

SENATE, No. 2583

STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED FEBRUARY 21, 2013

Sponsored by:

Senator RAYMOND J. LESNIAK

District 20 (Union)

Senator JOSEPH M. KYRILLOS, JR.

District 13 (Monmouth)

Co-Sponsored by:

Senator Oroho

SYNOPSIS

Provides incentives for certain economic development projects and affordable housing.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/12/2013)

1 AN ACT concerning incentives for certain economic development
2 projects and affordable housing, amending various parts of the
3 statutory law, and supplementing Title 55 of the Revised
4 Statutes.

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

8
9 1. (New section) Sections 1 through 21 of this act shall be
10 known and may be cited as the “New Jersey Economic Opportunity
11 Act of 2013.”

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

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

35 b. (1) To the extent that an application under P.L.1996, c.25
36 (C.34:1B-112 et seq.) has been received by the authority prior to the
37 effective date of the “New Jersey Economic Opportunity Act of
38 2013,” sections 1 through 21 of P.L. , c. (C.) (pending
39 before the Legislature as this bill), and, to the extent that there
40 remains sufficient financial authorization for the grant of tax
41 credits, the authority is authorized to consider such application in
42 the same manner as had previously been provided and to make a
43 grant of tax credits to eligible applicants, provided that the authority
44 shall take final action on such grant of tax credits no later than 180
45 calendar days after the effective date of the “New Jersey Economic

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

Matter underlined thus is new matter.

1 Opportunity Act of 2013,” sections 1 through 21 of P.L. ,
2 c. (C.) (pending before the Legislature as this bill).

3 (2) A business shall apply for a grant of tax credits under the
4 Business Retention and Relocation Assistance Grant Program prior
5 to the effective date of the “New Jersey Economic Opportunity Act
6 of 2013,” sections 1 through 21 of P.L. , c. (C.) (pending
7 before the Legislature as this bill), and shall submit its
8 documentation for approval of a grant of tax credits no later than
9 July 1, 2013.

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

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

19

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

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

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

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

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

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

46 d. (1) To the extent that an application under P.L.1996, c.26
47 (C.34:1B-124 et seq.) has been received by the authority prior to the
48 effective date of the “New Jersey Economic Opportunity Act of

1 2013,” sections 1 through 21 of P.L. , c. (C.) (pending
2 before the Legislature as this bill), and, to the extent that there
3 remains sufficient financial authorization for the grant, the authority
4 is authorized to consider such application in the same manner as
5 had previously been provided and to make a grant to eligible
6 applicants, provided that the authority shall take final action on
7 such grant no later than 180 calendar days after the effective date of
8 the “New Jersey Economic Opportunity Act of 2013,” sections 1
9 through 21 of P.L. , c. (C.) (pending before the Legislature
10 as this bill).

11 (2) A business shall apply for a grant under the Business
12 Employment Incentive Program prior to the effective date of the
13 “New Jersey Economic Opportunity Act of 2013,” sections 1
14 through 21 of P.L. , c. (C.) (pending before the Legislature
15 as this bill), and shall submit its documentation for approval of a
16 grant no later than July 1, 2013.

17 (3) If any business has submitted an application under P.L.1996,
18 c.26 (C.34:1B-124 et seq.) and such application has not been
19 approved for any reason, such lack of approval shall not serve to
20 prejudice in any way the consideration of any new application as
21 may be submitted by a business for the provision of incentives
22 offered pursuant to the “New Jersey Economic Opportunity Act of
23 2013,” sections 1 through 21 of P.L. , c. (C.) (pending
24 before the Legislature as this bill).

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

26

27 4. Section 2 of P.L.2007, c.346 (C.34:1B-208) is amended to
28 read as follows:

29 2. As used in this act:

30 "Affiliate" means an entity that directly or indirectly controls, is
31 under common control with, or is controlled by the business.
32 Control exists in all cases in which the entity is a member of a
33 controlled group of corporations as defined pursuant to section 1563
34 of the Internal Revenue Code of 1986 (26 U.S.C.s.1563) or the
35 entity is an organization in a group of organizations under common
36 control as defined pursuant to subsection (b) or (c) of section 414 of
37 the Internal Revenue Code of 1986 (26 U.S.C.s.414). A taxpayer
38 may establish by clear and convincing evidence, as determined by
39 the Director of the Division of Taxation in the Department of the
40 Treasury, that control exists in situations involving lesser
41 percentages of ownership than required by those statutes. An
42 affiliate of a business may contribute to meeting either the qualified
43 investment or full-time employee requirements of a business that
44 applies for a credit under section 3 of P.L.2007, c.346 (C.34:1B-
45 209).

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

1 "Business" means a corporation that is subject to the tax imposed
2 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), a
3 corporation that is subject to the tax imposed pursuant to sections 2
4 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of
5 P.L.1950, c.231 (C.17:32-15) or N.J.S.17B:23-5, or is a partnership,
6 an S corporation, or a limited liability corporation. A business shall
7 include an affiliate of the business if that business applies for a
8 credit based upon any capital investment made by or full-time
9 employees of an affiliate.

10 "Capital investment" in a qualified business facility means
11 expenses incurred after, but before the end of the eighth year after,
12 the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.) for: a.
13 the site preparation and construction, repair, renovation,
14 improvement, equipping, or furnishing of a building, structure,
15 facility or improvement to real property; **[and]** or b. obtaining and
16 installing furnishings and machinery, apparatus or equipment for
17 the operation of a business on real property or in a building,
18 structure, facility or improvement to real property.

19 "Eligible municipality" means a municipality: (1) which qualifies
20 for State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.) or
21 which was continued to be a qualified municipality thereunder
22 pursuant to P.L.2007, c.111; and (2) in which 30 percent or more of
23 the value of real property was exempt from local property taxation
24 during tax year 2006. The percentage of exempt property shall be
25 calculated by dividing the total exempt value by the sum of the net
26 valuation which is taxable and that which is tax exempt.

27 "Full-time employee" means a person employed by the business
28 for consideration for at least 35 hours a week, or who renders any
29 other standard of service generally accepted by custom or practice
30 as full-time employment, or a person who is employed by a
31 professional employer organization pursuant to an employee leasing
32 agreement between the business and the professional employer
33 organization, in accordance with P.L.2001, c.260 (C.34:8-67 et
34 seq.) for at least 35 hours a week, or who renders any other standard
35 of service generally accepted by custom or practice as full-time
36 employment, and whose wages are subject to withholding as
37 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
38 et seq. or an employee who is a resident of another State but whose
39 income is not subject to the "New Jersey Gross Income Tax Act,"
40 N.J.S.54A:1-1 et seq. or who is a partner of a business who works
41 for the partnership for at least 35 hours a week, or who renders any
42 other standard of service generally accepted by custom or practice
43 as full-time employment, and whose distributive share of income,
44 gain, loss, or deduction, or whose guaranteed payments, or any
45 combination thereof, is subject to the payment of estimated taxes, as
46 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
47 et seq. "Full-time employee" shall not include any person who
48 works as an independent contractor or on a consulting basis for the

1 business. With respect to a maritime, manufacturing, or logistics
2 business located in a port district having a container terminal, full-
3 time employment shall include, but not be limited to, employees
4 that have been hired by way of a labor union hiring hall or its
5 equivalent. For the purposes of the foregoing sentence, 35 hours of
6 employment per week at a qualified business facility shall
7 constitute one "full-time employee," regardless of whether or not
8 the hours of work were performed by one or more persons.

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

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

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

16 "Qualified business facility" means any building, complex of
17 buildings or structural components of buildings, and all machinery
18 and equipment located within a designated urban transit hub in an
19 eligible municipality, used in connection with the operation of a
20 business.

21 "Qualified residential project" shall have the meaning ascribed to
22 that term under section 34 of P.L.2009, c.90 (C.34:1B-209.2).

23 "Residential unit" means a residential dwelling unit such as a
24 rental apartment, a condominium or cooperative unit, a hotel room,
25 or a dormitory room.

26 "Urban transit hub" means:

27 a. (1) property located within a 1/2-mile radius surrounding the
28 mid point of a New Jersey Transit Corporation, Port Authority
29 Transit Corporation or Port Authority Trans-Hudson Corporation
30 rail station platform area, including all light rail stations, and

31 (2) property located within a one-mile radius of the mid point of
32 the platform area of such a rail station if the property is in a
33 qualified municipality under the "Municipal Rehabilitation and
34 Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et seq.) or
35 in an area that is the subject of a Choice Neighborhoods
36 Transformation Plan funded by the federal Department of Housing
37 and Urban Development, and

38 (3) the site of the campus of an acute care medical facility
39 located within a one-mile radius of the mid point of the platform
40 area of such a rail station, and

41 (4) the site of a closed hospital located within a one-mile radius
42 of the mid point of the platform area of such a rail station;

43 b. property located within a 1/2-mile radius surrounding the
44 mid point of one of up to two underground light rail stations'
45 platform areas that are most proximate to an interstate rail station;

46 c. property adjacent to, or connected by rail spur to, a freight
47 rail line if the business utilizes that freight line at any rail spur
48 located adjacent to or within a one-mile radius surrounding the

1 entrance to the property for loading and unloading freight cars on
2 trains;

3 which property shall have been specifically delineated by the
4 authority pursuant to subsection e. of section 3 of P.L.2007, c.346
5 (C.34:1B-209).

