20 of P.L.1968, c.404 (C.13:17-21);

(3) located within any land owned by the New Jersey Sports and Exposition Authority, established pursuant to P.L.1971, c.137 (C.5:10-1 et seq.), within the boundaries of the Hackensack Meadowlands District as delineated in section 4 of P.L.1968, c.404 (C.13:17-4);

(4) located within a [pinelands] regional growth area, a [pinelands] town [2][management area][2], [a pinelands village,] [2]village,[2] or a military and federal installation area [established pursuant to] designated in the [pinelands] comprehensive management plan prepared and adopted by the Pinelands Commission pursuant to the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.); [a transit village, as determined by the Commissioner of Transportation; and federally owned] [2][or][2]

(5) located within [2]the planning area of the Highlands Region as defined in section 3 of P.L.2004, c.120 (C.13:20-3) or in a highlands development credit receiving area or redevelopment area;

(6) located within a Garden State Growth Zone;

(7) located within[2] land approved for closure under any federal Base Closure and Realignment Commission action; [2][but excluding

b. an area designated in the 2008 Highlands Regional Master Plan, adopted pursuant to the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.), unless located within:

(1) (a) the Existing Community Zone, or

(b) a Highlands center, designated by the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4); which area is not located within:

(2) (a) the Protection Zone,

(b) the Conservation Zone, or

(c) an Environmentally Constrained Sub-Zone] or

(8) located only within the following portions of the areas designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et al.), as [3]Planning Area 4A (Rural Planning Area),[3] Planning Area 4B (Rural/Environmentally Sensitive) or Planning Area 5 (Environmentally Sensitive) if [3]Planning Area 4A (Rural Planning Area),[3] Planning Area 4B (Rural/Environmentally Sensitive) or Planning Area 5 (Environmentally Sensitive) is located within:

(a) a designated center under the State Development and Redevelopment Plan;

(b) a designated growth center in an endorsed plan until the State Planning Commission revises and readopts New Jersey's State Strategic Plan and adopts regulations to revise this definition as it pertains to Statewide planning areas;

(c) any area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-6) or in need of rehabilitation pursuant to section 14 of P.L.1992, c.79 (C.40A:12A-14);

(d) any area on which a structure exists or previously existed including any desired expansion of the footprint of the existing or previously existing structure provided such expansion otherwise

complies with all applicable federal, State, county, and local permits and approvals;

(e) [3][any] the[3] planning area of the Highlands Region as defined in section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands development credit receiving area or redevelopment area; or

(f) any area on which an existing tourism destination project is located.

"Qualifying economic redevelopment and growth grant incentive area" or “incentive area” shall not include any property located within the preservation area of the Highlands Region as defined in the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.)[2] .

"Redevelopment incentive grant agreement" means an agreement between, (1) the State and the New Jersey Economic Development Authority and a developer, or (2) a municipality and a developer, or a municipal ordinance authorizing a project to be undertaken by a municipal redeveloper, under which, in exchange for the proceeds of an incentive grant, the developer agrees to perform any work or undertaking necessary for a redevelopment project, including the clearance, development or redevelopment, construction, or rehabilitation of any structure or improvement of commercial, industrial, residential, or public structures or improvements within a qualifying economic redevelopment and growth grant incentive area or a transit village.

"Redevelopment project" means a specific [work] [2][investment] construction project[2] or improvement, including lands, buildings, improvements, real and personal property or any interest therein, including lands under water, riparian rights, space rights and air rights, acquired, owned, leased, developed or redeveloped, constructed, reconstructed, rehabilitated or improved, undertaken by a developer, owner or tenant, or both, within a project area and any ancillary infrastructure project [associated therewith] including infrastructure improvements in the public right of way, as set forth in an application to be made to the authority. The use of the term “redevelopment project” in sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.) shall not be limited to only redevelopment projects located in areas determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-6) but shall also include any work or undertaking in accordance with the "Redevelopment Area Bond Financing Law," sections 1 through 10 of P.L.2001, c.310 (C.40A:12A-64 et seq.) or other applicable law, pursuant to a redevelopment plan adopted by a State entity, or as described in the resolution adopted by a public entity created by State law with the power to adopt a redevelopment plan or otherwise determine the location, type and character of a redevelopment project or part of a redevelopment project on land owned or controlled by it or within

its jurisdiction, including but not limited to, the New Jersey Meadowlands Commission established pursuant to P.L.1968, c.404 (C.13:17-1 et seq.), the New Jersey Sports and Exposition Authority established pursuant to P.L.1971 c.137 (C.5:10-1 et seq.) and the Fort Monmouth Economic Revitalization Authority created pursuant to P.L.2010, c.51 (C.52:27I-18 et seq.).

"Redevelopment utility" means a self-liquidating fund created by a municipality pursuant to section 12 of P.L.2009, c.90 (C.52:27D-489l) to account for revenues collected and incentive grants paid pursuant to section 11 of P.L.2009, c.90 (C.52:27D-489k), or other revenues dedicated to a redevelopment project.

"Revenue increment base" means the amounts of all eligible revenues from sources within the redevelopment project area in the calendar year preceding the year in which the redevelopment incentive grant agreement is executed, as certified by the State Treasurer for State revenues, and the chief financial officer of the municipality for municipal revenues.

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

“SDA municipality” means a municipality in which an SDA district is situate.

“Technology startup company” means a for profit business that has been in operation fewer than five years and is developing or possesses a proprietary technology or business method of a high-technology or life science-related product, process, or service which the business intends to move to commercialization.

“Tourism destination project” means a redevelopment project that will be among the most visited privately owned or operated tourism or recreation sites in the State [1]【as determined at the discretion of the authority】 , and which is located within the incentive area and has been determined by the authority to be in an area appropriate for development and in need of economic development incentive assistance[1].

“Transit project” means a redevelopment project located within a 1/2-mile radius[2], or one-mile radius for projects located in a Garden State Growth Zone,[2] surrounding the mid-point of a New Jersey Transit Corporation, Port Authority Transit Corporation, or Port Authority Trans-Hudson Corporation rail, bus, or ferry station platform area, including all light rail stations.

"Transit village" means a community with a bus, train, light rail, or ferry station that has developed a plan to achieve its economic development and revitalization goals and has been designated by the New Jersey Department of Transportation as a transit village.

“Urban transit hub” means an urban transit hub, as defined in section 10 of P.L.2007, c.346 (C.34:1B-208), that is located within an eligible municipality, as defined in section 10 of P.L.2007, c.346 (C.34:1B-208)[2], or all light rail stations and property located within

a one-mile radius of the mid-point of the platform area of such a rail, bus, or ferry station if the property is in a qualified municipality under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.)[2] .

"Vacant commercial building" means any commercial building or complex of commercial buildings having over 400,000 square feet of office, laboratory, or industrial space that is more than 70 percent unoccupied at the time of application to the authority or is negatively impacted by the approval of a "qualified business facility," as defined pursuant to section 2 of P.L.2007, c.346 (C.34:1B-208) [2], or any vacant commercial building in a Garden State Growth Zone having over 35,000 square feet of office, laboratory, or industrial space, or over 200,000 square feet of office, laboratory, or industrial space in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, or Salem counties available for occupancy for a period of over one year[2] .

"Vacant health facility project" means a redevelopment project where a health facility, as defined by section 2 of P.L.1971, c.136 (C.26:2H-2), currently exists and is considered vacant. A health facility shall be considered vacant if at least 70 percent of that facility has not been open to the public or utilized to serve any patients at the time of application to the authority.

