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ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3680

STATE OF NEW JERSEY
215th LEGISLATURE

ADOPTED APRIL 25, 2013

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C.A.Brown and Senator Van Drew

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)

1 AN ACT concerning incentives for certain economic development
2 projects, amending ²**[and supplementing]**² various parts of the
3 statutory law², and supplementing Titles 34 and 52 of the
4 Revised Statutes² .

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

8
9 1. (New section) This act shall be known and may be cited as
10 the “New Jersey Economic Opportunity Act of 2013.”

11
12 2. Section 3 of P.L.1996, c.25 (C.34:1B-114) is amended to
13 read as follows:

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

34 b. (1) If an application under P.L.1996, c.25 (C.34:1B-112 et
35 seq.) has been received by the authority prior to the effective date of
36 the “New Jersey Economic Opportunity Act of 2013,” P.L. _____,
37 c. (C. _____) (pending before the Legislature as this bill), then, to
38 the extent that there remains sufficient financial authorization for
39 the grant of tax credits, the authority is authorized to consider the
40 application and to make a grant of tax credits to an eligible
41 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.

1 grant of tax credits no later than ²90 calendar days after the
 2 effective date of the “New Jersey Economic Opportunity Act of
 3 2013,” P.L. , c. (C.) (pending before the Legislature as this
 4 bill)] December 31, 2013².

5 (2) A business shall apply for a grant of tax credits under the
 6 Business Retention and Relocation Assistance Grant Program prior
 7 to the effective date of the “New Jersey Economic Opportunity Act
 8 of 2013,” P.L. , c. (C.) (pending before the Legislature as
 9 this bill), and shall submit its documentation for approval of a grant
 10 of tax credits no later than ²July 1, 2013 90 calendar days after
 11 the effective date of the “New Jersey Economic Opportunity Act of
 12 2013,” P.L. , c. (C.) (pending before the Legislature as this
 13 bill)]².

14 (3) If a business has submitted an application under P.L.1996,
 15 c.25 (C.34:1B-112 et seq.) and that application has not been
 16 approved for any reason, the lack of approval shall not serve to
 17 prejudice in any way the consideration of a new application as may
 18 be submitted by a business for the provision of incentives offered
 19 pursuant to the “New Jersey Economic Opportunity Act of 2013,”
 20 P.L. , c. (C.) (pending before the Legislature as this bill).
 21 (cf: P.L.2010, c.123, s.2)

22
 23 3. Section 4 of P.L.1996, c.26 (C.34:1B-127) is amended to
 24 read as follows:

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

- 27 (1) Will create at least 25 eligible positions in the base years; or
 28 (2) Will create at least 10 eligible positions in the base years if
 29 the business is an advanced computing company, an advanced
 30 materials company, a biotechnology company, an electronic device
 31 technology company, an environmental technology company, or a
 32 medical device technology company.

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

36 c. A project which consists solely of point-of-final-purchase
 37 retail facilities shall not be eligible for a grant under **[this act]**
 38 P.L.1996, c.26 (C.34:1B-124 et seq.). If a project consists of both
 39 point-of-final-purchase retail facilities and non-retail facilities, only
 40 the portion of the project consisting of non-retail facilities shall be
 41 eligible for a grant, and only the withholdings from new employees
 42 which are employed in the portion of the project which represents
 43 non-retail facilities shall be used to determine the amount of the
 44 grant. If a warehouse facility is part of a point-of-final-purchase
 45 retail facility and supplies only that facility, the warehouse facility
 46 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, 2013².

(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,

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

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

10 (3) A business that is a tenant in a qualified business facility, the
 11 owner of which has made or acquired capital investments in the
 12 facility totaling not less than \$50,000,000, shall occupy a leased
 13 area of the qualified business facility that represents at least
 14 \$17,500,000 of the capital investment in the facility at which the
 15 tenant business and up to two other tenants in the qualified business
 16 facility shall employ not fewer than 250 full-time employees in the
 17 aggregate to be eligible for a credit under this section. The amount
 18 of capital investment in a facility that a leased area represents shall
 19 be equal to that percentage of the owner's total capital investment in
 20 the facility that the percentage of net leasable area leased by the
 21 tenant is of the total net leasable area of the qualified business
 22 facility. Capital investments made by a tenant shall be deemed to
 23 be included in the calculation of the capital investment made or
 24 acquired by the owner, but only to the extent necessary to meet the
 25 owner's minimum capital investment of \$50,000,000. Capital
 26 investments made by a tenant and not allocated to meet the owner's
 27 minimum capital investment threshold of \$50,000,000 shall be
 28 added to the amount of capital investment represented by the
 29 tenant's leased area in the qualified business facility.

30 (4) A business shall not be allowed tax credits under this section
 31 if the business participates in a business employment incentive
 32 grant relating to the same capital and employees that qualify the
 33 business for this credit, or if the business receives assistance
 34 pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.). A business that is
 35 allowed a tax credit under this section shall not be eligible for
 36 incentives authorized pursuant to P.L.2002, c.43 (C.52:27BBB-1 et
 37 al.). A business shall not qualify for a tax credit under this section,
 38 based upon capital investment and employment of full-time
 39 employees, if that capital investment or employment was the basis
 40 for which a grant was provided to the business pursuant to the
 41 "InvestNJ Business Grant Program Act," P.L.2008, c.112 (C.34:1B-
 42 237 et seq.).

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

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

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

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

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

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

7 b. (1) If applications under this section have been received by
8 the authority prior to the effective date of the "New Jersey
9 Economic Opportunity Act of 2013," P.L. , c. (C.) (pending
10 before the Legislature as this bill), then, to the extent that there
11 remains sufficient financial authorization for the award of a tax
12 credit, the authority is authorized to consider those applications and
13 to make awards of tax credits to eligible applicants, provided that
14 the authority shall take final action on those applications² prior to
15 the 90th day after the date of enactment of the "New Jersey
16 Economic Opportunity Act of 2013," P.L. , c. (C.) (pending
17 before the Legislature as this bill)] no later than December 31,
18 2013².

19 (2) A business shall apply for the credit under this section prior
20 to **July 1, 2014** the effective date of the "New Jersey Economic
21 Opportunity Act of 2013," P.L. , c. (C.) (pending before the
22 Legislature as this bill), and shall submit its documentation for
23 approval of its credit amount no later than **July 28, 2017** April 26,
24 2017.

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

32 (4) Tax credits awarded pursuant to P.L.2007, c.346 (C.34:1B-
33 207 et seq.) for applications submitted to and approved by the
34 authority prior to the effective date of the "New Jersey Economic
35 Opportunity Act of 2013," P.L. , c. (C.) (pending before the
36 Legislature as this bill), shall be administered by the authority in the
37 manner established prior to that date.

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

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

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

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

25 The credit amount that may be taken for a tax period of the
26 business that exceeds the final liabilities of the business for the tax
27 period may be carried forward for use by the business in the next 20
28 successive tax periods, and shall expire thereafter, provided that the
29 value of all credits approved by the authority against tax liabilities
30 pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) in any fiscal year
31 shall not exceed ~~[\$150,000,000]~~ ²~~[\$250,000,000]~~ \$260,000,000².

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

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

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

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

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

35 (3) If, in any tax period, (a) the number of full-time employees
36 employed by the business at the qualified business facility located
37 in an urban transit hub within an eligible municipality drops below
38 250, or (b) the number of full-time employees, who are not the
39 subject of intra-State job transfers, pursuant to paragraph (8) of
40 subsection a. of this section, employed by the business at any other
41 business facility in the State, whether or not located in an urban
42 transit hub within an eligible municipality, drops by more than 20
43 percent from the number of full-time employees in its workforce in
44 the last tax accounting or privilege period prior to the credit amount
45 approval under this section, then the business shall forfeit its credit
46 amount for that tax period and each subsequent tax period, until the
47 first tax period for which documentation demonstrating the
48 restoration of the number of full-time employees employed by the

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

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

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

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

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

39 (cf: P.L.2012, c.35, s.1)
40

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

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

1 director and the executive director of the authority, may be sold or
2 assigned, in full or in part, in an amount not less than \$100,000 of
3 tax credits, although one transfer in each tax period may be in an
4 amount less than \$100,000 to any other person that may have a tax
5 liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
6 pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and
7 54:18A-3), pursuant to section 1 of P.L.1950, c.231 (C.17:32-15),
8 or pursuant to N.J.S.17B:23-5. The certificate provided to the
9 business shall include a statement waiving the business's right to
10 claim that amount of the credit against the taxes that the business
11 has elected to sell or assign. The sale or assignment of any amount
12 of a tax credit transfer certificate allowed under this section shall
13 not be exchanged for consideration received by the business of less
14 than 75 percent of the transferred credit amount before considering
15 any further discounting to present value which shall be permitted.
16 Any amount of a tax credit transfer certificate used by a purchaser
17 or assignee against a tax liability shall be subject to the same
18 limitations and conditions that apply to the use of the credit by the
19 business that originally applied for and was allowed the credit.
20 (cf: P.L.2009, c.90, s.33)

21
22 6. Section 35 of P.L.2009, c.90 (C.34:1B-209.3) is amended to
23 read as follows:

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

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

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

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

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

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

33 (b) A developer shall be allowed a credit of up to 35 percent of
34 its capital investment, ²or up to 40 percent for a project located in a
35 Garden State Growth Zone,² made after the effective date of
36 P.L.2011, c.89 but prior to its submission of documentation
37 pursuant to subsection c. of this section, in a qualified residential
38 project that is part of a mixed use project, provided that: (a) the
39 capital investment in the qualified residential project represents at
40 least \$17,500,000 of the total capital investment in the mixed use
41 project; and (b) the total capital investment in the mixed use project
42 of which the qualified residential project is a part is not less than
43 \$50,000,000. The allowance of credits under this paragraph shall
44 be subject to the restrictions and requirements, to the extent that
45 those are not inconsistent with the provisions of this paragraph, set
46 forth in paragraphs (1) through (3) of this subsection, including but
47 not limited to the requirement prescribed in paragraph (1) of this
48 subsection that the developer shall demonstrate to the authority,

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

5 As used in this subparagraph:

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

8 (5) The authority may approve and allocate credits for qualified
9 residential projects in a value sufficient to meet the requirements of
10 all applications that were received by the authority between October
11 24, 2012 and December 21, 2012, without regard to the terms of
12 any competitive solicitation ², except for the \$33,000,000 per
13 project cap,² and without need for reapplication by any applicant.
14 The authority shall take final action on those applications prior to
15 the ²[90th] 120th² day after the date of enactment of the "New
16 Jersey Economic Opportunity Act of 2013," P.L. , c. (C.)
17 (pending before the Legislature as this bill).