6 A property which is partially included within the radius shall
7 only be considered part of the urban transit hub if over 50 percent
8 of its land area falls within the radius.

9 "Rail station" shall not include any rail station located at an
10 international airport, except that any property within a 1/2-mile
11 radius surrounding the mid point of a New Jersey Transit
12 Corporation rail station platform area at an international airport
13 upon which a qualified business facility is constructed or renovated
14 commencing after the effective date of P.L.2011, c.149 (C.34:1B-
15 242 et al.) shall be deemed an urban transit hub, excluding any
16 property owned or controlled by the Port Authority of New York
17 and New Jersey.

18 (cf: P.L.2011, c.149, s.10)

19

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

22 3. a. (1) A business, upon application to and approval from the
23 authority, shall be allowed a credit of 100 percent of its capital
24 investment, made after the effective date of P.L.2007, c.346
25 (C.34:1B-207 et seq.) but prior to its submission of documentation
26 pursuant to subsection c. of this section, in a qualified business
27 facility within an eligible municipality, pursuant to the restrictions
28 and requirements of this section. To be eligible for any tax credits
29 authorized under this section, a business shall demonstrate to the
30 authority, at the time of application, that the State's financial
31 support of the proposed capital investment in a qualified business
32 facility will yield a net positive benefit to both the State and the
33 eligible municipality. The value of all credits approved by the
34 authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) shall
35 not exceed \$1,750,000,000, except as may be increased by the
36 authority as set forth in paragraph (9) of this subsection and section
37 35 of P.L.2009, c.90 (C.34:1B-209.3).

38 (2) A business, other than a tenant eligible pursuant to
39 paragraph (3) of this subsection, shall make or acquire capital
40 investments totaling not less than \$50,000,000 in a qualified
41 business facility, at which the business shall employ not fewer than
42 250 full-time employees to be eligible for a credit under this
43 section. A business that acquires a qualified business facility shall
44 also be deemed to have acquired the capital investment made or
45 acquired by the seller.

46 (3) A business that is a tenant in a qualified business facility, the
47 owner of which has made or acquired capital investments in the
48 facility totaling not less than \$50,000,000, shall occupy a leased

1 area of the qualified business facility that represents at least
2 \$17,500,000 of the capital investment in the facility at which the
3 tenant business and up to two other tenants in the qualified business
4 facility shall employ not fewer than 250 full-time employees in the
5 aggregate to be eligible for a credit under this section. The amount
6 of capital investment in a facility that a leased area represents shall
7 be equal to that percentage of the owner's total capital investment in
8 the facility that the percentage of net leasable area leased by the
9 tenant is of the total net leasable area of the qualified business
10 facility. Capital investments made by a tenant shall be deemed to
11 be included in the calculation of the capital investment made or
12 acquired by the owner, but only to the extent necessary to meet the
13 owner's minimum capital investment of \$50,000,000. Capital
14 investments made by a tenant and not allocated to meet the owner's
15 minimum capital investment threshold of \$50,000,000 shall be
16 added to the amount of capital investment represented by the
17 tenant's leased area in the qualified business facility.

18 (4) A business shall not be allowed tax credits under this section
19 if the business participates in a business employment incentive
20 grant relating to the same capital and employees that qualify the
21 business for this credit, or if the business receives assistance
22 pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.). A business that is
23 allowed a tax credit under this section shall not be eligible for
24 incentives authorized pursuant to P.L.2002, c.43 (C.52:27BBB-1 et
25 al.). A business shall not qualify for a tax credit under this section,
26 based upon capital investment and employment of full-time
27 employees, if that capital investment or employment was the basis
28 for which a grant was provided to the business pursuant to the
29 "InvestNJ Business Grant Program Act," P.L.2008, c.112 (C.34:1B-
30 237 et seq.).

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

34 (6) The capital investment of the owner of a qualified business
35 facility is that percentage of the capital investment made or
36 acquired by the owner of the building that the percentage of net
37 leasable area of the qualified business facility not leased to tenants
38 is of the total net leasable area of the qualified business facility.

39 (7) A business shall be allowed a tax credit of 100 percent of its
40 capital investment, made after the effective date of P.L.2011, c.89
41 but prior to its submission of documentation pursuant to subsection
42 c. of this section, in a qualified business facility that is part of a
43 mixed use project, provided that (a) the qualified business facility
44 represents at least \$17,500,000 of the total capital investment in the
45 mixed use project, (b) the business employs not fewer than 250 full-
46 time employees in the qualified business facility, and (c) the total
47 capital investment in the mixed use project of which the qualified
48 business facility is a part is not less than \$50,000,000. The

1 allowance of credits under this paragraph shall be subject to the
2 restrictions and requirements, to the extent that those are not
3 inconsistent with the provisions of this paragraph, set forth in
4 paragraphs (1) through (6) of this subsection, including but not
5 limited to the requirement that the business shall demonstrate to the
6 authority, at the time of application, that the State's financial
7 support of the proposed capital investment in a qualified business
8 facility will yield a net positive benefit to both the State and the
9 eligible municipality.

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

43 (9) Notwithstanding the limitations contained in paragraph (1)
44 of subsection a. of this section, the authority is authorized to
45 approve credits pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.)
46 for qualified business facilities in a value sufficient to meet the
47 requirements of all applications that have been deemed complete by
48 the authority, but not yet presented to the authority's board for

1 consideration, as of the effective date of the “New Jersey Economic
2 Opportunity Act of 2013,” sections 1 through 21 of P.L. , c. (C.)
3 (pending before the Legislature as this bill).

4 b. (1) To the extent that applications under P.L.2007, c.346
5 (C.34:1B-207 et seq.) have been received by the authority prior to
6 the effective date of the “New Jersey Economic Opportunity Act of
7 2013,” sections 1 through 21 of P.L. , c. (C.) (pending
8 before the Legislature as this bill), the authority is authorized to
9 consider such applications in the same manner as had previously
10 been provided and to make awards of tax credits to eligible
11 applicants provided that the authority must take final action on such
12 awards not later than 180 calendar days after the effective date of
13 the “New Jersey Economic Opportunity Act of 2013, sections 1
14 through 21 of P.L. , c. (C.) (pending before the Legislature
15 as this bill).

16 (2) A business shall apply for the credit under P.L.2007, c.346
17 (C.34:1B-207 et seq.) prior to [July 1, 2014] the effective date of
18 sections 1 through 21 of P.L. , c. (C.) (pending before the
19 Legislature as this bill), and shall submit its documentation for
20 approval of its credit amount no later than July 28, 2017.

21 (3) If any business has submitted an application under P.L.2007,
22 c.346 (C.34:1B-207 et seq.) and such application has not been
23 approved for any reason, such lack of approval shall not serve to
24 prejudice in any way the consideration of any new application as
25 may be submitted by such project for the provision of incentives
26 offered pursuant to the “New Jersey Economic Opportunity Act of
27 2013,” sections 1 through 21 of P.L. , c. (C.) (pending
28 before the Legislature as this bill).

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

43 The credit amount for any tax period ending after July 28, 2017
44 during which the documentation of a business' credit amount
45 remains uncertified shall be forfeited, although credit amounts for
46 the remainder of the years of the 10-year credit period shall remain
47 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 the
5 value of all credits approved by the authority against tax liabilities
6 pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) in any fiscal year
7 shall not exceed ~~[\$150,000,000]~~ \$250,000,000.

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

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

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

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

46 (2) If, in any tax period, the business reduces the total number
47 of full-time employees in its Statewide workforce by more than 20
48 percent from the number of full-time employees in its Statewide

1 workforce in the last tax accounting or privilege period prior to the
2 credit amount approval under subsection a. of this section, then the
3 business shall forfeit its credit amount for that tax period and each
4 subsequent tax period, until the first tax period for which
5 documentation demonstrating the restoration of the business'
6 Statewide workforce to the threshold levels required by this
7 paragraph has been reviewed and approved by the authority, for
8 which tax period and each subsequent tax period the full amount of
9 the credit shall be allowed.

10 (3) If, in any tax period, (a) the number of full-time employees
11 employed by the business at the qualified business facility located
12 in an urban transit hub within an eligible municipality drops below
13 250, or (b) the number of full-time employees, who are not the
14 subject of intra-State job transfers, pursuant to paragraph (8) of
15 subsection a. of this section, employed by the business at any other
16 business facility in the State, whether or not located in an urban
17 transit hub within an eligible municipality, drops by more than 20
18 percent from the number of full-time employees in its workforce in
19 the last tax accounting or privilege period prior to the credit amount
20 approval under this section, then the business shall forfeit its credit
21 amount for that tax period and each subsequent tax period, until the
22 first tax period for which documentation demonstrating the
23 restoration of the number of full-time employees employed by the
24 business at the qualified business facility to 250 or an increase
25 above the 20 percent reduction has been reviewed and approved by
26 the authority, for which tax period and each subsequent tax period
27 the full amount of the credit shall be allowed.