(cf: P.L.2011, c.89, s.6)

[1]15. Section 4 of P.L.2009, c.90 (C.52:27D-489d) is amended to read as follows:

4. a. The governing body of a municipality wherein is located a qualifying economic redevelopment and growth grant incentive area may adopt an ordinance to establish a local Economic Redevelopment and Growth Grant program for the purpose of encouraging redevelopment projects in that area through the provision of incentive grants to reimburse developers for all or a portion of the project financing gap for such projects. No local Economic Redevelopment and Growth Grant program shall take effect until the Local Finance Board approves the ordinance.

b. A developer shall submit an application for a local incentive grant prior to July 1, [2][2018] 2019[2]. A developer that submits an application for a local incentive grant shall indicate on the application whether it is also applying for a State incentive grant. An application by a developer applying for a local incentive grant only shall not require approval by the authority. A municipal redeveloper may only apply for local incentive grants for the construction of: (1) infrastructure improvements in the public right-of-way, or (2) publicly owned facilities.

c. No local incentive grant shall be finally approved by a municipality until approved by the Local Finance Board. The Local

Finance Board shall not approve a local incentive grant unless the application was submitted prior to July 1, [2][2018] 2019[2].

d. In deciding whether or not to approve a local incentive grant agreement the Local Finance Board shall consider the following factors:

(1) the economic feasibility of the redevelopment project;

(2) the extent of economic and related social distress in the municipality and the area to be affected by the redevelopment project;

(3) the degree to which the redevelopment project will advance State, regional, and local development and planning strategies;

(4) the likelihood that the redevelopment project shall, upon completion, be capable of generating new tax revenue in an amount in excess of the amount necessary to reimburse the developer for project costs incurred as provided in the redevelopment incentive grant agreement;

(5) the relationship of the redevelopment project to a comprehensive local development strategy, including other major projects undertaken within the municipality;

(6) the need for the redevelopment incentive grant agreement to the viability of the redevelopment project;

(7) compliance with the provisions of P.L.2009, c.90 (C.52:27D-489a et al.); and

(8) the degree to which the redevelopment project enhances and promotes job creation and economic development.[1]

(cf: P.L.2010, c.10, s.3)

[1][15.] 16.[1] Section 5 of P.L.2009, c.90 (C.52:27D-489e) is amended to read as follows:

5. a. The New Jersey Economic Development Authority, in consultation with the State Treasurer, shall establish an Economic Redevelopment and Growth Grant program for the purpose of encouraging redevelopment projects in qualifying economic redevelopment and growth grant incentive areas that do not qualify as such areas solely by virtue of being a transit village, through the provision of incentive grants to reimburse developers for certain project financing gap costs.

b. (1) A developer shall submit an application for a State incentive grant prior to July 1, [2][2018] 2019[2]. A developer that submits an application for a State incentive grant shall indicate on the application whether it is also applying for a local incentive grant.

(2) When an applicant indicates it is also applying for a local incentive grant, the authority shall forward a copy of the application to the municipality wherein the redevelopment project is to be located for approval by municipal ordinance.

c. An application for a State incentive grant shall be reviewed and approved by the authority. The authority shall not approve an application for a State incentive grant unless the application was submitted prior to July 1, [2]**[**2018**]** 2019[2].[1]
(cf: P.L.2010, c.10, s.5)

[1]**[**16.**]** 17.[1] Section 6 of P.L.2009, c.90 (C.52:27D-489f) is amended to read as follows:

6. a. Up to the limits established in subsection b. of this section and in accordance with a redevelopment incentive grant agreement, beginning upon the receipt of occupancy permits for any portion of the redevelopment project, or upon such other event evidencing project completion as set forth in the incentive grant agreement, the State Treasurer shall pay to the developer incremental State revenues directly realized from businesses operating on or at the site of the redevelopment project **[**premises**]** [2]**[**, including exempt businesses,**]**[2] from the following taxes: the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), the tax imposed on marine insurance companies pursuant to R.S.54:16-1 et seq., the tax imposed on insurers generally, pursuant to P.L.1945, c.132 (C.54:18A-1 et seq.), the public utility franchise tax, public utilities gross receipts tax and public utility excise tax imposed on sewerage and water corporations pursuant to P.L.1940, c.5 (C.54:30A-49 et seq.), those tariffs and charges imposed by electric, natural gas, telecommunications, water and sewage utilities, and cable television companies under the jurisdiction of the New Jersey Board of Utilities, or comparable entity, [2]except for those tariffs, fees, or taxes[2] related to societal benefits charges assessed pursuant to section 12 of P.L.1999, c.23 (C.48:3-60), any charges paid for compliance with the "Global Warming Response Act," P.L.2007, c.112 (C.26:2C-37 et seq.), transitional energy facility assessment unit taxes paid pursuant to section 67 of P.L.1997, c.162 (C.48:2-21.34), and the sales and use taxes on public utility and cable television services and commodities, the tax derived from net profits from business, a distributive share of partnership income, or a pro rata share of S corporation income under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., the tax derived from a business at the site of a redevelopment project that is required to collect the tax pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), the tax imposed pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.) from the purchase of furniture, fixtures and equipment, or materials **[**used**]** for the remediation, the construction of new structures **[**, or the construction of new residences**]** [2]**[**or residences, or the renovation of same,**]**[2] at the site of a redevelopment project, [2]**[**the tax imposed pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.) from purchases of goods and services used in the ongoing operation of a business at the site of the

redevelopment project,]² the hotel and motel occupancy fee imposed pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1), or the portion of the fee imposed pursuant to section 3 of P.L.1968, c.49 (C.46:15-7) derived from the sale of real property at the site of the redevelopment project and paid to the State Treasurer for use by the State, that is not credited to the "Shore Protection Fund" or the "Neighborhood Preservation Nonlapsing Revolving Fund" ("New Jersey Affordable Housing Trust Fund") pursuant to section 4 of P.L.1968, c.49 (C.46:15-8). ²Any developer shall be allowed to assign their ability to apply for the tax credit under this subsection to a non-profit organization with a mission dedicated to attracting investment and completing development and redevelopment projects in a Garden State Growth Zone. The non-profit organization may make an application on behalf of a developer which meets the requirements for the tax credit, or a group of non-qualifying developers, such that these will be considered a unified project for the purposes of the incentives provided under this section.²

b. (1) Up to an average of 75 percent of the projected annual incremental revenues ²[, averaged over the length of time during which the reimbursement shall be granted,] or 85 percent of the projected annual incremental revenues in a Garden State Growth Zone² may be pledged towards the State portion of an incentive grant.

(2) In the case of a qualified residential project, if the authority determines that the estimated amount of incremental revenues pledged towards the State portion of an incentive grant is inadequate to fully fund the amount of the State portion of the incentive grant, then in lieu of an incentive grant based on such incremental revenue, the developer shall be awarded tax credits equal to the full amount of the incentive grant. The value of all credits approved by the authority pursuant to this paragraph shall not exceed $600,000,000, of which ²:

(a) $250,000,000 shall be restricted to qualified residential projects within Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, and Salem counties, of which $175,000,000 of credits shall be restricted to qualified residential projects in a Garden State Growth Zone located within the aforementioned counties, and $75,000,000 of credits shall be restricted to qualified residential projects in municipalities with a 2007 Municipal Revitalization Index of 400 or higher as of the date of enactment of the “New Jersey Economic Opportunity Act of 2013,” P.L. , c. (C.) (pending before the Legislature as this bill) and located within the aforementioned counties;

(b)² $250,000,000 shall be restricted to qualified residential projects located in ²: (i)² urban transit hubs that are commuter rail in nature ²that otherwise do not qualify under subparagraph (a) of

this paragraph[2], [2][$200,000,000] (ii) a Garden State Growth Zone not located in a county mentioned in subparagraph (a) of this paragraph, [3][or][3] (iii) disaster recovery projects that otherwise do not qualify under subparagraph (a) of this paragraph [3], or (iv) SDA municipalities located in Hudson County that were awarded State Aid in State Fiscal Year 2013 through the Transitional Aid to Localities program and otherwise do not qualify under subparagraph (a) of this paragraph[3];

(c) $75,000,000[2] shall be restricted to qualified residential projects in distressed municipalities [2][or],[2] deep poverty pockets [2], highlands development credit receiving areas or redevelopment areas, otherwise not qualifying pursuant to subparagraphs (a) or (b) of this paragraph[2] ; [2][$100,000,000] and

(d) $25,000,000[2] shall be restricted to qualified residential projects that are [2][disaster recovery projects; and the remaining $50,000,000 shall be used for qualified residential projects in any municipality falling] located[2] within a qualifying economic redevelopment and growth grant incentive area [2]otherwise not qualifying under subparagraphs (a), (b), or (c) of this paragraph[2] .

[2][Not] (e) For subparagraphs (a) through (d) of this paragraph, not[2] more than $40,000,000 of credits shall be awarded to any qualified residential project in a deep poverty pocket or distressed municipality and not more than $20,000,000 of credits shall be awarded to any other qualified residential project. The developer of a qualified residential project seeking an award of credits towards the funding of its incentive grant shall submit an incentive grant application prior to July 1, 2015 and if approved shall submit a temporary certificate of occupancy for such project no later than July 28, 2015. [2]Applications for tax credits pursuant to this subsection relating to an ancillary infrastructure project or infrastructure improvement in the public right of way, or both, shall be accompanied with a letter of support relating to the project or improvement by the governing body or agency in which the project is located.[2] Credits awarded to a developer pursuant to this subsection shall be subject to the same financial and related analysis by the authority and shall be utilized or transferred by the developer as if such credits had been awarded to the developer pursuant to section 35 of P.L.2009, c.90 (C.34:1B-209.3) for qualified residential projects thereunder. No portion of the revenues pledged pursuant to the "New Jersey Economic Opportunity Act of 2013," P.L. , c. (C.) (pending before the Legislature as this bill) shall be subject to withholding or retainage for adjustment, in the event the developer or taxpayer waives its rights to claim a refund thereof.