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

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

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

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

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

3 2. As used in **【this act】** P.L.2011, c.149 (C.34:1B-242 et seq.):
4 "Affiliate" means an entity that directly or indirectly controls, is
5 under common control with, or is controlled by the business.
6 Control exists in all cases in which the entity is a member of a
7 controlled group of corporations as defined pursuant to section 1563
8 of the Internal Revenue Code of 1986 (26 U.S.C.s.1563) or the
9 entity is an organization in a group of organizations under common
10 control as defined pursuant to subsection (b) or (c) of section 414 of
11 the Internal Revenue Code of 1986 (26 U.S.C.s.414). A taxpayer
12 may establish by clear and convincing evidence, as determined by
13 the Director of the Division of Taxation in the Department of the
14 Treasury, that control exists in situations involving lesser
15 percentages of ownership than required by those statutes. An
16 affiliate of a business may contribute to meeting either the qualified
17 investment or full-time employee requirements of a business that
18 applies for a credit under section 3 of P.L.2007, c.346 (C.34:1B-
19 209).

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

22 "Aviation district" means the area within a ²**【1-mile】** one-mile²
23 radius of the outermost boundary of the "Atlantic City International
24 Airport," established pursuant to section 24 of P.L.1991, c.252
25 (C.27:25A-24).

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

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

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

33 **【or is】**

34 a partnership ²**【,】** ;²

35 an S corporation ²**【,】** ;² **【or】**

36 a limited liability **【corporation】** company ²**【,】** ;² or

37 a non-profit corporation.

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

45 A business shall include an affiliate of the business if that
46 business applies for a credit based upon any capital investment
47 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 ²acquisition, if purchased within 24 months prior to project application, site² 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 foregoing² .

²In 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 ²within 24 months² 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.

1 “Commitment period” means the period of time that is 1.5 times
 2 the eligibility period.

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

8 “Disaster recovery project” means a project located on property
 9 that has been wholly or substantially damaged or destroyed as a
 10 result of a federally-declared disaster ²which, after utilizing all
 11 disaster funds available from federal, State, county, and local
 12 funding sources, demonstrates to the satisfaction of the authority
 13 that access to additional funding authorized pursuant to the “New
 14 Jersey Economic Opportunity Act of 2013,” P.L. , c. (C.)
 15 (pending before the Legislature as this bill), is necessary to
 16 complete such redevelopment project², and which is located within
 17 the qualified incentive area and has been determined by the
 18 authority to be in an area appropriate for development and in need
 19 of economic development incentive assistance.

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

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

37 “Eligible position” or “full-time job” means a full-time
 38 **【employee】** position **【retained or created by】** in a business in this
 39 State **【for which a business provides employee health benefits**
 40 under a group health plan as defined under section 14 of P.L.1997,
 41 c.146 (C.17B:27-54), a health benefits plan as defined under section
 42 1 of P.L.1992, c.162 (C.17B:27A-17), or a policy or contract of
 43 health insurance covering more than one person issued pursuant to
 44 Article 2 of chapter 27 of Title 17B of the New Jersey Statutes**】**
 45 which the business has filled with a full-time employee.

46 “Full-time employee” means a person;

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

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

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

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

26 With respect to a logistics, manufacturing, energy, defense,
27 aviation, or maritime business, excluding ²**a**² primarily
28 warehouse or distribution ²**business** operations² , located in a port
29 district having a container terminal:

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

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

37 35 hours of employment per week at a qualified business facility
38 shall constitute one "full-time employee," regardless of whether or
39 not the hours of work were performed by one or more persons.

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

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

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

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

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

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

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

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

30 "Mega project" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 “Port district” means the portions of ²[the] a² qualified incentive
10 area that are located within ²[a 15-mile radius of the outermost
11 boundary of: each marine terminal facility operated by]:

12 a. the port district of² the Port Authority of New York and New
13 Jersey, as defined in Article II of the Compact Between the States
14 of New York and New Jersey of 1921; ²[and] or

15 b. a 15-mile radius of the outermost boundary of² each marine
16 terminal ²facility² established, acquired, constructed,
17 rehabilitated²,² or improved by the South Jersey Port District
18 established pursuant to “The South Jersey Port Corporation Act,”
19 P.L.1968, c.60 (C.12:11A-1 et seq.).

20 ²“Priority area” means the portions of the qualified incentive
21 area that are not located within a distressed municipality and which:

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

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

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

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

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

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

1 "Qualified business facility" means any building, complex of
2 buildings or structural components of buildings, and all machinery
3 and equipment located within a qualified incentive area, used in
4 connection with the operation of a business ²that is not engaged in
5 final point of sale retail business at that location unless the building,
6 complex of buildings or structural components of buildings, and all
7 machinery and equipment located within a qualified incentive area,
8 are used in connection with the operation of:
9 a. a final point of sale retail business located in a Garden State
10 Growth Zone that will include a retail facility of at least 150,000
11 square feet, of which at least 50 percent is occupied by either a full-
12 service supermarket or grocery store; or
13 b. a tourism destination project located in the Atlantic City
14 Tourism District as established pursuant to section 5 of P.L.2011,
15 c.18 (C.5:12-219)².
16 "Qualified incentive area" means:
17 a. ²an aviation district;
18 b. a port district;
19 c. a distressed municipality or urban transit hub municipality;
20 d.² an area (1) designated pursuant to the "State Planning Act,"
21 P.L.1985, c.398 (C.52:18A-196 et seq.), as:
22 (a) Planning Area 1 (Metropolitan) ³[.]³
23 (b) Planning Area 2 (Suburban) ³[.]³ [or any urban, regional,
24 or town] ³or³
25 (c) Planning Area 3 (Fringe Planning Area) ³[. ²or²
26 (d)]³ ²[a designated center under the State Development and
27 Redevelopment Plan]² [; an area zoned for development pursuant
28 to] ²[. or
29 (e) a designated growth center in an endorsed plan until June 30,
30 2013, or until the State Planning Commission revises and readopts
31 New Jersey's State Strategic Plan and adopts regulations to revise
32 this definition as it pertains to Statewide planning areas, whichever
33 is later] ³[Planning Area 4A (Rural Planning Area)²]³;
34 (2) located within a smart growth area and planning area
35 designated in a master plan adopted by the New Jersey
36 Meadowlands Commission pursuant to subsection (i) of section 6 of
37 P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan
38 adopted by the New Jersey Meadowlands Commission pursuant to
39 section 20 of P.L.1968, c.404 (C.13:17-21);
40 (3) located within any land owned by the New Jersey Sports and
41 Exposition Authority, established pursuant to P.L.1971, c.137
42 (C.5:10-1 et seq.), within the boundaries of the Hackensack
43 Meadowlands District as delineated in section 4 of P.L.1968, c.404
44 (C.13:17-4);
45 (4) located within a [pinelands] regional growth area, [a
46 pinelands] town ²[management area]², [a pinelands village,]

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

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

11 (6) located within a Garden State Growth Zone;

12 (7) located within² land approved for closure under any federal
13 Base Closure and Realignment Commission action **【**or any property
14 consisting of a vacant commercial building having over 400,000
15 square feet of office, laboratory, or industrial space available for
16 occupancy for a period of over one year or is negatively impacted
17 by the approval of a "qualified business facility," as defined
18 pursuant to section 2 of P.L.2007, c.346 (C.34:1B-208)**】**; ²**【but**
19 excluding

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

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

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

28 (2) (a) the Protection Zone,

29 (b) the Conservation Zone, or

30 (c) an Environmentally Constrained Sub-Zone**】** or

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

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

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

45 (c) any area determined to be in need of redevelopment pursuant
46 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~~ the³ 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 eliminated². 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

1 tourism or recreation sites in the State ¹【as determined at the
2 discretion of the authority】, and which is located within the
3 qualified incentive area and has been determined by the authority to
4 be in an area appropriate for development and in need of economic
5 development incentive assistance¹.

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

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

17 ²“Urban transit hub municipality” means a municipality: a.
18 which qualifies for State aid pursuant to P.L.1978, c.14 (C.52:27D-
19 178 et seq.), or which has continued to be a qualified municipality
20 thereunder pursuant to P.L.2007, c.111; and b. in which 30 percent
21 or more of the value of real property was exempt from local
22 property taxation during tax year 2006. The percentage of exempt
23 property shall be calculated by dividing the total exempt value by
24 the sum of the net valuation which is taxable and that which is tax
25 exempt.²
26 (cf: P.L.2011, c.149, s.2)

27

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

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

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

44 (1) the business, expressly including its landlord or seller, will
45 make, acquire, or lease a capital investment **【of at least**
46 **\$20,000,000】** equal to, or greater than, the applicable amount set

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

3 (a) **【employ at least 100 full-time employees in retained】** retain
4 full-time jobs in an amount equal to or greater than the applicable
5 number set forth in subsection c. of this section 【, or】 :

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

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

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

16 (3) the capital investment resultant from the award of tax credits
17 and the resultant retention and creation of 【eligible positions】 full-
18 time jobs will yield a net positive benefit to the State, equaling at
19 least 110 percent of the requested tax credit allocation amount,
20 which determination ²is calculated prior to taking into account the
21 value of the requested tax credit and² shall be based on the benefits
22 generated during the first 20 years following the completion of the
23 project, except that for a mega project ²or a project located in a
24 Garden State Growth Zone² , the determination shall be based on
25 the benefits generated during a period of up to 30 years following
26 the completion of the project, as determined by the authority ², and
27 except that, for a project located in a Garden State Growth Zone
28 which qualified for the “Municipal Rehabilitation and Economic
29 Recovery Act,” P.L.2002, c.43 (C.52:27BBB-1 et al.), the net
30 positive benefit determination shall be based on the benefits
31 generated during a period of up to 35 years following completion of
32 the project, as determined by the authority, and shall equal at least
33 100 percent of the requested tax credit allocation amount and may
34 utilize the value of those property taxes subject to the provisions of
35 section ⁴**【26】 24⁴** of P.L. , c. (C.) (pending before the
36 Legislature as this bill) and incremental sales and excise taxes that
37 are derived from activities within the area and which are rebated or
38 retained by the municipality pursuant to the "New Jersey Urban
39 Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) or
40 any other law providing for such rebate or retention²; and,

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

45 With respect to the provisions of paragraph (3) of this
46 subsection, in the case of a ²**【logistics, manufacturing, energy,**

1 defense, aviation, or maritime business, excluding a primarily
2 warehouse or distribution business】 project located in a Garden
3 State Growth Zone² , the authority, in its discretion, may award
4 ²【bonus points】 bonuses² in its net positive benefit calculation.