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

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

39 e. (1) The Executive Director of the New Jersey Economic
40 Development Authority, in consultation with the Director of the
41 Division of Taxation in the Department of the Treasury, shall adopt
42 rules in accordance with the "Administrative Procedure Act,"
43 P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to implement
44 this act, including but not limited to: examples of and the
45 determination of capital investment; the enumeration of eligible
46 municipalities; specific delineation of urban transit hubs; the
47 determination of the limits, if any, on the expense or type of
48 furnishings that may constitute capital improvements; the

1 promulgation of procedures and forms necessary to apply for a
2 credit, including the enumeration of the certification procedures and
3 allocation of tax credits for different phases of a qualified business
4 facility or mixed use project; and provisions for credit applicants to
5 be charged an initial application fee, and ongoing service fees, to
6 cover the administrative costs related to the credit.

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

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

15
16 6. Section 33 of P.L.2009, c.90 (C.34:1B-209.1) is amended to
17 read as follows:

18 33. A business may apply to the Director of the Division of
19 Taxation in the Department of the Treasury and the executive
20 director of the authority for a tax credit transfer certificate, covering
21 one or more years, in lieu of the business being allowed any amount
22 of the credit against the tax liability of the business. The tax credit
23 transfer certificate, upon receipt thereof by the business from the
24 director and the executive director of the authority, may be sold or
25 assigned, in full or in part, for an amount not less than \$100,000 in
26 tax credits, although one transfer in each tax period may be for an
27 amount less than \$100,000 to any other person that may have a tax
28 liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
29 pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and
30 54:18A-3), pursuant to section 1 of P.L.1950, c.231 (C.17:32-15),
31 or pursuant to N.J.S.17B:23-5. The certificate provided to the
32 business shall include a statement waiving the business's right to
33 claim that amount of the credit against the taxes that the business
34 has elected to sell or assign. The sale or assignment of any amount
35 of a tax credit transfer certificate allowed under this section shall
36 not be exchanged for consideration received by the business of less
37 than 75 percent of the transferred credit amount before considering
38 any further discounting to present value over a term of years which
39 shall be permitted between the business and the transferee of the
40 certificate. Any amount of a tax credit transfer certificate used by a
41 purchaser or assignee against a tax liability shall be subject to the
42 same limitations and conditions that apply to the use of the credit by
43 the business that originally applied for and was allowed the credit.

44 (cf: P.L.2009, c.90, s.33)

45
46 7. Section 35 of P.L.2009, c.90 (C.34:1B-209.3) is amended to
47 read as follows:

1 35. a. (1) A developer, upon application to and approval from
2 the authority, shall be allowed a credit of up to 35 percent of its
3 capital investment, made after the effective date of P.L.2009, c.90
4 (C.52:27D-489a et al.) but prior to its submission of documentation
5 pursuant to subsection c. of this section, in a qualified residential
6 project, pursuant to the restrictions and requirements of this section.
7 To be eligible for any tax credits authorized under this section, a
8 developer shall demonstrate to the authority, through a project pro
9 forma analysis at the time of application, that the qualified
10 residential project is likely to be realized with the provision of tax
11 credits at the level requested but is not likely to be accomplished by
12 private enterprise without the tax credits. The value of all credits
13 approved by the authority pursuant to **[P.L.2009, c.90 (C.52:27D-**
14 **489a et al.)]** this section for qualified residential projects may be up
15 to \$150,000,000, except as may be increased by the authority as set
16 forth below and the additional \$750,000,000 authorized by P.L. ,
17 c. (C.) (pending before the Legislature as this bill); provided,
18 however, that the combined value of all credits approved by the
19 authority pursuant to both P.L.2007, c.346 (C.34:1B-207 et seq.)
20 and **[P.L.2009, c.90 (C.52:27D-489a et al.)]** this section shall not
21 exceed **[\$1,750,000,000]** \$2,500,000,000. The authority shall
22 monitor application and allocation activity under P.L.2007, c.346
23 (C.34:1B-207 et seq.), and if sufficient credits are available after
24 taking into account allocation under P.L.2007, c.346 (C.34:1B-207
25 et seq.) to those qualified business facilities for which applications
26 have been filed or for which applications are reasonably anticipated,
27 and if the executive director judges certain qualified residential
28 projects to be meritorious, the aforementioned \$150,000,000 cap
29 may, in the discretion of the executive director, be exceeded for
30 allocation to qualified residential projects in such amounts as the
31 executive director deems reasonable, justified, and appropriate. In
32 allocating all credits to qualified residential projects under this
33 section, the executive director shall take into account, together with
34 other factors deemed relevant by the executive director: input from
35 the municipality in which the project is to be located, whether the
36 project contributes to the recovery of areas affected by Hurricane
37 Sandy, whether the project furthers specific State or municipal
38 planning and development objectives, or both, and whether the
39 project furthers a public purpose, such as catalyzing urban
40 development or maximizing the value of vacant, dilapidated,
41 outmoded, government-owned, or underutilized property, or both.

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

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

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

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

6 (b) A developer shall be allowed a credit of up to 35 percent of
7 its capital investment, made after the effective date of P.L.2011,
8 c.89 but prior to its submission of documentation pursuant to
9 subsection c. of this section, in a qualified residential project that is
10 part of a mixed use project, provided that: (a) the capital
11 investment in the qualified residential project represents at least
12 \$17,500,000 of the total capital investment in the mixed use project;
13 and (b) the total capital investment in the mixed use project of
14 which the qualified residential project is a part is not less than
15 \$50,000,000. The allowance of credits under this paragraph shall
16 be subject to the restrictions and requirements, to the extent that
17 those are not inconsistent with the provisions of this paragraph, set
18 forth in paragraphs (1) through (3) of this subsection, including but
19 not limited to the requirement prescribed in paragraph (1) of this
20 subsection that the developer shall demonstrate to the authority,
21 through a project pro forma analysis at the time of application, that
22 the qualified residential project is likely to be realized with the
23 provision of tax credits at the level requested but is not likely to be
24 accomplished by private enterprise without the tax credits.

25 As used in this subparagraph:

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

28 (5) Notwithstanding the limitations contained in paragraph (1)
29 of subsection a. of this section, the authority is authorized to
30 approve credits under this section for qualified residential projects
31 in a value sufficient to meet the requirements of all applications
32 deemed complete that were received by the authority between
33 October 24, 2012 and December 21, 2012.

34 b. (1) To the extent that applications under this section were
35 received by the authority prior to December 21, 2012, the authority
36 is authorized to consider such applications in the same manner as
37 had previously been provided and to make awards of tax credits to
38 eligible applicants, provided that the authority must take final
39 action on such awards not later than 180 calendar days after the
40 effective date of the "New Jersey Economic Opportunity Act of
41 2013," sections 1 through 21 P.L. , c. (C.) (pending before
42 the Legislature as this bill).

43 (2) A developer shall apply for the credit under this section prior
44 to [July 1, 2014] December 21, 2012, and a developer shall submit
45 its documentation for approval of its credit amount no later than
46 [July 28, 2017] April 26, 2017.

47 (3) If a developer has submitted an application under this
48 section and such application has not been approved for any reason,

1 such lack of approval shall not serve to prejudice in any way the
2 consideration of any new application as may be submitted by such
3 project for the provision of incentives offered pursuant to the “New
4 Jersey Economic Opportunity Act of 2013,” sections 1 through 21
5 P.L. , c. (C.) (pending before the Legislature as this bill).

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

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

22
23 8. Section 2 of P.L.2011, c.149 (C.34:1B-243) is amended to
24 read as follows:

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

26 "Affiliate" means an entity that directly or indirectly controls, is
27 under common control with, or is controlled by the business.
28 Control exists in all cases in which the entity is a member of a
29 controlled group of corporations as defined pursuant to section 1563
30 of the Internal Revenue Code of 1986 (26 U.S.C.s.1563) or the
31 entity is an organization in a group of organizations under common
32 control as defined pursuant to subsection (b) or (c) of section 414 of
33 the Internal Revenue Code of 1986 (26 U.S.C.s.414). A taxpayer
34 may establish by clear and convincing evidence, as determined by
35 the Director of the Division of Taxation in the Department of the
36 Treasury, that control exists in situations involving lesser
37 percentages of ownership than required by those statutes. An
38 affiliate of a business may contribute to meeting either the qualified
39 investment or full-time employee requirements of a business that
40 applies for a credit under section 3 of P.L.2007, c.346 (C.34:1B-
41 209).

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

44 "Business" means an owner or tenant of a qualified business
45 facility that is a corporation that is subject to the tax imposed
46 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), a
47 corporation that is subject to the tax imposed pursuant to sections 2
48 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of

1 P.L.1950, c.231 (C.17:32-15) or N.J.S.17B:23-5, or is a partnership,
2 an S corporation, **[or]** a limited liability corporation, or a non-profit
3 corporation. A business shall include an affiliate of the business if
4 that business applies for a credit based upon any capital investment
5 made by or full-time employees of an affiliate.