[2](3) A developer may apply to the Director of the Division of Taxation in the Department of the Treasury and the chief executive officer of the authority for a tax credit transfer certificate, if the

developer is awarded a tax credit pursuant to paragraph (2) of this subsection, covering one or more years, in lieu of the developer being allowed any amount of the credit against the tax liability of the developer. The tax credit transfer certificate, upon receipt thereof by the developer from the director and the chief executive officer of the authority, may be sold or assigned, in full or in part, to any other person that may have a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The certificate provided to the developer shall include a statement waiving the developer's right to claim that amount of the credit against the taxes that the developer has elected to sell or assign. The sale or assignment of any amount of a tax credit transfer certificate allowed under this paragraph shall not be exchanged for consideration received by the developer of less than 75 percent of the transferred credit amount. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability shall be subject to the same limitations and conditions that apply to the use of the credit by the developer who originally applied for and was allowed the credit.[2]

c. All administrative costs associated with the incentive grant shall be assessed to the applicant and be retained by the State Treasurer from the annual incentive grant payments.

d. The incremental revenue for the revenues listed in subsection a. of this section shall be calculated as the difference between the amount collected in any fiscal year from any eligible revenue source included in the State redevelopment incentive grant agreement, less the revenue increment base for that eligible revenue.

e. The municipality is authorized to collect any and all information necessary to facilitate grants under this program and remit that information, as may be required from time to time, in order to assist in the calculation of incremental revenue.

(cf: P.L.2010, c.10, s.6)

[1]**[**17.**]** 18.[1] Section 8 of P.L.2009, c.90 (C.52:27D-489h) is amended to read as follows:

8. a. (1) The **[**New Jersey Economic Development Authority**]** authority, in consultation with the State Treasurer, shall promulgate an incentive grant application form and procedure for the Economic Redevelopment and Growth Grant program.

(2) (a) The Local Finance Board, in consultation with the **[**New Jersey Economic Development Authority**]** authority, shall develop a minimum standard incentive grant application form for municipal Economic Redevelopment and Growth Grant programs.

(b) Through regulation, the **[**Economic Development Authority**]** authority shall establish standards for redevelopment projects

seeking State or local incentive grants based on the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding the use of renewable energy, energy-efficient technology, and non-renewable resources in order to reduce environmental degradation and encourage long-term cost reduction.

[4][(c) Through regulation, the authority shall require that each worker employed in the performance of any construction contract for work at a redevelopment project shall be paid not less than the prevailing wage rate, consistent with the requirements of section 1 of P.L.1979, c.303 (C.34:1B-5.1) [2], provided that for a State incentive grant solely for infrastructure improvements in the public right of way or any ancillary infrastructure project, regardless of whether the work or improvements are part of a larger redevelopment project, the requirements of this subparagraph shall only apply to the work relating to the infrastructure improvements in the public right of way or the ancillary infrastructure project for which the incentive grant is issued[2] .

(d) Through regulation, the authority shall require that each worker employed in building maintenance services of a redevelopment project by a developer or a tenant or subcontractor of a developer shall be paid not less than the prevailing wage rate for the worker's craft or trade as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.).][4]

b. Within each incentive grant application, a developer shall certify information concerning:

(1) the status of control of the entire redevelopment project site;

(2) all required State and federal government permits that have been issued for the redevelopment project, or will be issued pending resolution of financing issues;

(3) local planning and zoning board approvals, as required, for the redevelopment project;

(4) estimates of the revenue increment base, the eligible revenues for the project, and the assumptions upon which those estimates are made.

c. (1) With regard to State tax revenues proposed to be pledged for an incentive grant the authority and the State Treasurer shall review the [redevelopment] project costs [2][and, except with respect to an application by a municipal redeveloper or with respect to a qualified residential project][2] , evaluate and validate the project financing gap estimated by the developer, and conduct a State fiscal impact analysis to ensure that the overall public assistance provided to the project [2], except with regards to a qualified residential project,[2] will result in net benefits to the State including, without limitation, both direct and indirect economic benefits and non-

financial community revitalization objectives, including but not limited to, the promotion of the use of public transportation in the case of the ancillary infrastructure project portion of any transit project.

(2) With regard to local incremental revenues proposed to be pledged for an incentive grant the authority and the Local Finance Board shall review the [redevelopment] project costs, and except with respect to an application by a municipal redeveloper [2][or with respect to a qualified residential project][2] , evaluate and validate the project financing gap projected by the developer, and conduct a local fiscal impact analysis to ensure that the overall public assistance provided to the project [2], except with regards to a qualified residential project,[2] will result in net benefits to the municipality wherein the redevelopment project is located including, without limitation, both direct and indirect economic benefits and non-financial community revitalization objectives, including but not limited to, the promotion of the use of public transportation in the case of the ancillary infrastructure project portion of any transit project.

(3) The authority, State Treasurer, and Local Finance Board may act cooperatively to administer and review applications, and shall consult with the Office of State Planning on matters concerning State, regional, and local development and planning strategies.

(4) The costs of the aforementioned reviews shall be assessed to the applicant as an application fee.

(5) A developer who has already applied for an incentive grant award prior to the effective date of the "New Jersey Economic Opportunity Act of 2013," P.L. , c. (C.) (pending before the Legislature as this bill) [2][may not], but who has not yet been approved for such grant, or has not executed an agreement with the authority, may proceed under that application or[2] seek to amend such application or reapply for an incentive grant award for the same project or any part thereof for the purpose of availing itself of any more favorable provisions of the Economic Redevelopment and Growth Grant program established pursuant to the "New Jersey Economic Opportunity Act of 2013," P.L. , c. (C.) (pending before the Legislature as this bill) [2], except that projects with costs exceeding $200,000,000 shall not be eligible for revised percentage caps under subsection d. of section 19 of P.L. , c. (C.) (pending before the Legislature as this bill)[2].

(cf: P.L.2010, c.10, s.8)

[1][18.] 19.[1] Section 9 of P.L.2009, c.90 (C.52:27D-489i) is amended to read as follows:

9. a. The authority is authorized to enter into a redevelopment incentive grant agreement with a developer for any redevelopment project located within a qualifying economic redevelopment and

growth grant incentive area that does not qualify as such area solely by virtue of being a transit village.

b. The decision whether or not to enter into a redevelopment incentive grant agreement is solely within the discretion of the authority and the State Treasurer, provided that they both agree to enter into an agreement.

c. The Chief Executive Officer of the **[**New Jersey Economic Development Authority**]** authority, in consultation with the State Treasurer shall negotiate the terms and conditions of any redevelopment incentive grant agreement on behalf of the State.

d. (1) The redevelopment incentive grant agreement shall specify the maximum amount of project costs, the amount of the incentive grant to be awarded the developer, the frequency of payments, and the **[**length of time, which shall not exceed 20 years, during which that reimbursement shall be granted**]** eligibility period[2], which shall not exceed 20 years, during which reimbursement will be granted, and for a project receiving an incentive grant in excess of $50 million, the amount of the negotiated repayment amount to the State, which may include, but not be limited to, cash, equity, and warrants[2]. Except for redevelopment incentive grant agreements with a municipal redeveloper or with the developer of a redevelopment project solely with respect to the cost of infrastructure improvements in the public right-of-way including any ancillary infrastructure project in the public right-of-way, in no event shall the base amount of the combined **[**amount of the**]** reimbursements under redevelopment incentive grant agreements with the State or municipality exceed 20 percent of the total project cost **[**of the project**]** [2], except in a Garden State Growth Zone, which shall not exceed 30 percent[2] . **[**For the purposes of calculating the total cost of all projects, the cost of infrastructure improvements in the public right-of-way and publicly owned facilities shall not be included. The amount of the redevelopment incentive grant for a municipal redeveloper may include the total cost of such infrastructure improvements and publicly owned facilities.**]**

(2) The authority shall be permitted to increase the amount of the reimbursement under the redevelopment incentive grant agreement with the State by up to [2]**[**five**]** 10[2] percent of the total project cost if the project is:

(a) located in a distressed municipality which lacks adequate access to nutritious food in the judgment of the Chief Executive Officer of the authority and will include either a supermarket or grocery store with a minimum of 15,000 square feet of selling space devoted to the sale of consumable products or a prepared food establishment selling only nutritious ready to serve meals;

(b) located in a distressed municipality which lacks adequate access to health care and health services in the judgment of the

Chief Executive Officer of the authority and will include a health care and health services center with a minimum of 10,000 square feet of space devoted to the provision of health care and health services;

(c) located in a distressed municipality which has a business located therein that is required to respond to a request for proposal to fulfill a contract with the federal government as set forth in subsection d. of section 3 of P.L.2011, c.149 (C.34:1B-244);

(d) a transit project; [2]**[**or**]**[2]

(e) a qualified residential project in which at least 10 percent of the residential units are constructed as and reserved for moderate income housing [2];

(f) located in a highlands development credit receiving area or redevelopment area;

(g) located in a Garden State Growth Zone;

(h) a disaster recovery project;

(i) an aviation project;

(j) a tourism destination project; or

(k) substantial rehabilitation or renovation of an existing structure or structures[2] .