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

7 (1) for the rehabilitation ², improvement, fit-out, or retrofit² of an
8 existing industrial premises for continued industrial use by the
9 business, a minimum investment of \$20 per square foot of gross
10 leasable area;

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

14 (3) for the rehabilitation ², improvement, fit-out, or retrofit² of an
15 existing non-industrial premises for continued non-industrial use by
16 the business, a minimum investment of \$40 per square foot of gross
17 leasable area; and

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

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

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

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

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

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

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

41 d. To assist the authority in determining whether a proposed
42 capital investment will yield a net positive benefit, the business's
43 chief executive officer, or equivalent officer, shall submit a
44 certification to the authority indicating ²: (1)² that any 【existing】
45 ²【retained】 existing² full-time jobs are at risk of leaving the State
46 ²【and the date or dates at which it is expected that those full-time
47 jobs would leave the State,】 or being eliminated; (2)² that any

1 projected creation ²or retention, as applicable,² of new full-time
2 jobs would not occur but for the provision of tax credits under the
3 program ²[1]² and ²(3)² that the business's chief executive officer,
4 or equivalent officer, has reviewed the information submitted to the
5 authority and that the representations contained therein are
6 accurate², provided however, that in satisfaction of the provisions
7 of paragraphs (1) and (2) of this subsection, the certification with
8 respect to a project in a Garden State Growth Zone that qualifies
9 under the "Municipal Rehabilitation and Economic Recovery Act,"
10 P.L.2002, c.43 (C.52:27BBB-1 et al.), shall indicate that, the
11 provision of tax credits under the program is a material factor in the
12 business decision to make a capital investment and locate in a
13 Garden State Growth Zone that qualifies under the "Municipal
14 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
15 (C.52:27BBB-1 et al.)² . In the event that this certification by the
16 business's chief executive officer, or equivalent officer, is found to
17 be willfully false, the authority may revoke any award of tax credits
18 in their entirety, which revocation shall be in addition to any other
19 criminal or civil penalties that the business and the officer may be
20 subject to. When considering an application involving intra-State
21 job transfers, the authority shall require the business to submit the
22 following information as part of its application: a full economic
23 analysis of all locations under consideration by the business; all
24 lease agreements, ownership documents, or substantially similar
25 documentation for the business's current in-State locations; and all
26 lease agreements, ownership documents, or substantially similar
27 documentation for the potential out-of-State location alternatives, to
28 the extent they exist. Based on this information, and any other
29 information deemed relevant by the authority, the authority shall
30 independently verify and confirm, by way of making a factual
31 finding by separate vote of the authority's board, the business's
32 assertion that the jobs are actually at risk of leaving the State, and
33 as to the date or dates at which the authority expects that those jobs
34 would actually leave the State ², or, with respect to projects located
35 in a Garden State Growth Zone that qualifies under the "Municipal
36 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
37 (C.52:27BBB-1 et al.), the business's assertion that the provision of
38 tax credits under the program is a material factor in the business's
39 decision to make a capital investment and locate in a Garden State
40 Growth Zone that qualifies under the "Municipal Rehabilitation and
41 Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.),²
42 before a business may be awarded any tax credits under this section.

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

1 Garden State Growth Zone or the Atlantic City Tourism District as
2 established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and
3 regulated by the Casino Reinvestment Development Authority, up
4 to 7.5 percent of retail facilities included in a mixed use project
5 shall be eligible for a grant of tax credits along with the non-retail
6 facilities.² If a warehouse facility is part of a point-of-final-
7 purchase retail facility and supplies only that facility, the warehouse
8 facility shall not be eligible for a grant of tax credits. For the
9 purposes of this section, ²a retail facility of at least 150,000 square
10 feet, of which at least 50 percent is occupied by a full-service
11 supermarket or grocery store, located in a Garden State Growth
12 Zone which qualified under the “Municipal Rehabilitation and
13 Economic Recovery Act,” P.L.2002, c.43 (C.52:27BBB-1 et al.), or
14 a tourism destination project in the Atlantic City Tourism District as
15 established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219),
16 or² catalog distribution centers shall not be considered point-of-
17 final-purchase retail facilities.

18 **[d.] f.** The authority may determine as eligible for tax credits
19 under the program any business that is required to respond to a
20 request for proposals and to fulfill a contract with the federal
21 government although the business's chief executive officer or
22 equivalent officer has not demonstrated to the authority that the
23 award of tax credits will be a material factor in the business's
24 decision to retain **[at least 100]** the minimum number of retained
25 full-time jobs, as otherwise required by [paragraph (3) of
26 subsection a. of] this section. The authority may, in its discretion,
27 consider the economic benefit of the retained jobs servicing the
28 contract in conducting a net benefit analysis required by paragraph
29 **[(2)]** ²**[4]** (4)² of subsection a. of this section. For the purposes of
30 this subsection, "retained full-time jobs" includes jobs that are at
31 risk of being eliminated. Applications to the authority for eligibility
32 under the program pursuant to the criteria set forth in this
33 subsection shall be completed by **[March]** ⁴**[July]** December⁴ 31,
34 **[2012]** 2013. Submission of a proposal to the federal government
35 prior to authority approval shall not disqualify a business from the
36 program.

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

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

41

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

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

- 1 a. A detailed description of the proposed project which will
2 result in job creation or retention, and the number of new or
3 retained full-time **employees** jobs that are approved for tax
4 credits.
- 5 b. The **term** eligibility period of the tax credits, **[and]**
6 including the first year for which the tax credits may be claimed.
- 7 c. Personnel information that will enable the authority to
8 administer the program.
- 9 d. A requirement that the applicant maintain the project at a
10 location in New Jersey **[at least 1.5 times the number of years of**
11 **the term of the tax credits]** for the commitment period, with at least
12 the minimum number of full-time employees as required by
13 **[section 6 of P.L.2011, c.149 (C.34:1B-247)]** this program, and a
14 provision to permit the authority to recapture all or part of any tax
15 **[credit]** credits awarded, at its discretion, if the business does not
16 remain **[at the site]** in compliance with this provision for the
17 required term ², and in the instance of the business terminating an
18 existing incentive agreement in order to participate in an incentive
19 agreement authorized pursuant to the “New Jersey Economic
20 Opportunity Act of 2013,” P.L. , c. (C.) (pending before the
21 Legislature as this bill)², ²**[with]**² such permitted recapture ²**[not to**
22 exceed the portion of the tax credits as were awarded for periods
23 when the business was not in compliance with this provision] may
24 be calculated to recognize the period of time that the business was
25 in compliance prior to termination².
- 26 e. A method for the business to certify that it has met the
27 capital investment and employment requirements of the program
28 pursuant to paragraph (1) of subsection a. of section 3 of P.L.2011,
29 c.149 (C.34:1B-244) and to report annually to the authority the
30 number of full-time employees for which the tax credits are to be
31 made.
- 32 f. A provision permitting an audit of the payroll records of the
33 business from time to time, as the authority deems necessary.
- 34 g. A provision which permits the authority to amend the
35 agreement.
- 36 h. A provision establishing the conditions under which the
37 agreement may be terminated **[and awarded tax credits are**
38 **recaptured, in whole or in part, by the authority at its discretion]**.
- 39 ⁴**[i. (1) A requirement that each worker employed to perform**
40 construction work at the qualified business facility shall be paid not
41 less than the prevailing wage rate, consistent with the requirements
42 of section 1 of P.L.1979, c.303 (C.34:1B-5.1); and
43 (2) A requirement that each worker employed to perform
44 building maintenance services at a qualified business facility by a
45 business or a tenant or subcontractor of a business shall be paid not
46 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 period². 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 Zone².

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 ²municipality or Garden State Growth Zone² 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;

1 (3) for a project in a priority area, ²~~["\$2,500"]~~ \$3,000² per year;
2 and

3 (4) for a project in other eligible areas, ²~~["\$1,500"]~~ \$500² per
4 year.

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

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

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

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

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

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

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

43 (7) for a qualified business facility not eligible for the increase
44 set forth in paragraph (6) of this subsection and whose location is
45 within one mile of a freight rail line spur if the applicant utilizes
46 that freight line as a regular part of the operation of its business
47 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;

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

5 (14) (9)² for a qualified business facility exceeding the
6 Leadership in Energy and Environmental Design's "Silver" rating
7 standards² or completes substantial environmental remediation², an
8 additional increase of \$250 per year;² and

9 (15) (10)² for a mega project² or a project located within a
10 Garden State Growth Zone² at which the capital investment in
11 industrial premises for industrial use by the business is in excess of
12 the minimum capital investment required for eligibility pursuant to
13 subsection b. of section 3 of P.L.2011, c.149 (C.34:1B-244), an
14 increase of \$1,000 per year for each additional amount of
15 investment that exceeds the minimum amount by 20 percent, with a
16 maximum increase of \$5,000 per year²;

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

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

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

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

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

39 (16) for a project that generates solar energy on site for use
40 within the project of an amount that equals at least 50 percent of the
41 project's electric supply service needs, an increase of \$250 per
42 year².

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

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

3 (1) for a mega project ²or a project in a Garden State Growth
4 Zone² , the gross amount for each new or retained full-time job
5 shall not exceed \$15,000 per year;

6 (2) for a qualified business facility located within an urban
7 transit hub ²municipality² , the gross amount for each new or
8 retained full-time job shall not exceed ²[\$10,000] \$12,000² per
9 year;

10 (3) for a qualified business facility in a distressed municipality
11 the gross amount for each new or retained full-time job shall not
12 exceed ²[\$8,000] \$11,000² per year;

13 (4) for a qualified business facility in other priority areas, the
14 gross amount for each new or retained full-time job shall not exceed
15 ²[\$6,000] \$10,500² per year; ²[and]²

16 (5) for a qualified business facility in other eligible areas, the
17 gross amount for each new or retained full-time job shall not exceed
18 ²[\$4,000] \$6,000² per year ²and;

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

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

26 (a) for a project which creates 35 or more full-time jobs and
27 makes a capital investment of at least \$5,000,000, the total tax
28 credit amount per full-time job shall be the greater of: (i) the total
29 tax credit amount for a qualifying project in a Garden State Growth
30 Zone as calculated pursuant to subsections a. through f. of this
31 section; or (ii) the total capital investment of the project divided by
32 the total number of full-time jobs at that project but not greater than
33 \$20,000,000 over the grant term;

34 (b) for a project which creates 70 or more full-time jobs and
35 makes a capital investment of at least \$10,000,000, the total tax
36 credit amount per full-time job shall be the greater of: (i) the total
37 tax credit amount for a qualifying project in a Garden State Growth
38 Zone as calculated pursuant to subsections a. through f. of this
39 section; or (ii) the total capital investment of the project divided by
40 the total number of full-time jobs at that project but not greater than
41 \$30,000,000 over the grant term;