6 "Capital investment" in a qualified business facility means
7 expenses by a business or any affiliate of the business incurred after
8 application **[**, but before the end of the tenth year after, the effective
9 date of P.L.2011, c.149 (C.34:1B-242 et al.)**]** for: a. site preparation
10 and construction, repair, renovation, improvement, equipping, or
11 furnishing on real property or of a building, structure, facility, or
12 improvement to real property; **[and]** or b. obtaining and installing
13 furnishings and machinery, apparatus, or equipment for the
14 operation of a business on real property or in a building, structure,
15 facility, or improvement to real property. In addition to the
16 foregoing, if a business acquires or leases a qualified business
17 facility, the capital investment made or acquired by the seller or
18 owner, as the case may be, if pertaining primarily to the premises of
19 the qualified business facility being acquired or leased by the
20 business, shall be considered a capital investment by the business
21 and, if pertaining generally to the qualified business facility, shall
22 be allocated to the premises of the qualified business facility being
23 acquired or leased on the basis of the gross leasable area of such
24 premises in relation to the total gross leasable in the qualified
25 business facility. The capital investment described herein may
26 include any capital investment made or acquired prior to the date of
27 application so long as the amount of capital investment made or
28 acquired by the business, any affiliate of the business, or any owner
29 after the date of application equals at least 50 percent of the amount
30 of capital investment, allocated to the premises of the qualified
31 business facility being acquired or leased on the basis of the gross
32 leasable area of such premises in relation to the total gross leasable
33 in the qualified business facility, made or acquired prior to the date
34 of application.

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

37 "Deep poverty pocket" means any census tract determined by the
38 United States Census Bureau as having, at the time of an
39 application for a project, an average federal poverty level of 20
40 percent or more and which has been determined by the authority to
41 be an area in need of economic development incentive assistance.

42 "Disaster recovery project" means a redevelopment project
43 located on property that has been damaged or destroyed as a result
44 of a federally-declared disaster.

45 "Distressed municipality" means a municipality qualified to
46 receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a
47 municipality under the supervision of the Local Finance Board
48 pursuant to the provisions of the "Local Government Supervision

1 Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a SDA
2 municipality, a municipality in which a major rail station is located,
3 or a municipality identified by the Director of the Division of Local
4 Government Services in the Department of Community Affairs to
5 be facing serious fiscal distress, but excluding municipalities
6 qualifying under section 2 of P.L.2007, c.346 (C.34:1B-208).

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

15 "Eligible position" means a full-time [employee] position
16 [retained or created by] in a business in this State [for which a
17 business provides employee health benefits under a group health
18 plan as defined under section 14 of P.L.1997, c.146 (C.17B:27-54),
19 a health benefits plan as defined under section 1 of P.L.1992, c.162
20 (C.17B:27A-17), or a policy or contract of health insurance
21 covering more than one person issued pursuant to Article 2 of
22 chapter 27 of Title 17B of the New Jersey Statutes] which the
23 business has filled with a full-time employee. With respect to a
24 maritime, manufacturing, or logistics business located in a port
25 district having a container terminal, the requirement that employee
26 health benefits are to be provided shall be deemed to be satisfied if
27 such benefits are provided in accordance with industry practice by a
28 third party obligated to provide such benefits pursuant to a
29 collective bargaining agreement.

30 "Full-time employee" means a person employed by the business
31 for consideration for at least 35 hours a week, or who renders any
32 other standard of service generally accepted by custom or practice
33 as full-time employment, or a person who is employed by a
34 professional employer organization pursuant to an employee leasing
35 agreement between the business and the professional employer
36 organization, in accordance with P.L.2001, c.260 (C.34:8-67 et
37 seq.) for at least 35 hours a week, or who renders any other standard
38 of service generally accepted by custom or practice as full-time
39 employment, and whose wages are subject to withholding as
40 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
41 et seq. or [an employee] a person who is a resident of another State
42 but whose income is not subject to the "New Jersey Gross Income
43 Tax Act," N.J.S.54A:1-1 et seq. or who is a partner of a business
44 who works for the partnership for at least 35 hours a week, or who
45 renders any other standard of service generally accepted by custom
46 or practice as full-time employment, and whose distributive share of
47 income, gain, loss, or deduction, or whose guaranteed payments, or
48 any combination thereof, is subject to the payment of estimated

1 taxes, as provided in the "New Jersey Gross Income Tax Act,"
2 N.J.S.54A:1-1 et seq., with a person to be provided, by the business,
3 with employee health benefits under a group health plan as defined
4 under section 14 of P.L.1997, c.146 (C.17B:27-54), a health
5 benefits plan as defined under section 1 of P.L.1992, c.162
6 (C.17B:27A-17), or a policy or contract of health insurance
7 covering more than one person issued pursuant to Article 2 of
8 chapter 27 of Title 17B of the New Jersey Statutes. With respect to
9 a maritime, manufacturing, or logistics business located in a port
10 district having a container terminal, full-time employment shall
11 include, but not be limited to, employees that have been hired by
12 way of a labor union hiring hall or its equivalent. For purposes of
13 the foregoing sentence, 35 hours of employment per week at a
14 qualified business facility shall constitute one "full-time employee,"
15 regardless of whether or not the hours of work were performed by
16 one or more persons. Also, with respect to the maritime,
17 manufacturing, and logistics industries, the requirement that
18 employee health benefits are to be provided shall be deemed to be
19 satisfied if such benefits are provided in accordance with industry
20 practice by a third party obligated to provide such benefits pursuant
21 to a collective bargaining agreement. "Full-time employee" shall
22 not include any person who works as an independent contractor or
23 on a consulting basis for the business.

24 "Incentive agreement" means the contract between the business
25 and the authority, which sets forth the terms and conditions under
26 which the business shall be eligible to receive incentives authorized
27 pursuant to the "New Jersey Economic Opportunity Act of 2013,"
28 sections 1 through 21 P.L. , c. (C.) (pending before the
29 Legislature as this bill).

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

34 "Major rail station" means a railroad station which provides
35 access to the public to a minimum of seven commuter rail lines.

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

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

1 “Other eligible areas” means any qualified incentive area other
2 than a site in an urban transit hub municipality, a site in a distressed
3 municipality, a site in the port district housing a port district
4 project, or a site in other priority areas.

5 “Other priority areas” means any area, other than a site in an
6 urban transit hub municipality or a site in a distressed municipality
7 or a site in the port district housing a port district project,
8 designated pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as
9 Planning Area 1 (Metropolitan), Planning Area 2 (Suburban) as
10 well as any location in the State that is a deep poverty pocket, a
11 designated center or a designated growth center in an endorsed plan,
12 the site of a proposed qualified incubator facility, transit oriented
13 development, disaster recovery project, tourism destination project,
14 federally owned land approved for closure under a federal Base
15 Realignment Closing Commission action, any vacant commercial
16 building having over 400,000 square feet of office, laboratory, or
17 industrial space available for occupancy for a period of over one
18 year or any site that has been negatively impacted by the approval
19 of a “qualified business facility,” as defined pursuant to section 2 of
20 P.L.2007, c.346 (C.34:1B-208).

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

23 “Port district” means the port district of the Port Authority of
24 New York and New Jersey, as defined in Article II of the Compact
25 Between the States of New York and New Jersey of 1921, or within
26 the South Jersey Port District established pursuant to “The South
27 Jersey Port Corporation Act,” P.L.1968, c.60 (C.12:11A-1 et. seq.).

28 “Port district project” means a qualified business facility located
29 in a port district having a capital investment in excess of
30 \$50,000,000 and at which more than 250 full-time employees of a
31 business in the logistics, manufacturing, or maritime industries are
32 created or retained.

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

36 "Program" means the "Grow New Jersey Assistance Program"
37 established pursuant to section 3 of P.L.2011, c.149 (C.34:1B-244),
38 as amended by the “New Jersey Economic Opportunity Act of
39 2013,” sections 1 through 21 P.L. , c. (C.) (pending before
40 the Legislature as this bill).

41 "Qualified business facility" means any building, complex of
42 buildings or structural components of buildings, and all machinery
43 and equipment located within a qualified incentive area, used in
44 connection with the operation of a business.