(3) [2]**[**If there remains a project financing gap after the maximum combined amounts provided in paragraph (2) of this subsection are considered, then the authority shall be permitted to make a bonus award increasing the amount of the reimbursement under the redevelopment incentive grant agreement with the State by up to 10 percent of the total project cost. In making a bonus award to a developer, the authority shall consider any factors that are found to contribute to the remaining project financing gap, such as whether the project:

(a) is located in a distressed municipality and there exists a financial gap between the fair market commercial rental rates in the relevant marketplace and the commercial rental rates that are necessary to make the redevelopment project economically feasible;

(b) is located on an environmentally contaminated site requiring remediation;

(c) is a qualified residential project in which at least ten percent of the residential units are constructed as and reserved for low income housing;

(d) would include energy efficiency or renewable energy features, measures or upgrades in excess of the green building requirements of the Economic Redevelopment and Growth Grant program which requirements shall be as set forth in the New Jersey Green Building Manual prepared by the Department of Community Affairs;

(e) is a qualified incubator facility; or

(f) is a disaster recovery project having unique added costs of construction associated therewith.

(4)]² The maximum amount of any redevelopment incentive grant shall be equal to ²[the sum of 75 percent of the environmental remediation costs, 100 percent of the costs of infrastructure improvements in the public right-of-way including any ancillary infrastructure project in the public right-of-way, and 35 percent of the amount determined by subtracting the costs of infrastructure improvements in the public right-of-way, including any ancillary infrastructure project in the public right-of way, from the total project costs] up to 30 percent of the total project costs, except for projects located in a Garden State Growth Zone, in which case the maximum amount of any redevelopment incentive grant shall be equal to up to 40 percent of the total project costs² . ¹[The maximum amount of eligible reimbursements, including any increase or bonus award, shall not exceed 35 percent of the total project cost.]¹

e. [The] Except in the case of a qualified residential project, the authority and the State Treasurer may enter into a redevelopment incentive grant agreement only if they make a finding that the State revenues to be realized from the redevelopment project will be in excess of the amount necessary to reimburse the developer for its project financing gap. This finding may be made by an estimation based upon the professional judgment of the Chief Executive Officer of the [New Jersey Economic Development Authority] authority and the State Treasurer.

f. In deciding whether or not to recommend entering into a redevelopment incentive grant agreement and in negotiating a redevelopment agreement with a developer, the Chief Executive Officer of the [New Jersey Economic Development Authority] authority shall consider the following factors:

(1) the economic feasibility of the redevelopment project;

(2) the extent of economic and related social distress in the municipality and the area to be affected by the redevelopment project or the level of site specific distress to include dilapidated conditions, brownfields designation, environmental contamination, pattern of vacancy, abandonment, or under utilization of the property, rate of foreclosures, or other site conditions as determined by the authority;

(3) the degree to which the redevelopment project will advance State, regional, and local development and planning strategies;

(4) the likelihood that the redevelopment project shall, upon completion, be capable of generating new tax revenue in an amount in excess of the amount necessary to reimburse the developer for project costs incurred as provided in the redevelopment incentive grant agreement, provided, however, that any tax revenue generated by a redevelopment project that is a disaster recovery project shall

be considered new tax revenue even if the same or more tax revenue was generated at or on the site prior to the disaster;

(5) the relationship of the redevelopment project to a comprehensive local development strategy, including other major projects undertaken within the municipality;

(6) the need of the redevelopment incentive grant agreement to the viability of the redevelopment project or the promotion of the use of public transportation; and

(7) the degree to which the redevelopment project enhances and promotes job creation and economic development or the promotion of the use of public transportation.

g. (1) A developer that has entered into a redevelopment incentive grant agreement with the authority and the State Treasurer pursuant to this section may, upon notice to and consent of the authority and the State Treasurer, pledge **[**and**]**, assign **[**as security or support for any loan or bond**]**, transfer, or sell any or all of its right, title and interest in and to such agreements and in the incentive grants payable thereunder, and the right to receive same, along with the rights and remedies provided to the developer under such agreement. Any such assignment shall be an absolute assignment for all purposes, including the federal bankruptcy code.

(2) Any pledge of incentive grants made by the developer shall be valid and binding from the time when the pledge is made and filed in the records of the authority. The incentive grants so pledged and thereafter received by the developer shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of any pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the developer irrespective of whether the parties have notice thereof. Neither the redevelopment incentive grant agreement nor any other instrument by which a pledge under this section is created need be filed or recorded except with the authority.

(cf: P.L.2010, c.10, s.9)

[1]**[**19.**]** 20.[1] Section 11 of P.L.2009, c.90 (C.52:27D-489k) is amended to read as follows:

11. a. The governing body of a municipality is authorized to enter into a redevelopment incentive grant agreement with a developer, which shall not be effective until adopted by ordinance, for any redevelopment project located within a qualifying economic redevelopment and growth grant incentive area.

b. The redevelopment incentive grant agreement shall specify the maximum amount of project costs, the amount of the incentive grant to be awarded the developer, the frequency of payments, and the **[**length of time, which shall not exceed 20 years, during which that reimbursement shall be granted**]** eligibility period. The

maximum amount of any municipal redevelopment incentive grant shall be equal to:

(1) 100 percent of the project costs in the case of a municipal redeveloper, or

(2) for all other developers, [2]**[**the sum of 75 percent of the costs of environmental remediation, 100 percent of the costs of infrastructure improvements in the public right-of-way, including any ancillary infrastructure project in the public right-of-way, and 20 percent of the amount determined by subtracting the costs of infrastructure improvements in the public right-of-way including any ancillary infrastructure project in the public right-of-way from the total project costs**]** the maximum amount of any redevelopment incentive grant agreement shall be 30 percent of the total project costs, or 40 percent if located in a Garden State Growth Zone[2] . [2]**[**Except for redevelopment incentive grants with a municipal redeveloper or with the developer of a redevelopment project solely with respect to the cost of infrastructure improvements in the public right-of-way including any ancillary infrastructure project in the public right-of-way, in no event shall the combined amount of the reimbursements under redevelopment incentive grant agreements with the State or municipality exceed 20 percent of the total project cost **[**of the project**]** plus any increase or bonus award of the State portion of such combined amount as set forth in subsection d. of section 9 of P.L.2009, c.90 (C.52:27D-489i).**]**[2] **[**For the purposes of calculating the total cost of all projects, the cost of publicly owned facilities shall not be included. The amount of the redevelopment incentive grant for a municipal redeveloper may include the total cost of such infrastructure improvements and publicly owned facilities.**]**

c. **[**The**]** Except in the case of a qualified residential project, the municipality may enter into a redevelopment incentive grant agreement only if the chief financial officer of the municipality makes a finding that the incremental revenues to be realized from the redevelopment project will be in excess of the amount necessary to reimburse the developer for its project financing gap. Such finding shall be based upon appropriate documentation and calculations supporting the decision.

d. Within a qualifying economic redevelopment and growth grant incentive area a municipality that has entered into a local redevelopment incentive grant agreement may pledge eligible revenues it is authorized to collect as follows:

(1) incremental payments in lieu of taxes, with respect to property located in the district, made pursuant to the "Five-Year Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et seq.), or the "Long Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et al.);

(2) incremental revenues collected from payroll taxes, with respect to business activities carried on within the area, pursuant to section 15 of P.L.1970, c.326 (C.40:48C-15);

(3) incremental revenue from lease payments made to the municipality, the developer, or the developer's successors with respect to property located in the area;