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

1 the total number of full-time jobs at that project but not greater than
2 \$40,000,000 over the grant term;
3 (d) for a project which creates 150 or more full-time jobs and
4 makes a capital investment of at least \$20,000,000, the total tax
5 credit amount per full-time job shall be the greater of: (i) the total
6 tax credit amount for a qualifying project in a Garden State Growth
7 Zone as calculated pursuant to subsections a. through f. of this
8 section; or (ii) the total capital investment of the project divided by
9 the total number of full-time jobs at that project but not greater than
10 \$50,000,000 over the grant term; or
11 (e) for a project which creates 250 or more full-time jobs and
12 makes a capital investment of at least \$30,000,000, the total tax
13 credit amount per full-time job shall be the greater of: (i) the total
14 tax credit amount for a qualifying project in a Garden State Growth
15 Zone as calculated pursuant to subsections a. through f. of this
16 section; or (ii) the total capital investment of the project divided by
17 the total number of full-time jobs as defined herein at that project².
18 e. After the determination by the authority of the gross amount
19 of tax credits for which a business is eligible pursuant to subsection
20 d. of this section, the final total tax credit amount shall be
21 calculated as follows: (1) for each new full-time job, the business
22 shall be allowed tax credits equaling 100 percent of the gross
23 amount of tax credits for each new full-time job; and (2) for each
24 retained full-time ²[employee]² job, the business shall be allowed
25 tax credits equaling ²[75] 50² percent of the gross amount of tax
26 credits for each retained full-time job, ²unless the jobs are part of a
27 mega project which is the United States headquarters of an
28 automobile manufacturer located within a priority area or in a
29 Garden State Growth Zone, in which case the business shall be
30 entitled to tax credits equaling 100 percent of the gross amount of
31 tax credits for each retained full-time job, or² unless the new
32 qualified business facility would replace a facility that has been
33 wholly or substantially damaged as a result of a federally-declared
34 disaster, in which case the business shall be entitled to tax credits
35 equaling 100 percent of the gross amount of tax credits for each
36 retained full-time job.
37 f. Notwithstanding the provisions of subsections a. through e.
38 of this section, for each application approved by the authority's
39 board, the amount of tax credits available to be applied by the
40 business annually shall not exceed:
41 (1) ²\$35,000,000 and provides a net benefit to the State as
42 provided herein with respect to a qualified business facility in a
43 Garden State Growth Zone which qualifies under the "Municipal
44 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
45 (C.52:27BBB-1 et al.);

1 (2)² \$30,000,000 ²and provides a net benefit to the State as
2 provided herein² with respect to a mega project ²or a qualified
3 business facility in a Garden State Growth Zone²;

4 ²[(2)] (3)² \$10,000,000 ²and provides a net benefit to the State
5 as provided herein² with respect to a qualified business facility in
6 an urban transit hub ²municipality² ;

7 ²[(3)] (4)² \$8,000,000 ²and provides a net benefit to the State as
8 provided herein² with respect to a qualified business facility in a
9 distressed municipality;

10 ²[(4)] (5)² \$4,000,000 ²and provides a net benefit to the State as
11 provided herein² with respect to a qualified business facility in
12 other priority areas ², but not more than 90 percent of the
13 withholdings of the business from the qualified business facility² ;
14 and

15 ²[(5)] (6)² \$2,500,000 ²and provides a net benefit to the State as
16 provided herein² with respect to a qualified business facility in
17 other eligible areas ², but not more than 90 percent of the
18 withholdings of the business from the qualified business facility.

19 Under paragraphs (1) through (6) of this subsection, for each
20 application for tax credits in excess of \$4,000,000 annually, the
21 amount of tax credits available to be applied by the business
22 annually shall be the lesser of the maximum amount under the
23 applicable subsection or an amount determined by the authority
24 necessary to complete the project, with such determination made by
25 the authority's utilization of a full economic analysis of all
26 locations under consideration by the business; all lease agreements,
27 ownership documents, or substantially similar documentation for
28 the business's current in-State locations, as applicable; and all lease
29 agreements, ownership documents, or substantially similar
30 documentation for the potential out-of-State location alternatives, to
31 the extent they exist. Based on this information, and any other
32 information deemed relevant by the authority, the authority shall
33 independently verify and confirm the amount necessary to complete
34 the project².

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

36

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

39 6. a. (1) The [value of all credits approved by the authority
40 pursuant to P.L.2011, c.149 (C.34:1B-242 et al.) shall not exceed
41 \$200,000,000, except that the value of all credits approved by the
42 authority pursuant to this section may exceed \$200,000,000 if the
43 board of the authority determines the credits to be reasonable,
44 justifiable, and appropriate; provided, however, the] combined
45 value of all credits approved by the authority pursuant to P.L.2007,
46 c.346 (C.34:1B-207 et seq.) and P.L.2011, c.149 (C.34:1B-242 et

1 al.) prior to ²the 90th day after the date of enactment of the “New
2 Jersey Economic Opportunity Act of 2013,” P.L. , c. (C.)
3 (pending before the Legislature as this bill) December 31, 2013²
4 shall not exceed \$1,750,000,000, except as may be increased by the
5 authority as set forth in paragraph (5) of subsection a. of P.L.2009,
6 c.90 (C.34:1B-209.3). ²Following the enactment of the “New
7 Jersey Economic Opportunity Act of 2013,” P.L. , c. (C.)
8 (pending before the Legislature as this bill), there shall be no
9 monetary cap on the value of credits approved by the authority
10 attributable to the program pursuant to “New Jersey Economic
11 Opportunity Act of 2013,” P.L. , c. (C.) (pending before the
12 Legislature as this bill).²

13 (2) **【A business, including any affiliate of the business or any**
14 **business that is a tenant within any qualified business facility, shall**
15 **make or acquire capital investments totaling not less than**
16 **\$20,000,000 in a qualified business facility, at which the business**
17 **shall employ not fewer than 100 full-time employees to be eligible**
18 **for a credit pursuant to P.L.2011, c.149. A business that acquires or**
19 **leases a qualified business facility shall also be deemed to have**
20 **acquired the capital investment made or acquired by the seller or**
21 **landlord, as the case may be.】 (Deleted by amendment, P.L. ,**
22 **c.) (pending before the Legislature as this bill).**

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

36 (4) **【Full-time employment for an accounting or privilege period**
37 **shall be determined as the average of the monthly full-time**
38 **employment for the period.】 (Deleted by amendment, P.L. , c.)**
39 **(pending before the Legislature as this bill).**

40 (5) **【The capital investment of the owner of a qualified business**
41 **facility is that percentage of the capital investment made or**
42 **acquired by the owner of the building that the percentage of net**
43 **leasable area of the qualified business facility not leased to tenants**
44 **is of the total net leasable area of the qualified business facility. For**
45 **a business that is a tenant, the amount of capital investment in a**
46 **facility that a leased area represents shall be equal to that**
47 **percentage of the owner's total capital investment in the facility that**

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

12 b. (1) A business shall **【apply】** submit an application for 【the】
13 tax **【credit】** credits prior to July 1, **【2014, and】** ²**【2018】** 2019² .
14 The authority shall not approve an application for tax credits unless
15 the application was submitted prior to July 1, ²**【2018】** 2019² .

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

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

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

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

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

1 The credit amount that may be taken for a tax period of the
2 business that exceeds the final liabilities of the business for the tax
3 period may be carried forward for use by the business in the next 20
4 successive tax periods, and shall expire thereafter **】, provided that**
5 the value of all credits approved by the authority against tax
6 liabilities pursuant to P.L.2011, c.149, in any fiscal year shall not
7 exceed \$150,000,000 and the combined value of all credits
8 approved by the authority pursuant to P.L.2007, c.346 (C.34:1B-
9 207 et seq.) and P.L.2011, c.149 (C.34:1B-242 et al.) shall not
10 exceed \$1,750,000,000**】**.

11 **【The amount of credit allowed for a tax period to a business that**
12 is a tenant in a qualified business facility shall not exceed the
13 business' total lease payments for occupancy of the qualified
14 business facility for the tax period.**】**

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

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

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

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

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

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

13 (b) ²~~【If a】² 【tenant】 ²【business leases or subleases its】²~~
14 ~~【tenancy】 ²【premises in the qualified business facility in whole or~~
15 ~~in part during the】² 【10-year】 ²【eligibility period, the new tenant~~
16 ~~or subtenant shall not acquire the】² 【credit】 ²【tax credits of the】²~~
17 ~~【sublessor】 ²【business, and the】² 【sublessor tenant】 ²【business~~
18 ~~shall forfeit all credits for the tax period of its lease or sublease and~~
19 ~~all subsequent tax periods.】² ¹~~【Notwithstanding such forfeiture, a~~
20 ~~business that leases or subleases less than all of its premises and~~
21 ~~does not thereby reduce its new or retained full-time job count~~
22 ~~below the minimum number required under section 3 of P.L.2011,~~
23 ~~c.149 (C.34:1B-244) shall not be affected by this paragraph.】¹ ²In~~
24 ~~connection with a regional distribution facility of foodstuffs, the~~
25 ~~business entity or entities which own or lease such facility shall~~
26 ~~qualify as a business regardless of: (i) the type of the business entity~~
27 ~~or entities which own or lease such facility; (ii) the ownership or~~
28 ~~leasing of such facility by more than one business entity; or (iii) the~~
29 ~~ownership of the business entity or entities which own or lease such~~
30 ~~facility. Such ownership or leasing, whether by members,~~
31 ~~shareholders, partners, or other owners of the business entity or~~
32 ~~entities, shall be treated as ownership or leasing by affiliates. Such~~
33 ~~members, shareholders, partners, or other ownership or leasing~~
34 ~~participants and others that are tenants in the facility shall be treated~~
35 ~~as affiliates for the purpose of counting the full-time employees and~~
36 ~~capital investments in the facility. The business entity or entities~~
37 ~~may distribute credits to members, shareholders, partners, or other~~
38 ~~ownership or leasing participants in accordance with their~~
39 ~~respective interests. If the business entity or entities or their~~
40 ~~members, shareholders, partners, or other ownership or leasing~~
41 ~~participants lease space in the facility to members, shareholders,~~
42 ~~partners, or other ownership or leasing participants or others as~~
43 ~~tenants in the facility, the leases shall be treated as a lease to an~~
44 ~~affiliate, and the business entity or entities shall not be subject to~~
45 ~~forfeiture of the credits. For the purposes of this section, leasing~~
46 ~~shall include subleasing and tenants shall include subtenants.~~~~

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

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

20 (1) the business has satisfied all of its obligations underlying the
21 previous award of incentives²or is compliant with section 4 of
22 P.L.2011, c.149 (C.34:1B-245)²; or

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

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

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

37

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

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

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

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

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

20

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

23 1. As used in **【this act】** P.L.2009, c.136 (C.52:18-42 et seq.):