45 "Qualified incentive area" means **[an]** any area designated
46 pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning
47 Area 1 (Metropolitan), Planning Area 2 (Suburban), **[or any urban,**
48 **regional, or town]** Planning Area 3 (Fringe Planning Area), or

1 Planning Area 4A (Rural Planning Area), a designated center under
2 the State Development and Redevelopment Plan [; an area zoned
3 for development pursuant to] ; or a designated growth center in an
4 endorsed plan until June 30, 2013, or until the State Planning
5 Commission revises and readopts New Jersey's State Strategic Plan
6 and adopts regulations to revise this definition as it pertains to
7 Statewide planning areas, whichever is later; a smart growth area
8 and planning area designated in a master plan adopted by the New
9 Jersey Meadowlands Commission pursuant to subsection (i) of
10 section 6 of P.L.1968, c.404 (C.13:17-6) [or subject to a
11 redevelopment plan adopted by the New Jersey Meadowlands
12 Commission pursuant to section 20 of P.L.1968, c.404 (C.13:17-
13 21); any land owned by the New Jersey Sports and Exposition
14 Authority, established pursuant to P.L.1971, c.137 (C.5:10-1 et
15 seq.), within the boundaries of the Hackensack Meadowlands
16 District as delineated in section 4 of P.L.1968, c.404 (C.13:17-4); a
17 pinelands regional growth area, a pinelands town management area,
18 a pinelands village, or a military and federal installation area
19 established pursuant to the pinelands comprehensive management
20 plan adopted pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.); an
21 area designated for development, redevelopment, or economic
22 growth within the Highlands Region; federally owned land
23 approved for closure under any federal Base Closure and
24 Realignment Commission action]; a regional growth area, village,
25 and town, designated in the comprehensive management plan
26 prepared and adopted by the Pinelands Commission pursuant to
27 section 7 of the "Pinelands Protection Act," P.L.1979, c.111
28 (C.13:18A-8); the planning area of the Highlands Region as defined
29 in section 3 of the "Highlands Water Protection and Planning Act,"
30 P.L.2004, c.120 (C.13:20-3), and any Highlands center designated
31 by the Highlands Water Protection and Planning Council,
32 established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4); an
33 urban enterprise zone designated pursuant to P.L.1983, c.303
34 (C.52:27H-60 et seq.) or P.L.2001, c.347 (C.52:27H-66.2 et al.); an
35 area determined to be in need of redevelopment pursuant to sections
36 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and C.40A:12A-6) and as
37 approved by the Department of Community Affairs; or similar area
38 designated by the Department of Environmental Protection.
39 "Qualified incentive area" shall not include an area designated
40 pursuant to the State Development and Redevelopment Plan
41 adopted, as of the effective date of P.L.2008, c.78, pursuant to
42 P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning Area 4B
43 (Rural/Environmentally Sensitive) or Planning Area 5
44 (Environmentally Sensitive), except for any area within Planning
45 Area 4B or Planning Area 5 that is a deep poverty pocket, a
46 designated center or a designated growth center in an endorsed plan,
47 the site of a qualified incubator facility, transit oriented
48 development, disaster recovery project, port district project, tourism

1 destination project, or any federally owned land approved for
2 closure under a federal Base Realignment Closing Commission
3 action, or any [property consisting of a] vacant commercial
4 building having over 400,000 square feet of office, laboratory, or
5 industrial space available for occupancy for a period of over one
6 year or [is] any site that has been negatively impacted by the
7 approval of a "qualified business facility," as defined pursuant to
8 section 2 of P.L.2007, c.346 (C.34:1B-208).

9 "Qualified incubator facility" means a commercial building
10 having over 100,000 square feet of office, laboratory, or industrial
11 space with at least 75 percent of its gross leasable area restricted to
12 use by a technology startup company during the period established
13 pursuant to section 4 of P.L.2011, c.149 (C.34:1B-245).

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

21 "SDA district" means the 31 school districts as designated
22 pursuant to P.L.2000, c.72 (C.18A:7G-1 et. seq.).

23 "SDA municipality" means a municipality in which all public
24 school students attend school in a SDA district.

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

30 "Tourism destination project" means a qualified business facility
31 that will be among the most visited privately owned or operated
32 tourism or recreation sites in the State as determined at the
33 discretion of the authority.

34 "Transit oriented development" means a qualified business
35 facility located within a 1/2-mile radius surrounding the mid-point
36 of a New Jersey Transit Corporation, Port Authority Transit
37 Corporation, or Port Authority Trans-Hudson Corporation rail, bus,
38 or ferry station platform area, including all light rail stations.

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

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

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

3 3. a. The Grow New Jersey Assistance Program is hereby
4 established as a program under the jurisdiction of the New Jersey
5 Economic Development Authority and shall be administered by the
6 authority. The purpose of the program is to encourage economic
7 development and job creation and to preserve jobs that currently
8 exist in New Jersey but which are in danger of being relocated
9 outside of the State. To implement this purpose, [and to the extent
10 that funding for the program is available,] the program may provide
11 tax credits to eligible businesses for an eligibility period not to
12 exceed 10 years. To be eligible for any tax credits pursuant to
13 P.L.2011, c.149 (C.34:1B-242 et al.), as amended by the “New
14 Jersey Economic Opportunity Act of 2013,” sections 1 through 21
15 P.L. , c. (C.) (pending before the Legislature as this bill), a
16 business's chief executive officer or equivalent officer shall
17 demonstrate to the authority, at the time of application, that: (1) the
18 business, expressly including its landlord or seller, will make,
19 acquire, or lease a capital investment [of at least \$20,000,000]
20 equal to, or greater than, the applicable amount set forth in
21 subsection b. of this section at a qualified business facility at which
22 it will: (a) employ [at least 100 full-time employees in] retained
23 full-time jobs in an amount equal to or greater than the applicable
24 number set forth in subsection c. of this section [, or] ; (b) create
25 [at least 100] new full-time jobs [in an industry identified by the
26 authority as desirable for the State to maintain or attract; (2)] in an
27 amount equal to or greater than the applicable number set forth in
28 subsection c. of this section; or (c) employ a combination of
29 retained and new full-time jobs in an amount equal to or greater
30 than the applicable number set forth in subsection c. of this section;
31 (2) the qualified business facility shall be constructed in accordance
32 with the minimum environmental and sustainability standards
33 established pursuant to the “New Jersey Economic Opportunity Act
34 of 2013,” sections 1 through 21 P.L. , c. (C.) (pending
35 before the Legislature as this bill); (3) the capital investment
36 resultant from the award of tax credits and the resultant retention
37 and creation of eligible positions will yield a net positive benefit to
38 the State; and, except as provided in subsection [d.] f. of this
39 section [, (3)] ;(4) the award of tax credits will be a material factor
40 in the business's decision to create or retain the minimum number of
41 new or retained full-time jobs for eligibility under the program.

42 b. The minimum capital investment required to be eligible
43 under this program shall be as follows: (1) for the rehabilitation of
44 an existing industrial premises for continued industrial use by the
45 business, a minimum investment of \$10 per square foot of gross
46 leasable area; (2) for the new construction of an industrial premises
47 for industrial use by the business, a minimum investment of \$30 per

1 square foot of gross leasable area; (3) for the rehabilitation of an
2 existing non-industrial premises for continued non-industrial use by
3 the business, a minimum investment of \$20 per square foot of gross
4 leasable area; and (4) for the new construction of a non-industrial
5 premises for non-industrial use by the business, a minimum
6 investment of \$60 per square foot of gross leasable area.

7 c. The minimum number of new or retained full-time jobs
8 required to be eligible under this program shall be as follows: (1)
9 for a business that is a technology startup company, a minimum of
10 10 full-time jobs; (2) for a business engaged primarily in
11 manufacturing, a minimum of 25 full-time jobs; (3) for a business
12 engaged primarily in a targeted industry other than any industry
13 included in paragraphs (1) or (2) of this subsection, a minimum of
14 35 full-time jobs; and (4) for any other business, a minimum of 50
15 full-time jobs.

16 d. To assist the authority in determining whether a proposed
17 capital investment will yield a net positive benefit, the business's
18 chief executive officer, or equivalent officer, shall submit a
19 certification to the authority indicating that any [existing] retained
20 full-time jobs are at risk of leaving the State and the date or dates at
21 which it is expected that such retained full-time jobs would leave
22 the State, that any projected creation of new full-time jobs would
23 not occur but for the provision of tax credits under the program, and
24 that the business's chief executive officer, or equivalent officer, has
25 reviewed the information submitted to the authority and that the
26 representations contained therein are accurate. In the event that this
27 certification by the business's chief executive officer, or equivalent
28 officer, is found to be willfully false, the authority may revoke any
29 award of tax credits in their entirety, which revocation shall be in
30 addition to any other criminal or civil penalties that the business
31 and the officer may be subject to. When considering an application
32 involving intra-State job transfers, the authority shall require the
33 business to submit the following information as part of its
34 application: a full economic analysis of all locations under
35 consideration by the business; all lease agreements, ownership
36 documents, or substantially similar documentation for the business's
37 current in-State locations; and all lease agreements, ownership
38 documents, or substantially similar documentation for the potential
39 out-of-State location alternatives, to the extent they exist. Based on
40 this information, and any other information deemed relevant by the
41 authority, the authority shall independently verify and confirm, by
42 way of making a factual finding by separate vote of the authority's
43 board, the business's assertion that the jobs are actually at risk of
44 leaving the State and as to the date or dates that such jobs are at risk
45 of leaving the State, before a business may be awarded any tax
46 credits under this section.

47 [c.] e. A project that consists solely of point-of-final-purchase
48 retail facilities shall not be eligible for a grant of tax credits. If a

1 project consists of both point-of-final-purchase retail facilities and
2 non-retail facilities, only the portion of the project consisting of
3 non-retail facilities shall be eligible for a grant of tax credits. If a
4 warehouse facility is part of a point-of-final-purchase retail facility
5 and supplies only that facility, the warehouse facility shall not be
6 eligible for a grant of tax credits. For the purposes of this section,
7 catalog distribution centers shall not be considered point-of-final-
8 purchase retail facilities.