(4) incremental revenue collected from parking taxes derived from parking facilities located within the area pursuant to section 7 of P.L.1970, c.326 (C.40:48C-7);

(5) incremental admissions and sales taxes derived from the operation of a public facility within the area pursuant to section 1 of P.L.2007, c.302 (C.40:48G-1);

(6) (a) incremental sales and excise taxes which are derived from activities within the area and which are rebated to or retained by the municipality pursuant to the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) or any other law providing for such rebate or retention;

(b) within Planning Area 1 (Metropolitan) under the State Development and Redevelopment Plan adopted pursuant to the "State Planning Act," sections 1 through 12 of P.L.1985, c.398 (C.52:18A-196 et seq.), a municipality may impose the entire State sales tax on business activities within a redevelopment project located in an urban enterprise zone that would ordinarily be entitled to collect reduced rate revenues under section 21 of P.L.1983, c.303 (C.52:27H-80), and pledge the excess revenues to a local redevelopment incentive grant agreement;

(7) incremental parking revenue collected, pursuant to section 7 of P.L.1970, c.326 (C.40:48C-7), from public parking facilities built as part of a redevelopment project, except for public parking facilities owned by parking authorities pursuant to the "Parking Authority Law," P.L.1948, c.198 (C.40:11A-1 et seq.);

(8) incremental revenues collected, pursuant to section 3 of P.L.2003, c.114 (C.40:48F-1), P.L.1981, c.77 (C.40:48E-1 et seq.), or P.L.1947, c.71 (C.40:48-8.15 et seq.), from hotel and motel taxes;

(9) upon approval by the Local Finance Board, other incremental municipal revenues that may become available;

(10) the property tax increment [2], except in the case of a Garden State Growth Zone, in which such property tax increment and any other incremental revenues are calculated as those incremental revenues that would have existed notwithstanding the provisions of the "New Jersey Economic Opportunity Act of 2013," P.L. , c. (C.) (pending before the Legislature as this bill)[2] .

The incremental revenue for the revenues listed in this subsection, when applicable, shall be calculated as the difference between the amount collected in any fiscal year from any eligible revenue source included in the local redevelopment incentive grant

agreement, less the revenue increment base for that eligible revenue.

e. (1) In calculating the general tax rate of a municipality each year, the aggregate amount of the incremental ratable value over the property tax increment base in the redevelopment project area that is pledged as part of a redevelopment incentive grant agreement shall be excluded from the ratable base of a municipality.

(2) The amount of property tax increment not pledged toward a redevelopment incentive grant agreement shall be allocated pursuant to the normal tax rate distribution.

The full incremental value of a project area shall be included in the value used for county and regional school tax apportionment until such time that the Director of the Division of Taxation in the Department of the Treasury can certify that property tax management systems are capable of handling the technical and legal requirements of treating parcels in areas of redevelopment as exempt from county and regional school apportionment.

f. In addition to the incremental revenues that may be pledged in subsection d. of this section, any amount of tax proceeds collected from the tax on the rental of motor vehicles pursuant to section 20 of P.L.2009, c.90 (C.40:48H-2), may be included in a redevelopment incentive grant agreement with a developer, regardless of whether or not the redevelopment project area is within or outside of the designated industrial zone from which the tax on the rental of motor vehicles is collected.

g. (1) A developer that has entered into a redevelopment incentive grant agreement with a municipality pursuant to this section may, upon notice to and consent of the municipality, pledge **[**and**]**, assign **[**as security or support for any loan or bond**]**, transfer, or sell any or all of its right, title and interest in and to such agreements and in the incentive grants payable thereunder, and the right to receive same, along with the rights and remedies provided to the developer under such agreement. Any such assignment shall be an absolute assignment for all purposes, including the federal bankruptcy code.

(2) Any pledge of incentive grants made by the developer shall be valid and binding from the time when the pledge is made and filed in the office of the municipal clerk. The incentive grants so pledged and thereafter received by the developer shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of any pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the developer irrespective of whether the parties have notice thereof. Neither the redevelopment incentive grant agreement nor any other instrument by which a pledge under this section is created need be filed or recorded except with the municipality.

(cf: P.L.2010, c.10, s.10)

[1][20.] 21.[1] (New section) On or before [2][January] July[2] 1, 2018, the authority shall submit a written report to the Governor and the Legislature providing a comprehensive review and analysis of the Grow New Jersey Assistance Program, established pursuant to P.L.2011, c.149 (C.34:1B-242 et seq.), the State Economic Redevelopment and Growth Grant program, established pursuant to section 5 of P.L.2009, c.90 (C.52:27D-489e), and other economic incentive laws under the authority's jurisdiction [2], with particular emphasis on the recalibration of those programs and the creation of Garden State Growth Zones, pursuant to of P.L. , c. (C.) (pending before the Legislature as this bill), and the effectiveness of those programs on economic development and private-sector job retention and growth[2] . In order to ensure the independence and objectivity of the report, the authority shall retain a premier, not-for-profit, non-partisan entity to undertake the review and analysis of the State economic incentive laws, which shall include a cost-benefit analysis of each incentive program, an assessment of the success of each program in meeting the goals of the program, and any recommendations for improving the operation and effectiveness of each program, including recommendations for legislation.

[4][[2]22. (New section) As used in section 23 of P.L. , c. (C.) (pending before the Legislature as this bill):

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

"Developer" means a person who undertakes the repurposing of a qualified health care facility.

"Capital investment" in a qualified health care facility means expenses incurred after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) for: the acquisition, site preparation and construction, repair, renovation, improvement, equipping, or furnishing of a building, structure, facility or improvement to real property.

"Full-time employee" means a person employed for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment and whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or who is a partner of a partnership who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and includes only a person whose employer provides employee health benefits under a group health plan as defined under

section 14 of P.L.1997, c.146 (C.17B:27-54), a health benefits plan as defined under section 1 of P.L.1992, c.162 (C.17B:27A-17), or a policy or contract of health insurance covering more than one person issued pursuant to Article 2 of Title 17B of the New Jersey Statutes. "Full-time employee" shall not include a person who works as an independent contractor or on a consulting basis for the business.

"Qualified health care facility" means a building, complex of buildings, or structural components of buildings previously licensed by the Department of Health which have been granted a certificate of need to cease all or partial operation.

"Repurposing of a qualified health care facility" means the renovation and redevelopment of a qualified health care facility as a non-acute health care and health support services center.[2]]4

4[[2]23. (New section) a. (1) A developer, upon application to and approval from the authority, shall be allowed a credit of 75 percent, or by determination of the authority of up to 100 percent, of its capital investment, made after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) but prior to its submission of documentation pursuant to subsection b. of this section, for the repurposing of a qualified health care facility. The non-acute health care and health support services components of the repurposed facility shall comprise no less than 50 percent of the net leasable space of the repurposed facility, provided however that the 50 percent requirement may be waived by the authority if the requirement is not economically feasible or if the inclusion of additional non-health care and non-health support services elements would improve the utilization and development of the health care and health support services components. To be eligible for any tax credits authorized under this section, a developer shall demonstrate to the authority, at the time of application, that the State's financial support of the proposed capital investment in a qualified health care facility will not destabilize the supply and delivery of acute care health services in its market, will yield a net positive benefit to the State and local government, and, through a project pro forma analysis at the time of application, that the repurposing of the qualified health care facility is likely to be realized with the provision of tax credits at the level requested but is not likely to be accomplished by private enterprise without the tax credits.

(2) A developer shall make or acquire capital investments totaling not less than $10,000,000 in a qualified health care facility, at which the tenant businesses shall employ not fewer than 100 full-time employees, to be eligible for a credit under this section. A successor to a developer that acquires a repurposed qualified health care facility shall also be deemed to have acquired the capital investment made or acquired by the developer.

(3) Full-time employment for a privilege period or taxable year shall be determined as the average of the monthly full-time employment for the period.

(4) All construction projects for the repurposing of a qualified health care facility entered into pursuant to this section shall contain a project labor agreement. The project labor agreement shall be subject to the provisions of P.L.2002, c.44 (C.52:38-1 et seq.). A general contractor, construction manager, design-build team, or subcontractor for a construction project proposed in accordance with this paragraph shall be registered pursuant to the provisions of P.L.1999, c.238 (C.34:11-56.48 et seq.).

b. A developer shall apply for the credit and submit its documentation for approval of its credit amount prior to July 1, 2019. The authority shall not approve an application for tax credits unless the application was submitted to the authority prior to July 1, 2019.

c. (1) The amount of credit allowed shall, except as otherwise provided, be equal to the capital investment made by the developer, and shall be taken over a 10-year period, at the rate of one-tenth of the total amount of the developer’s credit for each privilege period or taxable year of the developer, beginning with the privilege period or taxable year in which the developer is first approved by the authority as having met the investment capital and employment qualifications, subject to any reduction or disqualification as provided by subsection d. of this section as determined by annual review by the authority. In conducting its annual review, the authority may require a developer to submit any information determined by the authority to be necessary and relevant to its review.