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

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

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

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

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

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

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

22 "Qualified employment incentive facility" means any building or
 23 other structure or portion of a building or other structure that,
 24 following the date on which occupation of the building or structure
 25 shall have commenced, shall be used exclusively as the premises of
 26 a project, related to the creation, relocation, or retention of jobs,
 27 that qualifies for incentives under the Business Retention and
 28 Relocation Assistance Grant Program established by section 3 of
 29 P.L.1996, c.25 (C.34:1B-114), the Business Employment Incentive
 30 Program established by section 3 of P.L.1996, c.26 (C.34:1B-126),
 31 the Grow New Jersey Assistance Program established by P.L.2011,
 32 c.149 (C.34:1B-242 et seq.), the Economic Redevelopment and
 33 Growth Grant program established by sections 3 through 18 of
 34 P.L.2009, c.90 (C.52:27D-489c et al.), ²sections ⁴**【24】** ²²⁴ through
 35 ⁴**【26】** ²⁴ of the “New Jersey Economic Opportunity Act of 2013,”
 36 P.L. , c. (C.) (pending before the Legislature as this bill)
 37 allowing for the establishment of a Garden State Growth Zone,² the
 38 corporation business tax credit and insurance premium tax credit
 39 certificate transfer program established pursuant to section 17 of
 40 P.L.2004, c.65 (C.34:1B-120.2), the sales and use tax exemption
 41 certificate program established pursuant to section 20 of P.L.2004,
 42 c.65 (C.34:1B-186), the exemption of retail sales of energy and
 43 utility service to qualified businesses within an urban enterprise
 44 zone from the sales and use tax pursuant to section 23 of P.L.2004,
 45 c.65 (C.52:27H-87.1), the urban transit hub tax credit program
 46 established pursuant to **【section 3 of】** P.L.2007, c.346 **【(C.34:1B-**
 47 209)**】** (C.34:1B-207 et seq.), or any other program as the State

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

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

18 "Remediation" or "remediate" means all necessary actions to
19 investigate and clean up or respond to any known, suspected, or
20 threatened discharge of contaminants, including, as necessary, the
21 preliminary assessment, site investigation, remedial investigation,
22 and remedial action, provided, however, that "remediation" or
23 "remediate" shall not include the payment of compensation for
24 damage to, or loss of, natural resources, and shall not include ²the
25 investigation or clean up of real property that shall be used to
26 construct a qualified employment incentive facility, or² the
27 acquisition, construction, repair, or reconstruction of any building
28 or other improvements to real property, or the acquisition or
29 installation of any equipment or other personal property, that, upon
30 completion, shall constitute a qualified employment incentive
31 facility.

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

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

41

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

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

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

1 "Ancillary infrastructure project" means **[public]** structures or
 2 improvements ²**[that are located]** ²**[in the public right-of-way]** that
 3 are located within the incentive area but outside the project area of
 4 a redevelopment project, including, but not limited to, docks,
 5 bulkheads, parking garages, freight rail spurs, roadway overpasses,
 6 and train station platforms, provided a developer or municipal
 7 redeveloper has demonstrated that the redevelopment project would
 8 not be economically viable or promote the use of public
 9 transportation without such improvements ², as approved by the
 10 State Treasurer².

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

14 ²"Aviation district" means the area within a one-mile radius of
 15 the outermost boundary of the "Atlantic City International Airport,"
 16 established pursuant to section 24 of P.L.1991, c.252 (C.27:25A-
 17 24).²

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

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

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

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

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

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

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

14 ² “Exempt business” means a business unrelated to the
15 developer that operates a premises at the site of the redevelopment
16 project but whose incurred costs to construct its respective premises
17 are excluded from the project cost. An exempt business shall not be
18 subject to the requirements of the Economic Redevelopment and
19 Growth Grant program.]

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

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

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

35 “Infrastructure improvements in the public right-of-way” mean
36 public structures or improvements located in the public right of way
37 that are located within a project area or that constitute an ancillary
38 infrastructure project, ²either of which are dedicated to or owned by
39 a governmental body or agency upon completion,² or any required
40 payment in lieu of such structures, improvements or projects or any
41 costs of remediation associated with such structures, improvements
42 or projects, and that are determined by the authority, in consultation
43 with applicable State agencies, to be consistent with and in
44 furtherance of State public infrastructure objectives and initiatives.

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

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

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

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

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

21 ²“Municipal Revitalization Index” means the 2007 index by the
22 Office for Planning Advocacy within the Department of State
23 measuring or ranking municipal distress.²

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

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

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

7 "Project financing gap" means: a. the part of the total
 8 **【redevelopment】** project cost, including return on investment, that
 9 remains to be financed after all other sources of capital have been
 10 accounted for, including, but not limited to, developer-contributed
 11 capital, ²which shall not be less than 20 percent of the total project
 12 cost,² which may include the value of any existing land and
 13 improvements in the project area owned or controlled by the
 14 developer, and ²【which shall not be less than 20 percent of the total
 15 project cost, excluding the cost of infrastructure improvements in
 16 the public right of way】 the cost of infrastructure improvements in
 17 the public right-of-way, subject to review by the State Treasurer,²
 18 and investor or financial entity capital or loans for which the
 19 developer, after making all good faith efforts to raise additional
 20 capital, certifies that additional capital cannot be raised from other
 21 sources on a non-recourse basis; ²and² b. ²【the cost of
 22 infrastructure improvements including any ancillary infrastructure
 23 project; and c.】² the amount by which total project cost exceeds the
 24 cost of an alternative location for the ²out-of-State² redevelopment
 25 project.

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

28 "Property tax increment" means the amount obtained by:

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

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

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

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

1 restricted for use by one or more technology startup companies
2 during the commitment period.
3 “Qualified residential project” means a redevelopment project
4 that is predominantly residential and includes multi-family
5 residential units ¹for purchase or lease ²[and may also include¹
6 hotel units]² , or dormitory units for purchase or lease, ¹[that
7 represents] having a total project cost of¹ at least \$17,500,000 ¹[of
8 the total project cost]¹ , if the project is located in any municipality
9 with a population greater than 200,000 according to the latest
10 federal decennial census, or ¹having a total project cost of at least¹
11 \$10,000,000 ¹[of the total project cost,]¹ if the project is located in
12 any municipality with a population less than 200,000 according to
13 the latest federal decennial census, or is a disaster recovery project²,
14 or having a total project cost of \$5,000,000 if the project is in a
15 Garden State Growth Zone².
16 “Qualifying economic redevelopment and growth grant incentive
17 area” or “incentive area” means:
18 a. ²an aviation district;
19 b. a port district;
20 c. a distressed municipality; or
21 d.² an area (1) designated pursuant to the “State Planning Act,”
22 P.L.1985, c.398 (C.52:18A-196 et seq.), as:
23 (a) Planning Area 1 (Metropolitan) ³[,]³;
24 (b) Planning Area 2 (Suburban) ³[,]³ ;³ [or a center as designated
25 by the State Planning Commission; an area zoned for development
26 pursuant to] ³or³
27 (c) Planning Area 3 (Fringe Planning Area) ³[, ²or²
28 (d)]³ ²[a designated center under the State Development and
29 Redevelopment Plan, or
30 (e) a designated growth center in an endorsed plan until June 30,
31 2013, or until the State Planning Commission revises and readopts
32 New Jersey’s State Strategic Plan and adopts regulations to revise
33 this definition as it pertains to Statewide planning areas, whichever
34 is later;] ³[Planning Area 4A (Rural Planning Area)]³;²
35 (2) located within a smart growth area and planning area
36 designated in a master plan adopted by the New Jersey
37 Meadowlands Commission pursuant to subsection (i) of section 6 of
38 P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan
39 adopted by the New Jersey Meadowlands Commission pursuant to
40 section 20 of P.L.1968, c.404 (C.13:17-21);
41 (3) located within any land owned by the New Jersey Sports and
42 Exposition Authority, established pursuant to P.L.1971, c.137
43 (C.5:10-1 et seq.), within the boundaries of the Hackensack
44 Meadowlands District as delineated in section 4 of P.L.1968, c.404
45 (C.13:17-4);

1 (4) located within a [pinelands] regional growth area, a
2 [pinelands] town ²[management area]², [a pinelands village,]
3 ²village,² or a military and federal installation area [established
4 pursuant to] designated in the [pinelands] comprehensive
5 management plan prepared and adopted by the Pinelands
6 Commission pursuant to the "Pinelands Protection Act," P.L.1979,
7 c.111 (C.13:18A-1 et seq.); [a transit village, as determined by the
8 Commissioner of Transportation; and federally owned] ²[or]²
9 (5) located within ²the planning area of the Highlands Region as
10 defined in section 3 of P.L.2004, c.120 (C.13:20-3) or in a
11 highlands development credit receiving area or redevelopment area;
12 (6) located within a Garden State Growth Zone;
13 (7) located within² land approved for closure under any federal
14 Base Closure and Realignment Commission action; ²[but excluding
15 b. an area designated in the 2008 Highlands Regional Master
16 Plan, adopted pursuant to the "Highlands Water Protection and
17 Planning Act," P.L.2004, c.120 (C.13:20-1 et al.), unless located
18 within:
19 (1) (a) the Existing Community Zone, or
20 (b) a Highlands center, designated by the Highlands Water
21 Protection and Planning Council, established pursuant to section 4
22 of P.L.2004, c.120 (C.13:20-4); which area is not located within:
23 (2) (a) the Protection Zone,
24 (b) the Conservation Zone, or
25 (c) an Environmentally Constrained Sub-Zone] or
26 (8) located only within the following portions of the areas
27 designated pursuant to the "State Planning Act," P.L.1985, c.398
28 (C.52:18A-196 et al.), as ³Planning Area 4A (Rural Planning
29 Area),³ Planning Area 4B (Rural/Environmentally Sensitive) or
30 Planning Area 5 (Environmentally Sensitive) if ³Planning Area 4A
31 (Rural Planning Area),³ Planning Area 4B (Rural/Environmentally
32 Sensitive) or Planning Area 5 (Environmentally Sensitive) is
33 located within:
34 (a) a designated center under the State Development and
35 Redevelopment Plan;
36 (b) a designated growth center in an endorsed plan until the State
37 Planning Commission revises and readopts New Jersey's State
38 Strategic Plan and adopts regulations to revise this definition as it
39 pertains to Statewide planning areas;
40 (c) any area determined to be in need of redevelopment pursuant
41 to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-
42 6) or in need of rehabilitation pursuant to section 14 of P.L.1992,
43 c.79 (C.40A:12A-14);
44 (d) any area on which a structure exists or previously existed
45 including any desired expansion of the footprint of the existing or
46 previously existing structure provided such expansion otherwise

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

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

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

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

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

25 "Redevelopment project" means a specific **work**
26 ²**investment** construction project² or improvement, including
27 lands, buildings, improvements, real and personal property or any
28 interest therein, including lands under water, riparian rights, space
29 rights and air rights, acquired, owned, leased, developed or
30 redeveloped, constructed, reconstructed, rehabilitated or improved,
31 undertaken by a developer, owner or tenant, or both, within a
32 project area and any ancillary infrastructure project **associated**
33 **therewith** including infrastructure improvements in the public right
34 of way, as set forth in an application to be made to the authority.
35 The use of the term "redevelopment project" in sections 3 through
36 18 of P.L.2009, c.90 (C.52:27D-489c et al.) shall not be limited to
37 only redevelopment projects located in areas determined to be in
38 need of redevelopment pursuant to sections 5 and 6 of P.L.1992,
39 c.79 (C.40A:12A-5 and 40A:12A-6) but shall also include any work
40 or undertaking in accordance with the "Redevelopment Area Bond
41 Financing Law," sections 1 through 10 of P.L.2001, c.310
42 (C.40A:12A-64 et seq.) or other applicable law, pursuant to a
43 redevelopment plan adopted by a State entity, or as described in the
44 resolution adopted by a public entity created by State law with the
45 power to adopt a redevelopment plan or otherwise determine the
46 location, type and character of a redevelopment project or part of a
47 redevelopment project on land owned or controlled by it or within

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

7 "Redevelopment utility" means a self-liquidating fund created by
 8 a municipality pursuant to section 12 of P.L.2009, c.90 (C.52:27D-
 9 489l) to account for revenues collected and incentive grants paid
 10 pursuant to section 11 of P.L.2009, c.90 (C.52:27D-489k), or other
 11 revenues dedicated to a redevelopment project.