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

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

28

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

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

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

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

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

43 d. A requirement that the applicant maintain the project at a
44 location in New Jersey **[at least 1.5 times the number of years of**
45 **the term of the tax credits]** for the commitment duration, with at
46 least the minimum number of full-time employees as required by
47 **[section 6 of P.L.2011, c.149 (C.34:1B-247)]** subsection c. of

1 section 3 of this program and a provision to permit the authority to
2 recapture all or part of any tax **[credit]** credits awarded, at its
3 discretion, if the business does not remain **[at the site for the**
4 **required term]** in compliance with this provision during the period
5 of the commitment duration after the eligibility period has expired,
6 with such recapture to be calculated taking into account the number
7 of years that the business was in compliance under the commitment
8 duration.

9 e. A method for the business to certify that it has met the
10 capital investment and employment requirements of the program
11 pursuant to paragraph (1) of subsection a. of section 6 of this
12 program and to report annually to the authority the number of full-
13 time employees for which the tax credits are to be made.

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

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

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

21 (cf: P.L.2011, c.149, s.4)

22

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

25 5. a. The **[value]** total amount of **[each]** tax credit for an
26 eligible business **[shall be equal to \$5,000 per year for a period of**
27 **ten years]** for each new or retained full-time job **[determined by the**
28 **authority pursuant to section 3 of P.L.2011, c.149 (C.34:1B-244) to**
29 **be located at the qualified business facility, subject to the provisions**
30 **of this section]** shall be as set forth in subsections b. through e. of
31 this section. The total tax credit amount shall be calculated and
32 credited to the business annually for each year of the eligibility
33 period.

34 b. **[In addition to any grant of tax credits determined pursuant**
35 **to subsection a. of this section, a bonus award of up to an additional**
36 **\$3,000 per job of the amount of the original tax credits may be**
37 **made to any eligible business as determined by the authority. In**
38 **making a bonus award to an eligible business, the authority shall**
39 **consider the following factors, such that whether the business: (1) is**
40 **an industry identified by the authority as desirable for the State to**
41 **maintain or attract; (2) locates or relocates to a location within a**
42 **qualified incentive area adjacent to, or within walking distance or**
43 **short-distance-shuttle service of, a public transit facility, as**
44 **determined by the authority, by regulation; (3) creates jobs using**
45 **full-time employees in eligible positions whose annual salaries,**
46 **according to the Department of Labor and Workforce Development,**
47 **are greater than the average full-time salary in this State; or (4) is**

1 locating to a project site that is or has been negatively impacted by
2 the approval of a "qualified business facility," as defined pursuant
3 to section 2 of P.L.2007, c.346 (C.34:1B-208).] The base amount
4 of the tax credit for each new or retained full-time job shall be as
5 follows: (1) for a qualified business facility located within an urban
6 transit hub municipality or a port district project, \$5,000 per year;
7 (2) for a qualified business facility in a distressed municipality,
8 \$4,000 per year; (3) for a qualified business facility in another
9 priority area, \$3,000 per year; and (4) for a qualified business
10 facility in another eligible area, \$2,000 per year.

11 c. [Notwithstanding the provisions of subsections a. and b. of
12 this section, (1) the amount of tax credits available to be applied by
13 the business annually shall not exceed the lesser of one tenth of the
14 capital investment certified by the authority pursuant to section 6 of
15 P.L.2011, c.149 (C.34:1B-247) or \$4,000,000, and (2) the number
16 of new full-time jobs for which a business receives a tax credit shall
17 not exceed the number of retained full-time jobs for which a
18 business receives a tax credit, unless the business qualifies by
19 creating at least 100 new full-time jobs in an industry identified by
20 the authority as desirable for the State to maintain or attract.] In
21 addition to the base amount of the tax credit, the amount of the tax
22 credit to be awarded for each new or retained full-time job shall be
23 increased if the qualified business facility meets any of the
24 following priority criteria: (1) for qualified business facilities
25 located in a deep poverty pocket or in an area that is the subject of a
26 Choice Neighborhoods Transformation Plan funded by the federal
27 Department of Housing and Urban Development, an increase of
28 \$1,500 per year; (2) for a qualified business facility located in a
29 qualified incubator facility, an increase of \$500 per year; (3) for a
30 qualified business facility located in a mixed-use development that
31 incorporates sufficient workforce housing on site to accommodate a
32 minimum of 20 percent of the full-time employees of the business,
33 an increase of \$500 per year; (4) for a qualified business facility
34 located within a 1/2-mile radius surrounding the mid-point of a New
35 Jersey Transit Corporation, Port Authority Transit Corporation, or
36 Port Authority Trans-Hudson Corporation rail, bus, or ferry station
37 platform area, including all light rail stations and property located
38 within a one-mile radius of the mid-point of the platform area of
39 such a rail, bus, or ferry station if the property is in a qualified
40 municipality under the "Municipal Rehabilitation and Economic
41 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et seq.), or within a
42 transit oriented development, an increase of \$1,500 per year; (5) for
43 a qualified business facility not eligible for the increase set forth in
44 paragraph (4) of this subsection and at which a shuttle service is
45 available to a commuter rail, bus, or ferry station during rush hour
46 periods on all business days during the commitment period, an
47 increase of \$500 per year, (6) for a qualified business facility whose
48 location includes or is directly connected by rail spur to a freight

1 rail line if the applicant utilizes that freight line as a regular part of
2 the operation of its business during the commitment period, an
3 increase of \$1,500 per year; (7) for a qualified business facility not
4 eligible for the increase set forth in paragraph (6) of this subsection
5 and whose location is within one mile of a freight rail line spur if
6 the applicant utilizes that freight line as a regular part of the
7 operation of its business during the commitment period, an increase
8 of \$500 per year; (8) (a) for a qualified business facility at which
9 the capital investment in industrial premises for industrial use by
10 the business is in excess of the minimum amount required for
11 eligibility pursuant to this act, an increase \$1,000 per year for each
12 additional \$10 per square foot of gross leasable area of investment
13 above \$50 per square foot of gross leasable area, excluding the cost
14 of new construction with respect to capital investment in qualified
15 business facilities located in other eligible areas, with a maximum
16 increase of \$2,000 per year, except that there shall be no maximum
17 amount for a port district project, (b) for a qualified business
18 facility at which the capital investment in any other commercial
19 premises for commercial use by the business is in excess of the
20 minimum amount required for eligibility pursuant to this program,
21 an increase of \$1,000 per year for each additional \$20 per square
22 foot of gross leasable area of investment above \$100 per square foot
23 of gross leasable area, excluding the cost of new construction with
24 respect to capital investment in qualified business facilities located
25 in other eligible areas, with a maximum increase of \$2,000 per year;
26 (9) for a business that employs full-time positions at the project
27 with an average salary in excess of the existing average salary for
28 the county in which the project is located, an increase of \$250 per
29 year during the commitment period for each 35 percent by which
30 the project's average salary levels exceeds the county average
31 salary, with a maximum increase of \$1,500 per year; (10) for a
32 business that employs or retains large numbers of new or existing
33 full-time employees during the commitment period, the increases
34 shall be in accordance with the following schedule: (a) if the
35 number of qualified full-time employees is between 251 and 400,
36 \$500 per year; (b) if the number of qualified full-time employees is
37 between 401 and 600, \$750 per year; (c) if the number of qualified
38 full-time employees is between 601 and 800, \$1000 per year; (d) if
39 the number of qualified full-time employees is between 801 and
40 1,000, \$1,250 per year; (e) if the number of qualified full-time
41 employees is in excess of 1,001, \$1,500 per year; (11) for a
42 business in a targeted industry, an increase of \$500 per year; (12)
43 for a business that employs a significant number of chronically
44 unemployed or military veterans during the commitment period, an
45 increase of \$100 per year for each 10 percent of the new full-time
46 employees that are either chronically unemployed or military
47 veterans, with a maximum increase of \$500 per year; and (13) for a
48 qualified business facility materially exceeding the minimum

1 environmental and sustainability standards by way of energy
2 efficiency or renewable energy features, measures, or upgrades, an
3 increase of \$250 per year; and (14) for a qualified business facility
4 exceeding the Leadership in Energy and Environmental Design's
5 "Silver" rating standards, an additional increase of \$250 per year.

6 d. The gross amount of the tax credit for an eligible business
7 for each new or retained full-time job shall be the sum of the base
8 amount as pursuant to subsection b. of this section and the various
9 additional bonus amounts for which the business is eligible pursuant
10 to subsection c. of this section, subject to the following limitations
11 except in the case of a port district project: (1) for a qualified
12 business facility located within an urban transit hub municipality,
13 the gross amount for each new or retained full-time job shall not
14 exceed \$10,000 per year; (2) for a qualified business facility in a
15 distressed municipality the gross amount for each new or retained
16 full-time job shall not exceed \$8,000 per year; (3) for a qualified
17 business facility in another priority area, the gross amount for each
18 new or retained full-time job shall not exceed \$6,000 per year; and
19 (4) for a qualified business facility in another eligible area, the
20 gross amount shall not exceed \$4,000 per year.