(2) The amount of credit allowed may be applied against the corporation business tax liability otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) or the tax liability otherwise due pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

(3) A business entity that is classified as a partnership for federal income tax purposes shall not be allowed a credit directly, but the amount of credit of a taxpayer in respect of a distributive share of partnership income, 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.

A New Jersey S Corporation shall not be allowed a credit directly under the gross income tax, but the amount of credit of a taxpayer in respect of a pro rata share of S Corporation income, shall be determined by allocating to the taxpayer that proportion of the credit acquired by the New Jersey S Corporation that is equal to

the taxpayer's share, whether or not distributed, of the total pro rata share of S Corporation income of the New Jersey S Corporation for its privilege period ending within or with the taxpayer's taxable year.

d. If, in any privilege period or taxable year, the number of full-time employees employed at the repurposed qualified health care facility is fewer than 80 then the amount of credit otherwise allowed to the developer for the privilege period or taxable year shall be reduced by the percentage determined by dividing 100 minus the number of employees employed at the facility for that tax period by 100 and similarly for each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the number of full-time employees employed at the repurposed qualified health care facility to 100 has been reviewed and approved by the authority, for which tax period and each subsequent tax period the full amount of the credit shall be allowed.

e. The authority, in consultation with the Director of the Division of Taxation in the Department of the Treasury, shall adopt rules in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to implement the provisions of this section, including but not limited to: examples of and the determination of capital investment; the promulgation of procedures and forms necessary to apply for a credit; and provisions for credit applicants to be charged an initial application fee, and ongoing service fees, to cover the administrative costs related to the credit.[2]]4

4[[2]24.] 22.4 (New section) The Legislature finds and declares that:

a. Healthy, thriving municipalities are vital to the health, safety, and economic well-being of the State.

b. Municipalities that are economically distressed adversely impact not only that municipality, but also affect the county and region where they are located as well as the whole State.

c. Numerous programs have been previously established to assist municipalities in economic and fiscal distress to enable them to regain health and vitality, including programs to provide increasing degrees of oversight and to provide substantial amounts of financial aid and incentives.

d. While these existing programs have proven successful in aiding a number of municipalities, others are in such difficult straits that such measures have not proven sufficient. Thus, extraordinary measures are required now to turn around the fate of such municipalities.

e. The new programs provided herein will have a substantial likelihood of achieving success where prior programs have not, and employing these programs now is crucial to the economic well-being of the county, region, and State.

f. Accordingly, the municipalities identified as Garden State Growth Zones are hereby declared blighted areas and areas in need of rehabilitation, provided however, that this declaration alone shall not be used to allow any property to be taken or acquired.[2]

[4][[2]25.] 23.[4] (New section) As used in section [4][26] 24[4] of P.L. , c. (C.) (pending before the Legislature as this bill):

"Director" means the Direction of the Division of Taxation.

"Division of Codes and Standards" means the Division of Codes and Standards located in the Department of Community Affairs.

"Eligible person" means any individual purchasing or renting an eligible residential residence within a growth zone after the enactment of P.L. , c. (C.) (pending before the Legislature as this bill). For the purpose of this definition, an eligible person is limited to those who establish a permanent residency at the eligible residential residence, are subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and are current with all State and local tax obligations.

"Eligible property" means any residential, commercial, industrial, or other business property, located in a Garden State Growth Zone, that receives a Certificate of Occupancy or is transferred in a legal sale on or after July 1, 2013. Purchasers of newly constructed homes are not the applicant.

"Exemption" means that portion of the assessor's full and true value of any improvement, conversion, alteration, redevelopment, rehabilitation, or construction not regarded as increasing the taxable value of a property pursuant to P.L. , c. (C.) (pending before the Legislature as this bill) for the purposes of encouraging the construction, conversion, improvement, and redevelopment of real property conducted by eligible businesses or residents within a growth zone pursuant to P.L. , c. (C.) (pending before the Legislature as this bill).

"Garden State Growth Zone" or "growth zone" means the four New Jersey cities with the lowest median family income based on the 2009 American Community Survey from the US Census, (Table 708. Household, Family, and Per Capita Income and Individuals, and Families Below Poverty Level by City: 2009).

"Garden State Growth Zone Development Entity" means a private corporation incorporated pursuant to Title 14A of the New Jersey Statutes, or established pursuant to Title 42 of the Revised Statutes, for which the profits of the entity are limited as follows. The allowable net profits of the entity shall be determined by applying the allowable profit rate to the total project cost, and all capital costs, determined in accordance with generally accepted accounting principles, of any other entity whose revenue is included in the computation of excess profits, for the period commencing on the date on which the construction of the project is completed, and

terminating at the close of the fiscal year of the entity preceding the date on which the computation is made, where:

"Allowable profit rate" means the greater of 12 percent or the percentage per annum arrived at by adding one and 1/4 percent to the annual interest percentage rate payable on the entity's initial permanent mortgage financing. If the initial permanent mortgage is insured or guaranteed by a governmental agency, the mortgage insurance premium or similar charge, if payable on a per annum basis, shall be considered as interest for this purpose. If there is no permanent mortgage financing the allowable profit rate shall be the greater of 12 percent or the percentage per annum arrived at by adding one and 1/4 percent per annum to the interest rate per annum which the municipality determines to be the prevailing rate on mortgage financing on comparable improvements in the county.

"Improvements" means any repair, construction, or reconstruction, including alterations and additions, having the effect of rehabilitating a deteriorated property so that it becomes habitable or attains higher standards of safety, health, economic use or amenity, or is brought into compliance with laws, ordinances or regulations governing such standards. Ordinary upkeep and maintenance shall not be deemed an improvement.[2]

[4][[2]26.] 24.[4] (New section) a. A Garden State Growth Zone Development Entity is authorized to undertake clearance, re-planning, development, or redevelopment of property within a Garden State Growth Zone.

b. Notwithstanding any other law to the contrary, every Garden State Growth Zone Development Entity that owns real property within a Garden State Growth Zone and that undertakes the clearance, re-planning, development, or redevelopment of such property is hereby granted an exemption on improvements to such eligible property for any new construction, improvements, or substantial rehabilitation of structures on real property for a period of 20 years from receiving a final Certificate of Occupancy, provided however, that a municipality located within the Garden State Growth Zone shall, by ordinance, opt-in to such program within 90 calendar days of the enactment of P.L. , c. (C.) (pending before the legislature as this bill). The exemption allowed by this subsection shall be dependent upon: (1) the owner of the real property making improvements to the real property after the enactment of P.L. , c. (C.) (pending before the Legislature as this bill); and (2) the Division of Codes and Standards, in consultation with the eligible municipality, issuing a final Certificate of Occupancy within 10 years of the date of enactment of P.L. , c. (C.) (pending before the Legislature as this bill).

c. The exemption granted by subsection b. of this section shall be for a period of 20 years. For the first 10 years immediately

subsequent to the issuance of a Certificate of Occupancy, the Garden State Growth Zone Development Entity shall be exempt from the payment of taxes on the improvements to the eligible property. Thereafter, the Garden State Growth Zone Development Entity shall pay to the municipality in lieu of full property tax payments an amount equal to a percentage of taxes otherwise due, according to the following schedule:

(1) In the eleventh year after completion, 10 percent of taxes otherwise due;

(2) In the twelfth year after completion, 20 percent of taxes otherwise due;

(3) In the thirteenth year after completion, 30 percent of taxes otherwise due;

(4) In the fourteenth year after completion, 40 percent of taxes otherwise due;

(5) In the fifteenth year after completion, 50 percent of taxes otherwise due;.

(6) In the sixteenth year after completion, 60 percent of taxes otherwise due;

(7) In the seventeenth year after completion, 70 percent of taxes otherwise due;

(8) In the eighteenth year after completion, 80 percent of taxes otherwise due;

(9) In the nineteenth full year after completion, 90 percent of taxes otherwise due;

(10) In the twentieth year after completion, and each year thereafter, 100 percent of taxes.