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

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

20 "SDA municipality" means a municipality in which an SDA
 21 district is situate.

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

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

34 "Transit project" means a redevelopment project located within a
 35 1/2-mile radius ², or one-mile radius for projects located in a Garden
 36 State Growth Zone, ² surrounding the mid-point of a New Jersey
 37 Transit Corporation, Port Authority Transit Corporation, or Port
 38 Authority Trans-Hudson Corporation rail, bus, or ferry station
 39 platform area, including all light rail stations.

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

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

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

5 "Vacant commercial building" means any commercial building
 6 or complex of commercial buildings having over 400,000 square
 7 feet of office, laboratory, or industrial space that is more than 70
 8 percent unoccupied at the time of application to the authority or is
 9 negatively impacted by the approval of a "qualified business
 10 facility," as defined pursuant to section 2 of P.L.2007, c.346
 11 (C.34:1B-208) ², or any vacant commercial building in a Garden
 12 State Growth Zone having over 35,000 square feet of office,
 13 laboratory, or industrial space, or over 200,000 square feet of
 14 office, laboratory, or industrial space in Atlantic, Burlington,
 15 Camden, Cape May, Cumberland, Gloucester, Ocean, or Salem
 16 counties available for occupancy for a period of over one year² .

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

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

24

25 ¹15. Section 4 of P.L.2009, c.90 (C.52:27D-489d) is amended to
 26 read as follows:

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

36 b. A developer shall submit an application for a local incentive
 37 grant prior to July 1, ²~~2018~~ 2019². A developer that submits an
 38 application for a local incentive grant shall indicate on the
 39 application whether it is also applying for a State incentive grant.
 40 An application by a developer applying for a local incentive grant
 41 only shall not require approval by the authority. A municipal
 42 redeveloper may only apply for local incentive grants for the
 43 construction of: (1) infrastructure improvements in the public right-
 44 of-way, or (2) publicly owned facilities.

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

1 Finance Board shall not approve a local incentive grant unless the
2 application was submitted prior to July 1, ²~~2018~~ 2019².

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

6 (1) the economic feasibility of the redevelopment project;

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

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

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

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

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

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

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

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

27

28 ¹~~15.~~ 16.¹ Section 5 of P.L.2009, c.90 (C.52:27D-489e) is
29 amended to read as follows:

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

38 b. (1) A developer shall submit an application for a State
39 incentive grant prior to July 1, ²~~2018~~ 2019². A developer that
40 submits an application for a State incentive grant shall indicate on
41 the application whether it is also applying for a local incentive
42 grant.

43 (2) When an applicant indicates it is also applying for a local
44 incentive grant, the authority shall forward a copy of the application
45 to the municipality wherein the redevelopment project is to be
46 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] 2019².¹ (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, ²except for those tariffs, fees, or taxes² 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

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

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

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

34 (a) \$250,000,000 shall be restricted to qualified residential
35 projects within Atlantic, Burlington, Camden, Cape May,
36 Cumberland, Gloucester, Ocean, and Salem counties, of which
37 \$175,000,000 of credits shall be restricted to qualified residential
38 projects in a Garden State Growth Zone located within the
39 aforementioned counties, and \$75,000,000 of credits shall be
40 restricted to qualified residential projects in municipalities with a
41 2007 Municipal Revitalization Index of 400 or higher as of the date
42 of enactment of the "New Jersey Economic Opportunity Act of
43 2013," P.L. , c. (C.) (pending before the Legislature as this
44 bill) and located within the aforementioned counties;

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

1 this paragraph². ²["\$200,000,000"] (ii) a Garden State Growth Zone
 2 not located in a county mentioned in subparagraph (a) of this
 3 paragraph, ³["or"]³ (iii) disaster recovery projects that otherwise do
 4 not qualify under subparagraph (a) of this paragraph ³, or (iv) SDA
 5 municipalities located in Hudson County that were awarded State
 6 Aid in State Fiscal Year 2013 through the Transitional Aid to
 7 Localities program and otherwise do not qualify under
 8 subparagraph (a) of this paragraph³:

9 (c) \$75,000,000² shall be restricted to qualified residential
 10 projects in distressed municipalities ²["or"],² deep poverty pockets ²,
 11 highlands development credit receiving areas or redevelopment
 12 areas, otherwise not qualifying pursuant to subparagraphs (a) or (b)
 13 of this paragraph²; ²["\$100,000,000"] and

14 (d) \$25,000,000² shall be restricted to qualified residential
 15 projects that are ²["disaster recovery projects; and the remaining
 16 \$50,000,000 shall be used for qualified residential projects in any
 17 municipality falling"] located² within a qualifying economic
 18 redevelopment and growth grant incentive area ²otherwise not
 19 qualifying under subparagraphs (a), (b), or (c) of this paragraph².

20 ²["Not"] (e) For subparagraphs (a) through (d) of this paragraph,
 21 not² more than \$40,000,000 of credits shall be awarded to any
 22 qualified residential project in a deep poverty pocket or distressed
 23 municipality and not more than \$20,000,000 of credits shall be
 24 awarded to any other qualified residential project. The developer of
 25 a qualified residential project seeking an award of credits towards
 26 the funding of its incentive grant shall submit an incentive grant
 27 application prior to July 1, 2015 and if approved shall submit a
 28 temporary certificate of occupancy for such project no later than
 29 July 28, 2015. ²Applications for tax credits pursuant to this
 30 subsection relating to an ancillary infrastructure project or
 31 infrastructure improvement in the public right of way, or both, shall
 32 be accompanied with a letter of support relating to the project or
 33 improvement by the governing body or agency in which the project
 34 is located.² Credits awarded to a developer pursuant to this
 35 subsection shall be subject to the same financial and related analysis
 36 by the authority and shall be utilized or transferred by the developer
 37 as if such credits had been awarded to the developer pursuant to
 38 section 35 of P.L.2009, c.90 (C.34:1B-209.3) for qualified
 39 residential projects thereunder. No portion of the revenues pledged
 40 pursuant to the "New Jersey Economic Opportunity Act of 2013,"
 41 P.L. , c. (C.) (pending before the Legislature as this bill) shall
 42 be subject to withholding or retainage for adjustment, in the event
 43 the developer or taxpayer waives its rights to claim a refund thereof.

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

1 developer is awarded a tax credit pursuant to paragraph (2) of this
2 subsection, covering one or more years, in lieu of the developer
3 being allowed any amount of the credit against the tax liability of
4 the developer. The tax credit transfer certificate, upon receipt
5 thereof by the developer from the director and the chief executive
6 officer of the authority, may be sold or assigned, in full or in part,
7 to any other person that may have a tax liability pursuant to section
8 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945,
9 c.132 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231
10 (C.17:32-15), or N.J.S.17B:23-5. The certificate provided to the
11 developer shall include a statement waiving the developer's right to
12 claim that amount of the credit against the taxes that the developer
13 has elected to sell or assign. The sale or assignment of any amount
14 of a tax credit transfer certificate allowed under this paragraph shall
15 not be exchanged for consideration received by the developer of
16 less than 75 percent of the transferred credit amount. Any amount
17 of a tax credit transfer certificate used by a purchaser or assignee
18 against a tax liability shall be subject to the same limitations and
19 conditions that apply to the use of the credit by the developer who
20 originally applied for and was allowed the credit.²

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

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

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

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

35
36 ¹**17.18.**¹ Section 8 of P.L.2009, c.90 (C.52:27D-489h) is
37 amended to read as follows:

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

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

46 (b) Through regulation, the **【Economic Development Authority】**
47 authority shall establish standards for redevelopment projects

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

7 ⁴[(c) Through regulation, the authority shall require that each
8 worker employed in the performance of any construction contract
9 for work at a redevelopment project shall be paid not less than the
10 prevailing wage rate, consistent with the requirements of section 1
11 of P.L.1979, c.303 (C.34:1B-5.1) ², provided that for a State
12 incentive grant solely for infrastructure improvements in the public
13 right of way or any ancillary infrastructure project, regardless of
14 whether the work or improvements are part of a larger
15 redevelopment project, the requirements of this subparagraph shall
16 only apply to the work relating to the infrastructure improvements
17 in the public right of way or the ancillary infrastructure project for
18 which the incentive grant is issued².

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

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

- 29 (1) the status of control of the entire redevelopment project site;
- 30 (2) all required State and federal government permits that have
31 been issued for the redevelopment project, or will be issued pending
32 resolution of financing issues;
- 33 (3) local planning and zoning board approvals, as required, for
34 the redevelopment project;
- 35 (4) estimates of the revenue increment base, the eligible revenues
36 for the project, and the assumptions upon which those estimates are
37 made.

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

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

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

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

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

26 (5) A developer who has already applied for an incentive grant
 27 award prior to the effective date of the “New Jersey Economic
 28 Opportunity Act of 2013,” P.L. , c. (C.) (pending before
 29 the Legislature as this bill) ²**【may not】**, but who has not yet been
 30 approved for such grant, or has not executed an agreement with the
 31 authority, may proceed under that application or² seek to amend
 32 such application or reapply for an incentive grant award for the
 33 same project or any part thereof for the purpose of availing itself of
 34 any more favorable provisions of the Economic Redevelopment and
 35 Growth Grant program established pursuant to the “New Jersey
 36 Economic Opportunity Act of 2013,” P.L. , c. (C.) (pending
 37 before the Legislature as this bill) ², except that projects with costs
 38 exceeding \$200,000,000 shall not be eligible for revised percentage
 39 caps under subsection d. of section 19 of P.L. , c. (C.)
 40 (pending before the Legislature as this bill)².