21 e. After the determination by the authority of the gross amount
22 of tax credits for which a business is eligible pursuant to subsection
23 d. of this subsection, the final total tax credits amount shall be
24 calculated as follows: (1) for each new full-time job, the business
25 shall be entitled to tax credits equaling 100 percent of the gross
26 amount of tax credits for each new or retained full-time job; and (2)
27 for each retained full-time job, the business shall be entitled to tax
28 credits equaling 80 percent of the gross amount of tax credits for
29 each new or retained full-time job.

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

31
32 12. Section 6 of P.L.2011, c.149 (C.34:1B-247) is amended to
33 read as follows:

34 6. a. (1) **【**The value of all credits approved by the authority
35 pursuant to P.L.2011, c.149 (C.34:1B-242 et al.) shall not exceed
36 \$200,000,000, except that the value of all credits approved by the
37 authority pursuant to this section may exceed \$200,000,000 if the
38 board of the authority determines the credits to be reasonable,
39 justifiable, and appropriate; provided, however, the combined value
40 of all credits approved by the authority pursuant to P.L.2007, c.346
41 (C.34:1B-207 et seq.) and P.L.2011, c.149 (C.34:1B-242 et al.)
42 shall not exceed \$1,750,000,000. **】** (Deleted by amendment, P.L. ,
43 c.) (pending before the Legislature as this bill)

44 (2) **【**A business, including any affiliate of the business or any
45 business that is a tenant within any qualified business facility, shall
46 make or acquire capital investments totaling not less than
47 \$20,000,000 in a qualified business facility, at which the business
48 shall employ not fewer than 100 full-time employees to be eligible

1 for a credit pursuant to P.L.2011, c.149. A business that acquires or
2 leases a qualified business facility shall also be deemed to have
3 acquired the capital investment made or acquired by the seller or
4 landlord, as the case may be.】 (Deleted by amendment, P.L. , c.)
5 (pending before the Legislature as this bill)

6 (3) 【A business shall not be allowed tax credits pursuant to
7 P.L.1996, c.25 (C.34:1B-112 et seq.) or P.L.1996, c.26 (C.34:1B-
8 124 et seq.) relating to the same capital and employees that qualify
9 the business for tax credits pursuant to P.L.2011, c.149. A business
10 that is allowed a tax credit under this section shall not be eligible
11 for incentives authorized pursuant to P.L.2002, c.43 (C.52:27BBB-1
12 et al.). A business shall not qualify for a tax credit under this
13 section, based upon capital investment and employment of full-time
14 employees, if that capital investment or employment was the basis
15 for which a grant was provided to the business pursuant to the
16 "Urban Transit Hub Tax Credit Act," P.L.2007, c.346 (C.34:1B-207
17 et seq.).】 (Deleted by amendment, P.L. , c.) (pending before
18 the Legislature as this bill)

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

23 (5) 【The capital investment of the owner of a qualified business
24 facility is that percentage of the capital investment made or
25 acquired by the owner of the building that the percentage of net
26 leasable area of the qualified business facility not leased to tenants
27 is of the total net leasable area of the qualified business facility. For
28 a business that is a tenant, the amount of capital investment in a
29 facility that a leased area represents shall be equal to that
30 percentage of the owner's total capital investment in the facility that
31 the percentage of net leasable area leased by the tenant is of the
32 total net leasable area of the qualified business facility. Capital
33 investments made by a tenant shall be deemed to be included in the
34 calculation of the capital investment made or acquired by the
35 owner, but only to the extent necessary to meet the owner's
36 minimum capital investment of \$20,000,000. Capital investments
37 made by a tenant and not allocated to meet the owner's minimum
38 capital investment threshold of \$20,000,000 shall be added to the
39 amount of capital investment represented by the tenant's leased area
40 in the qualified business facility.】 (Deleted by amendment, P.L. ,
41 c.) (pending before the Legislature as this bill)

42 b. 【A business shall apply for the tax credit prior to July 1,
43 2014, and shall submit its documentation indicating that it has met
44 the capital investment and employment specified in the project
45 agreement for certification of its credit amount no later than July
46 28, 2017.】 (1) A business shall submit its documentation indicating
47 that it has met the capital investment and employment requirements

1 specified in the incentive agreement for certification of its tax credit
2 amount within three years following the date of approval of its
3 application by the authority. The authority shall have the discretion
4 to grant two six-month extensions of this deadline. In no event
5 shall the incentive effective date occur later than four years
6 following the date of approval of an application by the authority.

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

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

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

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

36 The amount of credit allowed for **【a tax】** the eligibility period to
37 a business that is a tenant in a qualified business facility shall not
38 exceed the business' total lease payments and other documented
39 occupancy costs for use and occupancy of the qualified business
40 facility for the **【tax】** eligibility period.

41 (2) A business that is a partnership shall not be allowed a credit
42 under this section directly, but the amount of credit of an owner of a
43 business shall be determined by allocating to each owner of the
44 partnership that proportion of the credit of the business that is equal
45 to the owner of the partnership's share, whether or not distributed,
46 of the total distributive income or gain of the partnership for its tax
47 period ending within or with the owner's tax period, or that

1 proportion that is allocated by an agreement, if any, among the
2 owners of the partnership that has been provided to the Director of
3 the Division of Taxation in the Department of the Treasury by such
4 time and accompanied by such additional information as the
5 director may require.

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

11 d. (1) If, in any tax period during the eligibility period, the
12 business reduces the total number of full-time employees in its
13 Statewide workforce by more than 20 percent from the number of
14 full-time employees in its Statewide workforce in the last tax period
15 prior to the **[credit amount]** approval of the tax credit under section
16 3 of **[P.L.2011, c.149 (C.34:1B-244)]** this program, then the
17 business shall forfeit its credit amount for that tax period and each
18 subsequent tax period, until the first tax period for which
19 documentation demonstrating the restoration of the business'
20 Statewide workforce to the threshold levels required by this
21 paragraph has been reviewed and approved by the authority, for
22 which tax period and each subsequent tax period the full amount of
23 the credit shall be allowed.

24 (2) If, in any tax period during the eligibility period, the number
25 of **[full-time employees employed by the business]** new or retained
26 full-time jobs at the qualified business facility **[located within a**
27 **qualified incentive area]** drops below **[100 or 80 percent of]** the
28 minimum number of new **[and]** or retained full-time jobs
29 **[specified in the project agreement]** required pursuant to subsection
30 c. of section 3 of this program, then the business shall forfeit its
31 credit amount for that tax period and each subsequent tax period,
32 until the first tax period for which documentation demonstrating the
33 restoration of the number of full-time employees employed by the
34 business at the qualified business facility to **[100]** the minimum
35 number of full-time jobs required by this program.

36 (3) If, in any tax period during the eligibility period, the new or
37 retained jobs at the qualified business facility drops below the level
38 on which a bonus is calculated pursuant to subsection c. of section 5
39 of this program, the amount of the tax credit for that tax period shall
40 be adjusted to reflect such reduction for that tax period and each
41 subsequent tax period, until the first tax period for which
42 documentation is provided by the business demonstrating that it
43 qualifies for such bonus.

44 (4) (a) If the qualified business facility is sold by the owner in
45 whole or in part during the **[10-year]** eligibility period, the new
46 owner shall not acquire the capital investment of the seller and the
47 seller shall forfeit all credits for the tax period in which the sale

1 occurs and all subsequent tax periods, provided however that any
2 credits of 【tenants】 the business shall remain unaffected.

3 (b) If a 【tenant】 business leases or subleases its 【tenancy】
4 premises in the qualified business facility in whole or in part during
5 the 【10-year】 eligibility period, the new tenant or subtenant shall
6 not acquire the 【credit】 tax credits of the 【sublessor】 business, and
7 the 【sublessor tenant】 business shall forfeit all credits for the tax
8 period of its lease or sublease and all subsequent tax periods.
9 Notwithstanding such forfeiture, a business that leases or subleases
10 less than all of its premises and does not thereby reduce its new or
11 retained full-time job count below the minimum number required
12 pursuant to section 3 of this program shall not be affected by this
13 paragraph.

14 e. A business shall not be eligible to receive tax credits under
15 this program for retained full-time jobs that have received
16 assistance under the “Business Retention and Relocation Assistance
17 Act,” P.L.1996, c.25 (C.34:1B-112 et seq.) or the “Business
18 Employment Incentive Program Act,” P.L.1996, c.26 (C.34:1B-124
19 et seq.), and at the time of approval by the authority for the tax
20 credits under this program are still subject to the obligations under
21 the “Business Retention and Relocation Assistance Act,” P.L.1996,
22 c.25 (C.34:1B-112 et seq.) or the “Business Employment Incentive
23 Program Act,” P.L.1996, c.26 (C.34:1B-124 et seq.), unless as of
24 the date the retained full-time jobs are determined to be at risk of
25 leaving the State pursuant to subsection d. of section 3 of this
26 program, either (1) the employment commitment obligations under
27 the applicable existing assistance program will have expired; or (2)
28 if the employment commitment obligations under the applicable
29 existing assistance program will not have expired, the business
30 agrees to repay to the authority on the incentive effective date, the
31 amount of the assistance received for the retained full-time jobs,
32 which amount will be proportional based on the amount of time
33 remaining under the applicable employment commitment
34 obligations of the existing assistance program, calculated from the
35 date that the retained full-time jobs are determined to be at risk of
36 leaving the State pursuant to subsection d. of section 3 of this
37 program.