An amount not less than five percent of all payments pursuant to this subsection shall be paid to the county in which the municipality is located.

d. Upon the termination of the exemption granted pursuant to subsection c. of this section, the project, all affected parcels, land, and all improvements made thereto shall be assessed and subject to taxation as are other taxable properties in the municipality. After the date of termination, all restrictions and limitations upon the Garden State Growth Zone Development Entity shall terminate and be at an end upon the entity's rendering its final accounting to and with the municipality.

e. Notwithstanding subsection b. of this section, the owner of any property located within a Garden State Growth Zone, that does not qualify as a Garden State Growth Zone Development Entity, that performs any new construction, improvements, or substantial rehabilitation improvements to property, shall be entitled to an exemption from taxation regarding such improvements as provided herein. For purposes of such exemption, the municipality shall consider the assessor’s full and true value of the improvements as not increasing the value of the property for a period of five years,

notwithstanding that the value of the property to which the improvements are made is increased thereby.

f. Any exemption obtained under this section shall be fully transferable upon the sale of real property, as long as the new owner meets all requirements for exemption set forth pursuant to this section.[2]

[4][[2]27.] 25.[4] Section 6 of P.L.2010, c.57 (C.34:1B-209.4) is amended to read as follows:

6. a. (1) A business, upon application to and approval from the authority, shall be allowed a credit of 100 percent of its capital investment, made after the effective date of P.L.2010, c.57 (C.48:3-87.1 et al.) but prior to its submission of documentation pursuant to subsection c. of this section, in a qualified wind energy facility located within an eligible wind energy zone, pursuant to the restrictions and requirements of this section. To be eligible for any tax credits authorized under this section, a business shall demonstrate to the authority, at the time of application, that the State's financial support of the proposed capital investment in a qualified wind energy facility will yield a net positive benefit to the State. The value of all credits approved by the authority pursuant to this section may be up to $100,000,000, except as may be increased by the authority [as set forth below; provided, however, that the combined value of all credits approved by the authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.), P.L.2009, c.90 (C.52:27D-489a et al.), and P.L.2010, c.57 (C.48:3-87.1 et al.) shall not exceed $1,750,000,000. The authority shall monitor application and allocation activity under P.L.2007, c.346 after taking into account the allocation under P.L.2007, c.346 and if sufficient credits are available to those qualified business facilities for which applications have been filed or for which applications are reasonably anticipated, and] if the chief executive officer judges certain qualified offshore wind projects to be meritorious [, the aforementioned cap may, in the discretion of the chief executive officer, be exceeded for allocation to qualified wind energy facilities in such amounts as the chief executive officer deems reasonable, justified and appropriate]. Credits provided pursuant to this section shall not be applicable to the cap on the credits provided in section 3 of P.L.2007, c.346 (C.34:1B-209).

(2) (a) A business, other than a tenant eligible pursuant to subparagraph (b) of this paragraph, shall make or acquire capital investments totaling not less than $50,000,000 in a qualified wind energy facility, at which the business, including tenants at the qualified wind energy facility, shall employ at least 300 new, full-time employees, to be eligible for a credit under this section. A business that acquires a qualified wind energy facility after the effective date of P.L.2010, c.57 (C.48:3-87.1 et al.) shall also be

deemed to have acquired the capital investment made or acquired by the seller.

(b) A business that is a tenant in the qualified wind energy facility, the owner of which has made or acquired capital investments in the facility totaling more than $50,000,000, shall occupy a leased area of the qualified wind energy facility that represents at least $17,500,000 of the capital investment in the qualified wind energy facility at which at least 300 new, full-time employees in the aggregate are employed, to be eligible for a credit under this section. The amount of capital investment in a facility that a leased area represents shall be equal to that percentage of the owner's total capital investment in the facility that the percentage of net leasable area leased by the tenant is of the total net leasable area of the qualified business facility. Capital investments made by a tenant shall be deemed to be included in the calculation of the capital investment made or acquired by the owner, but only to the extent necessary to meet the owner's minimum capital investment of $50,000,000. Capital investments made by a tenant and not allocated to meet the owner's minimum capital investment threshold of $50,000,000 shall be added to the amount of capital investment represented by the tenant's leased area in the qualified wind energy facility.

(c) The calculation of the number of new, full-time employees required pursuant to subparagraphs (a) and (b) of this paragraph may include the number of new, full-time positions resulting from an equipment supply coordination agreement with equipment manufacturers, suppliers, installers and operators associated with the supply chain required to support the qualified wind energy facility.

For the purposes of this paragraph, "full time employee" shall not include an employee who is a resident of another state and whose income is not subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., unless that state has entered into a reciprocity agreement with the State of New Jersey, provided that any employee whose work is provided pursuant to a collective bargaining agreement with the port district in the wind energy zone may be included.

(3) A business shall not be allowed a tax credit pursuant to this section if the business participates in a business employment incentive grant relating to the same capital and employees that qualify the business for this credit, or if the business receives assistance pursuant to the "Business Retention and Relocation Assistance Act," P.L.1996, c.25 (C.34:1B-112 et seq.). A business that is allowed a tax credit under this section shall not be eligible for incentives authorized pursuant to the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.).

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

b. A business shall apply for the credit ⟦within five years after the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.)⟧ by August 1, 2016, and a business shall submit its documentation for approval of its credit amount ⟦within eight years after the effective date of P.L.2007, c.346⟧ by August 1, 2019.

c. The credit allowed pursuant to this section shall be administered in accordance with the provisions of subsection c. of section 3 of P.L.2007, c.346 (C.34:1B-209) and section 33 of P.L.2009, c.90 (C.34:1B-209.1), except that all references therein to "qualified business facility" shall be deemed to refer to "qualified wind energy facility," as that term is defined in subsection f. of this section.

d. The amount of the credit allowed pursuant to this section shall, except as otherwise provided, be equal to the capital investment made by the business, or the capital investment represented by the business' leased area, and shall be taken over a 10-year period, at the rate of one-tenth of the total amount of the business' credit for each tax accounting or privilege period of the business, beginning with the tax period in which the business is first approved by the authority as having met the investment capital and employment qualifications, subject to any disqualification as determined by annual review by the authority. In conducting its annual review, the authority may require a business to submit any information determined by the authority to be necessary and relevant to its review. The credit amount for any tax period ending after the date eight years after the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.) during which the documentation of a business' credit amount remains unapproved shall be forfeited, although credit amounts for the remainder of the years of the 10-year credit period shall remain available. The amount of the credit allowed for a tax period to a business that is a tenant in a qualified wind energy facility shall not exceed the business' total lease payments for occupancy of the qualified wind energy facility for the tax period.

e. The authority shall adopt rules in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to implement this section, including but not limited to: examples of and the determination of capital investment; nature of businesses and employment positions constituting and participating in an equipment supply coordination agreement; determination of the types of businesses that may be eligible and expenses that may constitute capital improvements; promulgation of procedures and forms necessary to apply for a credit; and provisions

for applicants to be charged an initial application fee, and ongoing service fees, to cover the administrative costs related to the credit.

The rules established by the authority pursuant to this subsection shall be effective immediately upon filing with the Office of Administrative Law and shall be effective for a period not to exceed 12 months and may, thereafter, be amended, adopted or readopted in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

f. As used in this section: the terms "authority," "business," and "capital investment" shall have the same meanings as defined in section 2 of the "Urban Transit Hub Tax Credit Act," P.L.2007, c.346 (C.34:1B-208), except that all references therein to "qualified business facility" shall be deemed to refer to "qualified wind energy facility" as defined in this subsection.

In addition, as used in this section:

"Equipment supply coordination agreement" means an agreement between a business and equipment manufacturer, supplier, installer, and operator that supports a qualified offshore wind project, or other wind energy project as determined by the authority, and that indicates the number of new, full-time jobs to be created by the agreement participants towards the employment requirement as set forth in paragraph (2) of subsection a. of this section.

"Qualified offshore wind project" means the same as the term is defined in section 3 of P.L.1999, c.23 (C.48:3-51).

"Qualified wind energy facility" means any building, complex of buildings, or structural components of buildings, including water access infrastructure, and all machinery and equipment used in the manufacturing, assembly, development or administration of component parts that support the development and operation of a qualified offshore wind project, or other wind energy project as determined by the authority, and that are located in a wind energy zone.