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

42
 43 ¹**【18.】 19.¹** Section 9 of P.L.2009, c.90 (C.52:27D-489i) is
 44 amended to read as follows:

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

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

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

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

11 d. (1) The redevelopment incentive grant agreement shall
12 specify ~~the maximum amount of project costs~~, the amount of the
13 incentive grant to be awarded the developer, the frequency of
14 payments, and the **【length of time, which shall not exceed 20 years,**
15 during which that reimbursement shall be granted】 ~~eligibility~~
16 period², which shall not exceed 20 years, during which
17 reimbursement will be granted, and for a project receiving an
18 incentive grant in excess of \$50 million, the amount of the
19 negotiated repayment amount to the State, which may include, but
20 not be limited to, cash, equity, and warrants². Except for
21 redevelopment incentive grant agreements with a municipal
22 redeveloper ~~or with the developer of a redevelopment project solely~~
23 with respect to the cost of infrastructure improvements in the public
24 right-of-way including any ancillary infrastructure project in the
25 public right-of-way, in no event shall the ~~base amount of the~~
26 combined **【amount of the】** reimbursements under redevelopment
27 incentive grant agreements with the State or municipality exceed 20
28 percent of the total ~~project cost~~ **【of the project】** ², except in a
29 Garden State Growth Zone, which shall not exceed 30 percent² .
30 **【For the purposes of calculating the total cost of all projects, the**
31 **cost of infrastructure improvements in the public right-of-way and**
32 **publicly owned facilities shall not be included. The amount of the**
33 **redevelopment incentive grant for a municipal redeveloper may**
34 **include the total cost of such infrastructure improvements and**
35 **publicly owned facilities.】**

36 (2) The authority shall be permitted to increase the amount of the
37 reimbursement under the redevelopment incentive grant agreement
38 with the State by up to ²**【five】 10²** percent of the total project cost
39 if the project is:

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

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

- 1 Chief Executive Officer of the authority and will include a health
2 care and health services center with a minimum of 10,000 square
3 feet of space devoted to the provision of health care and health
4 services;
- 5 (c) located in a distressed municipality which has a business
6 located therein that is required to respond to a request for proposal
7 to fulfill a contract with the federal government as set forth in
8 subsection d. of section 3 of P.L.2011, c.149 (C.34:1B-244);
- 9 (d) a transit project; ²[or]²
- 10 (e) a qualified residential project in which at least 10 percent of
11 the residential units are constructed as and reserved for moderate
12 income housing ²;
- 13 (f) located in a highlands development credit receiving area or
14 redevelopment area;
- 15 (g) located in a Garden State Growth Zone;
- 16 (h) a disaster recovery project;
- 17 (i) an aviation project;
- 18 (j) a tourism destination project; or
- 19 (k) substantial rehabilitation or renovation of an existing
20 structure or structures² .
- 21 (3) ²[If there remains a project financing gap after the maximum
22 combined amounts provided in paragraph (2) of this subsection are
23 considered, then the authority shall be permitted to make a bonus
24 award increasing the amount of the reimbursement under the
25 redevelopment incentive grant agreement with the State by up to 10
26 percent of the total project cost. In making a bonus award to a
27 developer, the authority shall consider any factors that are found to
28 contribute to the remaining project financing gap, such as whether
29 the project;
- 30 (a) is located in a distressed municipality and there exists a
31 financial gap between the fair market commercial rental rates in the
32 relevant marketplace and the commercial rental rates that are
33 necessary to make the redevelopment project economically feasible;
- 34 (b) is located on an environmentally contaminated site requiring
35 remediation;
- 36 (c) is a qualified residential project in which at least ten percent
37 of the residential units are constructed as and reserved for low
38 income housing;
- 39 (d) would include energy efficiency or renewable energy
40 features, measures or upgrades in excess of the green building
41 requirements of the Economic Redevelopment and Growth Grant
42 program which requirements shall be as set forth in the New Jersey
43 Green Building Manual prepared by the Department of Community
44 Affairs;
- 45 (e) is a qualified incubator facility; or
- 46 (f) is a disaster recovery project having unique added costs of
47 construction associated therewith.

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

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

26 f. In deciding whether or not to recommend entering into a
 27 redevelopment incentive grant agreement and in negotiating a
 28 redevelopment agreement with a developer, the Chief Executive
 29 Officer of the **【New Jersey Economic Development Authority】**
 30 authority shall consider the following factors:

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

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

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

1 be considered new tax revenue even if the same or more tax revenue
2 was generated at or on the site prior to the disaster;
3 (5) the relationship of the redevelopment project to a
4 comprehensive local development strategy, including other major
5 projects undertaken within the municipality;
6 (6) the need of the redevelopment incentive grant agreement to
7 the viability of the redevelopment project or the promotion of the
8 use of public transportation; and
9 (7) the degree to which the redevelopment project enhances and
10 promotes job creation and economic development or the promotion
11 of the use of public transportation.
12 g. (1) A developer that has entered into a redevelopment
13 incentive grant agreement with the authority and the State Treasurer
14 pursuant to this section may, upon notice to and consent of the
15 authority and the State Treasurer, pledge **[and]**, assign **[as security**
16 **or support for any loan or bond]**, transfer, or sell any or all of its
17 right, title and interest in and to such agreements and in the
18 incentive grants payable thereunder, and the right to receive same,
19 along with the rights and remedies provided to the developer under
20 such agreement. Any such assignment shall be an absolute
21 assignment for all purposes, including the federal bankruptcy code.
22 (2) Any pledge of incentive grants made by the developer shall
23 be valid and binding from the time when the pledge is made and
24 filed in the records of the authority. The incentive grants so
25 pledged and thereafter received by the developer shall immediately
26 be subject to the lien of the pledge without any physical delivery
27 thereof or further act, and the lien of any pledge shall be valid and
28 binding as against all parties having claims of any kind in tort,
29 contract, or otherwise against the developer irrespective of whether
30 the parties have notice thereof. Neither the redevelopment
31 incentive grant agreement nor any other instrument by which a
32 pledge under this section is created need be filed or recorded except
33 with the authority.
34 (cf: P.L.2010, c.10, s.9)
35
36 ¹**[19.] 20.**¹ Section 11 of P.L.2009, c.90 (C.52:27D-489k) is
37 amended to read as follows:
38 11. a. The governing body of a municipality is authorized to
39 enter into a redevelopment incentive grant agreement with a
40 developer, which shall not be effective until adopted by ordinance,
41 for any redevelopment project located within a qualifying economic
42 redevelopment and growth grant incentive area.
43 b. The redevelopment incentive grant agreement shall specify
44 the maximum amount of project costs, the amount of the incentive
45 grant to be awarded the developer, the frequency of payments, and
46 the **[length of time, which shall not exceed 20 years, during which**
47 **that reimbursement shall be granted]** eligibility period. The

1 maximum amount of any municipal redevelopment incentive grant
2 shall be equal to:
3 (1) 100 percent of the project costs in the case of a municipal
4 redeveloper, or
5 (2) for all other developers, ²[the sum of 75 percent of the costs
6 of environmental remediation, 100 percent of the costs of
7 infrastructure improvements in the public right-of-way, including
8 any ancillary infrastructure project in the public right-of-way, and
9 20 percent of the amount determined by subtracting the costs of
10 infrastructure improvements in the public right-of-way including
11 any ancillary infrastructure project in the public right-of-way from
12 the total project costs] the maximum amount of any redevelopment
13 incentive grant agreement shall be 30 percent of the total project
14 costs, or 40 percent if located in a Garden State Growth Zone² .
15 ²[Except for redevelopment incentive grants with a municipal
16 redeveloper or with the developer of a redevelopment project solely
17 with respect to the cost of infrastructure improvements in the public
18 right-of-way including any ancillary infrastructure project in the
19 public right-of-way, in no event shall the combined amount of the
20 reimbursements under redevelopment incentive grant agreements
21 with the State or municipality exceed 20 percent of the total project
22 cost [of the project] plus any increase or bonus award of the State
23 portion of such combined amount as set forth in subsection d. of
24 section 9 of P.L.2009, c.90 (C.52:27D-489i).]² [For the purposes
25 of calculating the total cost of all projects, the cost of publicly
26 owned facilities shall not be included. The amount of the
27 redevelopment incentive grant for a municipal redeveloper may
28 include the total cost of such infrastructure improvements and
29 publicly owned facilities.]
30 c. [The] Except in the case of a qualified residential project,
31 the municipality may enter into a redevelopment incentive grant
32 agreement only if the chief financial officer of the municipality
33 makes a finding that the incremental revenues to be realized from
34 the redevelopment project will be in excess of the amount necessary
35 to reimburse the developer for its project financing gap. Such
36 finding shall be based upon appropriate documentation and
37 calculations supporting the decision.
38 d. Within a qualifying economic redevelopment and growth
39 grant incentive area a municipality that has entered into a local
40 redevelopment incentive grant agreement may pledge eligible
41 revenues it is authorized to collect as follows:
42 (1) incremental payments in lieu of taxes, with respect to
43 property located in the district, made pursuant to the "Five-Year
44 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et
45 seq.), or the "Long Term Tax Exemption Law," P.L.1991, c.431
46 (C.40A:20-1 et al.);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ¹~~20.~~ 21.¹ (New section) On or before ²~~January~~ July² 1,
2 2018, the authority shall submit a written report to the Governor
3 and the Legislature providing a comprehensive review and analysis
4 of the Grow New Jersey Assistance Program, established pursuant
5 to P.L.2011, c.149 (C.34:1B-242 et seq.), the State Economic
6 Redevelopment and Growth Grant program, established pursuant to
7 section 5 of P.L.2009, c.90 (C.52:27D-489e), and other economic
8 incentive laws under the authority's jurisdiction ², with particular
9 emphasis on the recalibration of those programs and the creation of
10 Garden State Growth Zones, pursuant to of P.L. , c. (C.)
11 (pending before the Legislature as this bill), and the effectiveness of
12 those programs on economic development and private-sector job
13 retention and growth² . In order to ensure the independence and
14 objectivity of the report, the authority shall retain a premier, not-
15 for-profit, non-partisan entity to undertake the review and analysis
16 of the State economic incentive laws, which shall include a cost-
17 benefit analysis of each incentive program, an assessment of the
18 success of each program in meeting the goals of the program, and
19 any recommendations for improving the operation and effectiveness
20 of each program, including recommendations for legislation.