"Wind energy zone" means property located in the South Jersey Port District established pursuant to "The South Jersey Port Corporation Act," P.L.1968, c.60 (C.12:11A-1 et seq.).[2]

(cf: P.L.2012, c.35, s.3)

[4][[2]28.] 26.[4] Section 43 of P.L.2009, c.90 (C.18A:64-85) is amended to read as follows:

43. a. (1) A State college or county college may enter into a contract with a private entity, subject to subsection f. of this section, to be referred to as a public-private partnership agreement, that permits the private entity to assume full financial and administrative responsibility for the on-campus construction, reconstruction, repair, alteration, improvement, extension, management, or operation of a building, structure, or facility of, or for the benefit of, the institution, provided that the project is financed in whole by the private entity and that the State or institution of higher education, as

applicable, retains full ownership of the land upon which the project is completed.

(2) A public-private partnership agreement may include an agreement under which a State or county college leases to a private entity the operation of a dormitory or other revenue-producing facility to which the college holds title, in exchange for up-front or structured financing by the private entity for the construction of classrooms, laboratories, or other academic buildings. Under the lease agreement, the college shall continue to hold title to the facility, and the private entity shall be responsible for the management, operation, and maintenance of the facility. The private entity shall receive some or all, as per the agreement, of the revenue generated by the facility and shall operate the facility in accordance with college standards. A lease agreement shall not affect the status or employment rights of college employees who are assigned to, or provide services to, the leased facility. At the end of the lease term, subsequent revenue generated by the facility, along with management, operation, and maintenance responsibility, shall revert to the college.

b. (1) A private entity that assumes financial and administrative responsibility for a project pursuant to subsection a. of this section shall not be subject to the procurement and contracting requirements of all statutes applicable to the institution of higher education at which the project is completed, including, but not limited to, the "State College Contracts Law," P.L.1986, c.43 (C.18A:64-52 et seq.), and the "County College Contracts Law," P.L.1982, c.189 (C.18A:64A-25.1 et seq.). For the purposes of facilitating the financing of a project pursuant to subsection a. of this section, a public entity may become the owner or lessee of the project or the lessee of the land, or both, may become the lessee of a dormitory or other revenue-producing facility to which the college holds title, may issue indebtedness in accordance with the public entity's enabling legislation and, notwithstanding any provision of law to the contrary, shall be empowered to enter into contracts with a private entity and its affiliates without being subject to the procurement and contracting requirements of any statute applicable to the public entity provided that the private entity has been selected by the institution of higher education pursuant to a solicitation of proposals or qualifications. For the purposes of this section, a public entity shall include the New Jersey Economic Development Authority, and any project undertaken pursuant to subsection a. of this section of which the authority becomes the owner or lessee, or which is situated on land of which the authority becomes the lessee, shall be deemed a "project" under the "New Jersey Economic Development Authority Act," P.L.1974, c.80 (C.34:1B-1 et seq.).

(2) As the carrying out of any project described pursuant to this section constitutes the performance of an essential public function, all projects predominantly used in furtherance of the educational

purposes of the institution undertaken pursuant to this section, provided it is owned by or leased to a public entity, non-profit business entity, foreign or domestic, or a business entity wholly owned by such non-profit business entity, shall at all times be exempt from property taxation and special assessments of the State, or any municipality, or other political subdivision of the State and, notwithstanding the provisions of section 15 of P.L.1974, c.80 (C.34:1B-15) **[**or**]**, section 2 of P.L.1977, c.272 (C.54:4-2.2b), or any other section of law to the contrary, shall not be required to make payments in lieu of taxes. The land upon which the project is located shall also at all times be exempt from property taxation. Further, the project and land upon which the project is located shall not be subject to the provisions of section 1 of P.L.1984, c.176 (C.54:4-1.10) regarding the tax liability of private parties conducting for profit activities on tax exempt land, or section 1 of P.L.1949, c.177 (C.54:4-2.3) regarding the taxation of leasehold interests in exempt property that are held by nonexempt parties.

c. Each worker employed in the construction, rehabilitation, or building maintenance services of facilities by a private entity that has entered into a public-private partnership agreement with a State or county college pursuant to subsection a. of this section shall be paid not less than the prevailing wage rate for the worker's craft or trade as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.).

d. (1) All construction projects under a public-private partnership agreement entered into pursuant to this section shall contain a project labor agreement. The project labor agreement shall be subject to the provisions of P.L.2002, c.44 (C.52:38-1 et seq.), and shall be in a manner that to the greatest extent possible enhances employment opportunities for individuals residing in the county of the project's location. Further, the general contractor, construction manager, design-build team, or subcontractor for a construction project proposed in accordance with this paragraph shall be registered pursuant to the provisions of P.L.1999, c.238 (C.34:11-56.48 et seq.), and shall be classified by the Division of Property Management and Construction to perform work on a public-private partnership higher education project. All construction projects proposed in accordance with this paragraph shall be submitted to the New Jersey Economic Development Authority for its review and approval and, when practicable, are encouraged to adhere to the Leadership in Energy and Environmental Design Green Building Rating System as adopted by the United States Green Building Council.

(2) Where no public fund has been established for the financing of a public improvement, the chief financial officer of the public owner shall require the private entity for whom the public improvement is being made to post, or cause to be posted, a bond

guaranteeing prompt payment of moneys due to the contractor, his or her subcontractors and to all persons furnishing labor or materials to the contractor or his or her subcontractors in the prosecution of the work on the public improvement.

e. A general contractor, construction manager, design-build team, or subcontractor shall be registered pursuant to the provisions of P.L.1999, c.238 (C.34:11-56.48 et seq.), and shall be classified by the Division of Property Management and Construction to perform work on a public-private partnership higher education project.

f. (1) On or before August 1, 【2013】 2015, all projects proposed in accordance with this section shall be submitted to the New Jersey Economic Development Authority for 【its】 the authority's review and approval; except that in the case of projects proposed in accordance with paragraph (2) of subsection a. of this section, all projects shall be submitted on or before August 1, 【2014】 2016. The projects are encouraged, when practicable, to adhere to the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6). Any application that is deemed to be incomplete on August 2, 【2013】 2015, or on August 2, 【2014】 2016 in the case of an application submitted pursuant to paragraph (2) of subsection a. of this section, shall not be eligible for consideration.

(2) (a) In order for an application to be complete and considered by the authority 【it】, the application shall include, but not be limited to: (i) a public-private partnership agreement between the State or county college and the private developer; (ii) a full description of the project, including a description of any agreement for the lease of a revenue-producing facility related to the project; (iii) the estimated costs and financial documentation for the project; (iv) a timetable for completion of the project extending no more than five years after consideration and approval; and (v) any other requirements that the authority deems appropriate or necessary.

(b) As part of the estimated costs and financial documentation for the project, the application shall contain a long-range maintenance plan and shall specify the expenditures that qualify as an appropriate investment in maintenance. 【This】 The long-range maintenance plan shall be approved by the authority pursuant to regulations promulgated by the authority that reflect national building maintenance standards and other appropriate building maintenance benchmarks. All contracts to implement a long-range maintenance plan pursuant to this paragraph shall contain a project labor agreement. The project labor agreement shall be subject to the provisions of P.L.2002, c.44 (C.52:38-1 et seq.), and shall be in a manner that to the greatest extent possible enhances employment opportunities for individuals residing in the county of the project's location.

(3) The authority shall review all completed applications, and request additional information as is needed to make a complete assessment of the project. No project shall be undertaken until final approval has been granted by the authority; provided, however, that the authority shall retain the right to revoke approval if it determines that the project has deviated from the plan submitted pursuant to paragraph (2) of this subsection.

(4) The authority may promulgate any rules and regulations necessary to implement this subsection, including provisions for fees to cover administrative costs.

Where no public fund has been established for the financing of a public improvement, the chief financial officer of the public owner shall require the private entity for whom the public improvement is being made to post, or cause to be posted, a bond guaranteeing prompt payment of moneys due to the contractor, his or her subcontractors and to all persons furnishing labor or materials to the contractor or his or her subcontractors in the prosecution of the work on the public improvement.

g. The provisions of P.L.2009, c.136 (C.52:18-42 et al.) shall not apply to any project carried out pursuant to this section.[2]

(cf: P.L.2012, c.42, s.1)

[3][2]29. (New section) Projects approved under P.L. , c. (C.) (pending before the Legislature as this bill) and projects approved under other legislatively established incentives programs managed by the authority now or in the past, shall specifically be exempted from Executive Order No. 215 signed on September 11, 1989.[2][3]

[3][2]30.[4][29.[3]] 27.[4] (New section) The provisions of this act shall be severable, and if any of its provisions shall be held to be unconstitutional, the decision of the court shall not affect the validity of the remaining provisions of P.L. , c. (C.) (pending before the Legislature as this bill).[2]

[1][21.] [2][22.[1]] [3][31.[2]] [4][30.[3]] 28.[4] This act shall take effect immediately.