21
22 ⁴~~22.~~ (New section) As used in section 23 of P.L. ,
23 c. (C.) (pending before the Legislature as this bill):

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

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

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

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

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

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

12 "Repurposing of a qualified health care facility" means the
13 renovation and redevelopment of a qualified health care facility as a
14 non-acute health care and health support services center.²⁴

15
16 ⁴²23. (New section) a. (1) A developer, upon application to and
17 approval from the authority, shall be allowed a credit of 75 percent,
18 or by determination of the authority of up to 100 percent, of its
19 capital investment, made after the effective date of P.L. , c. (C.)
20 (pending before the Legislature as this bill) but prior to its
21 submission of documentation pursuant to subsection b. of this
22 section, for the repurposing of a qualified health care facility. The
23 non-acute health care and health support services components of the
24 repurposed facility shall comprise no less than 50 percent of the net
25 leasable space of the repurposed facility, provided however that the
26 50 percent requirement may be waived by the authority if the
27 requirement is not economically feasible or if the inclusion of
28 additional non-health care and non-health support services elements
29 would improve the utilization and development of the health care
30 and health support services components. To be eligible for any tax
31 credits authorized under this section, a developer shall demonstrate
32 to the authority, at the time of application, that the State's financial
33 support of the proposed capital investment in a qualified health care
34 facility will not destabilize the supply and delivery of acute care
35 health services in its market, will yield a net positive benefit to the
36 State and local government, and, through a project pro forma
37 analysis at the time of application, that the repurposing of the
38 qualified health care facility is likely to be realized with the
39 provision of tax credits at the level requested but is not likely to be
40 accomplished by private enterprise without the tax credits.

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

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

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

12 b. A developer shall apply for the credit and submit its
13 documentation for approval of its credit amount prior to July 1,
14 2019. The authority shall not approve an application for tax credits
15 unless the application was submitted to the authority prior to July 1,
16 2019.

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

30 (2) The amount of credit allowed may be applied against the
31 corporation business tax liability otherwise due pursuant to section
32 5 of P.L.1945, c.162 (C.54:10A-5) or the tax liability otherwise due
33 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
34 et seq.

35 (3) A business entity that is classified as a partnership for
36 federal income tax purposes shall not be allowed a credit directly,
37 but the amount of credit of a taxpayer in respect of a distributive
38 share of partnership income, shall be determined by allocating to
39 the taxpayer that proportion of the credit acquired by the
40 partnership that is equal to the taxpayer's share, whether or not
41 distributed, of the total distributive income or gain of the
42 partnership for its taxable year ending within or with the taxpayer's
43 taxable year.

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

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

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

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

27

28 ⁴[²24.] 22.⁴ (New section) The Legislature finds and declares
 29 that:

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

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

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

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

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

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

5
6 ⁴~~25~~.⁴ 23.⁴ (New section) As used in section ⁴~~26~~ ⁴24⁴ of
7 P.L. , c. (C.) (pending before the Legislature as this bill):

8 “Director” means the Direction of the Division of Taxation.

9 “Division of Codes and Standards” means the Division of Codes
10 and Standards located in the Department of Community Affairs.

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

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

24 “Exemption” means that portion of the assessor’s full and true
25 value of any improvement, conversion, alteration, redevelopment,
26 rehabilitation, or construction not regarded as increasing the taxable
27 value of a property pursuant to P.L. , c. (C.) (pending
28 before the Legislature as this bill) for the purposes of encouraging
29 the construction, conversion, improvement, and redevelopment of
30 real property conducted by eligible businesses or residents within a
31 growth zone pursuant to P.L. , c. (C.) (pending before the
32 Legislature as this bill).

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

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

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

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

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

22
23 ⁴^[26.] 24.⁴ (New section) a. A Garden State Growth Zone
24 Development Entity is authorized to undertake clearance, re-
25 planning, development, or redevelopment of property within a
26 Garden State Growth Zone.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7

8 ⁴**[²27.] 25.**⁴ Section 6 of P.L.2010, c.57 (C.34:1B-209.4) is
9 amended to read as follows:

10 6. a. (1) A business, upon application to and approval from the
11 authority, shall be allowed a credit of 100 percent of its capital
12 investment, made after the effective date of P.L.2010, c.57 (C.48:3-
13 87.1 et al.) but prior to its submission of documentation pursuant to
14 subsection c. of this section, in a qualified wind energy facility
15 located within an eligible wind energy zone, pursuant to the
16 restrictions and requirements of this section. To be eligible for any
17 tax credits authorized under this section, a business shall
18 demonstrate to the authority, at the time of application, that the
19 State's financial support of the proposed capital investment in a
20 qualified wind energy facility will yield a net positive benefit to the
21 State. The value of all credits approved by the authority pursuant to
22 this section may be up to \$100,000,000, except as may be increased
23 by the authority **[**as set forth below; provided, however, that the
24 combined value of all credits approved by the authority pursuant to
25 P.L.2007, c.346 (C.34:1B-207 et seq.), P.L.2009, c.90 (C.52:27D-
26 489a et al.), and P.L.2010, c.57 (C.48:3-87.1 et al.) shall not exceed
27 \$1,750,000,000. The authority shall monitor application and
28 allocation activity under P.L.2007, c.346 after taking into account
29 the allocation under P.L.2007, c.346 and if sufficient credits are
30 available to those qualified business facilities for which
31 applications have been filed or for which applications are
32 reasonably anticipated, and**]** if the chief executive officer judges
33 certain qualified offshore wind projects to be meritorious **[**, the
34 aforementioned cap may, in the discretion of the chief executive
35 officer, be exceeded for allocation to qualified wind energy
36 facilities in such amounts as the chief executive officer deems
37 reasonable, justified and appropriate**]**. Credits provided pursuant to
38 this section shall not be applicable to the cap on the credits
39 provided in section 3 of P.L.2007, c.346 (C.34:1B-209).

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

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

3 (b) A business that is a tenant in the qualified wind energy
4 facility, the owner of which has made or acquired capital
5 investments in the facility totaling more than \$50,000,000, shall
6 occupy a leased area of the qualified wind energy facility that
7 represents at least \$17,500,000 of the capital investment in the
8 qualified wind energy facility at which at least 300 new, full-time
9 employees in the aggregate are employed, to be eligible for a credit
10 under this section. The amount of capital investment in a facility
11 that a leased area represents shall be equal to that percentage of the
12 owner's total capital investment in the facility that the percentage of
13 net leasable area leased by the tenant is of the total net leasable area
14 of the qualified business facility. Capital investments made by a
15 tenant shall be deemed to be included in the calculation of the
16 capital investment made or acquired by the owner, but only to the
17 extent necessary to meet the owner's minimum capital investment of
18 \$50,000,000. Capital investments made by a tenant and not
19 allocated to meet the owner's minimum capital investment threshold
20 of \$50,000,000 shall be added to the amount of capital investment
21 represented by the tenant's leased area in the qualified wind energy
22 facility.

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

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

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

- 1 (4) Full-time employment for an accounting or privilege period
2 shall be determined as the average of the monthly full-time
3 employment for the period.
- 4 b. A business shall apply for the credit **【within five years after**
5 the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.)**】** by
6 August 1, 2016, and a business shall submit its documentation for
7 approval of its credit amount **【within eight years after the effective**
8 date of P.L.2007, c.346**】** by August 1, 2019.
- 9 c. The credit allowed pursuant to this section shall be
10 administered in accordance with the provisions of subsection c. of
11 section 3 of P.L.2007, c.346 (C.34:1B-209) and section 33 of
12 P.L.2009, c.90 (C.34:1B-209.1), except that all references therein to
13 "qualified business facility" shall be deemed to refer to "qualified
14 wind energy facility," as that term is defined in subsection f. of this
15 section.
- 16 d. The amount of the credit allowed pursuant to this section
17 shall, except as otherwise provided, be equal to the capital
18 investment made by the business, or the capital investment
19 represented by the business' leased area, and shall be taken over a
20 10-year period, at the rate of one-tenth of the total amount of the
21 business' credit for each tax accounting or privilege period of the
22 business, beginning with the tax period in which the business is first
23 approved by the authority as having met the investment capital and
24 employment qualifications, subject to any disqualification as
25 determined by annual review by the authority. In conducting its
26 annual review, the authority may require a business to submit any
27 information determined by the authority to be necessary and
28 relevant to its review. The credit amount for any tax period ending
29 after the date eight years after the effective date of P.L.2007, c.346
30 (C.34:1B-207 et seq.) during which the documentation of a
31 business' credit amount remains unapproved shall be forfeited,
32 although credit amounts for the remainder of the years of the 10-
33 year credit period shall remain available. The amount of the credit
34 allowed for a tax period to a business that is a tenant in a qualified
35 wind energy facility shall not exceed the business' total lease
36 payments for occupancy of the qualified wind energy facility for the
37 tax period.
- 38 e. The authority shall adopt rules in accordance with the
39 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
40 seq.) as are necessary to implement this section, including but not
41 limited to: examples of and the determination of capital investment;
42 nature of businesses and employment positions constituting and
43 participating in an equipment supply coordination agreement;
44 determination of the types of businesses that may be eligible and
45 expenses that may constitute capital improvements; promulgation of
46 procedures and forms necessary to apply for a credit; and provisions

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

3 The rules established by the authority pursuant to this subsection
4 shall be effective immediately upon filing with the Office of
5 Administrative Law and shall be effective for a period not to exceed
6 12 months and may, thereafter, be amended, adopted or readopted
7 in accordance with the provisions of the "Administrative Procedure
8 Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

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

15 In addition, as used in this section:

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

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

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

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

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

37

38 ⁴[²28.] 26.⁴ Section 43 of P.L.2009, c.90 (C.18A:64-85) is
39 amended to read as follows:

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

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

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

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

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

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

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

26 d. (1) All construction projects under a public-private partnership
27 agreement entered into pursuant to this section shall contain a
28 project labor agreement. The project labor agreement shall be
29 subject to the provisions of P.L.2002, c.44 (C.52:38-1 et seq.), and
30 shall be in a manner that to the greatest extent possible enhances
31 employment opportunities for individuals residing in the county of
32 the project's location. Further, the general contractor, construction
33 manager, design-build team, or subcontractor for a construction
34 project proposed in accordance with this paragraph shall be
35 registered pursuant to the provisions of P.L.1999, c.238 (C.34:11-
36 56.48 et seq.), and shall be classified by the Division of Property
37 Management and Construction to perform work on a public-private
38 partnership higher education project. All construction projects
39 proposed in accordance with this paragraph shall be submitted to
40 the New Jersey Economic Development Authority for its review
41 and approval and, when practicable, are encouraged to adhere to the
42 Leadership in Energy and Environmental Design Green Building
43 Rating System as adopted by the United States Green Building
44 Council.

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

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

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

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

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

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

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

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

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

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

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

22

23 ³[²29. (New section) Projects approved under P.L. ,
 24 c. (C.) (pending before the Legislature as this bill) and
 25 projects approved under other legislatively established incentives
 26 programs managed by the authority now or in the past, shall
 27 specifically be exempted from Executive Order No. 215 signed on
 28 September 11, 1989.²]³

29

30 ³[²30.]⁴[^{29.}³] 27.⁴ (New section) The provisions of this act
 31 shall be severable, and if any of its provisions shall be held to be
 32 unconstitutional, the decision of the court shall not affect the
 33 validity of the remaining provisions of P.L. , c. (C.)
 34 (pending before the Legislature as this bill).²

35

36 ¹[21.] ²[^{22.}¹] ³[^{31.}²] ⁴[^{30.}³] 28.⁴ This act shall take effect
 37 immediately.