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

39

40 13. Section 7 of P.L.2011, c.149 (C.34:1B-248) is amended to
41 read as follows:

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

1 director and the chief executive officer of the authority, may be sold
2 or assigned, in full or in part, for an amount not less than \$100,000
3 in tax credits, although one transfer in each tax period may be for 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 over a term of years, which
16 shall be permitted between the business and the transferee of the
17 certificate. Any amount of a tax credit transfer certificate used by a
18 purchaser or assignee against a tax liability shall be subject to the
19 same limitations and conditions that apply to the use of the credit by
20 the business that originally applied for and was allowed the credit.
21 (cf: P.L.2011, c.149, s.7)

22

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

25 8. a. The chief executive officer of the authority, in
26 consultation with the Director of the Division of Taxation in the
27 Department of the Treasury, shall adopt rules in accordance with
28 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
29 seq.) as are necessary to implement P.L.2011, c.149 (C.34:1B-242
30 et al.), including but not limited to: examples of and the
31 determination of capital investment; the enumeration of qualified
32 incentive areas; the enumeration of specific targeted industries;
33 specific delineation of **[these]** the incentive areas; the
34 determination of the limits, if any, on the expense or type of
35 furnishings that may constitute capital improvements; the
36 promulgation of procedures and forms necessary to apply for a tax
37 credit, including the enumeration of the certification procedures and
38 allocation of tax credits for different phases of a qualified business
39 facility; and provisions for tax credit applicants to be charged an
40 initial application fee, and ongoing service fees, to cover the
41 administrative costs related to the tax credit.

42 b. Through regulation, the authority shall establish standards
43 by which qualified business facilities shall be constructed or
44 renovated **[based on the green building manual prepared by the**
45 **Commissioner of Community Affairs pursuant to section 1 of**
46 **P.L.2007, c.132 (C.52:27D-130.6), regarding the use of renewable**
47 **energy, energy-efficient technology, and non-renewable resources**
48 **in order to reduce environmental degradation and encourage long-**

1 term cost reduction] in compliance with minimum environmental
2 and sustainability standards.

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

4

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

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

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

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

30 "Financial assistance" means funds made available as a grant or
31 loan, including funds derived as proceeds from the issuance of tax-
32 exempt bonds by the entity providing such assistance.

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

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

45 "Qualified employment incentive facility" means any building or
46 other structure or portion of a building or other structure that,
47 following the date on which occupation of the building or structure
48 shall have commenced, shall be used exclusively as the premises of

1 a project, related to the creation, relocation, or retention of jobs,
2 that qualifies for incentives under the Business Retention and
3 Relocation Assistance Grant Program established by section 3 of
4 P.L.1996, c.25 (C.34:1B-114), the Business Employment Incentive
5 Program established by section 3 of P.L.1996, c.26 (C.34:1B-126),
6 the Grow New Jersey Assistance Program established by P.L.2011,
7 c.149 (C.34:1B-242 et seq.), the Economic Redevelopment and
8 Growth Grant program established by sections 3 through 18 of
9 P.L.2009, c.90 (C.52:27D-489c et al.), the corporation business tax
10 credit and insurance premium tax credit certificate transfer program
11 established pursuant to section 17 of P.L.2004, c.65 (C.34:1B-
12 120.2), the sales and use tax exemption certificate program
13 established pursuant to section 20 of P.L.2004, c.65 (C.34:1B-186),
14 the exemption of retail sales of energy and utility service to
15 qualified businesses within an urban enterprise zone from the sales
16 and use tax pursuant to section 23 of P.L.2004, c.65 (C.52:27H-
17 87.1), the urban transit hub tax credit program established pursuant
18 to section 3 of P.L.2007, c.346 (C.34:1B-209), or any other
19 program as the State Treasurer shall deem to be of similar kind and
20 purpose; provided, however, that such exclusive use shall continue
21 for the minimum period of time prescribed by the applicable law or
22 any regulation adopted pursuant thereto, or under any project
23 agreement or other contract executed pursuant to such law or
24 regulation, or if no such minimum period shall be so prescribed, for
25 a period of four years.

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

37 "Remediation" or "remediate" means all necessary actions to
38 investigate and clean up or respond to any known, suspected, or
39 threatened discharge of contaminants, including, as necessary, the
40 preliminary assessment, site investigation, remedial investigation,
41 and remedial action, provided, however, that "remediation" or
42 "remediate" shall not include the payment of compensation for
43 damage to, or loss of, natural resources, and shall not include the
44 acquisition, construction, repair, or reconstruction of any building
45 or other improvements to real property, or the acquisition or
46 installation of any equipment or other personal property, that, upon
47 completion, shall constitute a qualified employment incentive
48 facility.

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

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

10
11 16. Section 18 of P.L.2008, c.46 (C.52:27D-329.9) is amended
12 to read as follows:

13 18. a. Notwithstanding any rules of the council to the contrary,
14 for developments consisting of newly-constructed residential units
15 located, or to be located, within the jurisdiction of any regional
16 planning entity required to adopt a master plan or comprehensive
17 management plan pursuant to statutory law, including the New
18 Jersey Meadowlands Commission pursuant to subsection (i) of
19 section 6 of P.L.1968, c.404 (C.13:17-6), the Pinelands Commission
20 pursuant to section 7 of the "Pinelands Protection Act," P.L.1979,
21 c.111 (C.13:18A-8), the Fort Monmouth Economic Revitalization
22 Planning Authority pursuant to section 5 of P.L.2006, c.16
23 (C.52:27I-5), or its successor, and the Highlands Water Protection
24 and Planning Council pursuant to section 11 of P.L.2004, c.120
25 (C.13:20-11), but excluding joint planning boards formed pursuant
26 to section 64 of P.L.1975, c.291 (C.40:55D-77), there shall be
27 required to be reserved for occupancy by low or moderate income
28 households at least 20 percent of the residential units constructed, to
29 the extent this is economically feasible.

30 b. Subject to the provisions of subsection d. of this section, a
31 developer of a project consisting of newly-constructed residential
32 units being financed in whole or in part with State funds, including,
33 but not limited to, transit villages designated by the Department of
34 Transportation and units constructed on State-owned property, shall
35 be required to reserve at least 20 percent of the residential units
36 constructed for occupancy by low or moderate income households,
37 as those terms are defined in section 4 of P.L.1985, c.222
38 (C.52:27D-304), with affordability controls as required under the
39 rules of the council, unless the municipality in which the property is
40 located has received substantive certification from the council and
41 such a reservation is not required under the approved affordable
42 housing plan, or the municipality has been given a judgment of
43 repose or a judgment of compliance by the court, and such a
44 reservation is not required under the approved affordable housing
45 plan.

46 c. (1) The Legislature recognizes that regional planning entities
47 are appropriately positioned to take a broader role in the planning
48 and provision of affordable housing based on regional planning

1 considerations. In recognition of the value of sound regional
2 planning, including the desire to foster economic growth, create a
3 variety and choice of housing near public transportation, protect
4 critical environmental resources, including farmland and open space
5 preservation, and maximize the use of existing infrastructure, there
6 is created a new program to foster regional planning entities.

7 (2) The regional planning entities identified in subsection a. of
8 this section shall identify and coordinate regional affordable
9 housing opportunities in cooperation with municipalities in areas
10 with convenient access to infrastructure, employment opportunities,
11 and public transportation. Coordination of affordable housing
12 opportunities may include methods to regionally provide housing in
13 line with regional concerns, such as transit needs or opportunities,
14 environmental concerns, or such other factors as the council may
15 permit; provided, however, that such provision by such a regional
16 entity may not result in more than a 50 percent change in the fair
17 share obligation of any municipality; provided that this limitation
18 shall not apply to affordable housing units directly attributable to
19 development by the New Jersey Sports and Exposition Authority
20 within the New Jersey Meadowlands District.

21 (3) In addition to the entities identified in subsection a. of this
22 section, the Casino Reinvestment Development Authority, in
23 conjunction with the Atlantic County Planning Board, shall identify
24 and coordinate regional affordable housing opportunities directly
25 attributable to Atlantic City casino development, which may be
26 provided anywhere within Atlantic County, subject to the
27 restrictions of paragraph (4) of this subsection.

28 (4) The coordination of affordable housing opportunities by
29 regional entities as identified in this section shall not include
30 activities which would provide housing units to be located in those
31 municipalities that are eligible to receive aid under the "Special
32 Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.), or
33 are coextensive with a school district which qualified for
34 designation as a "special needs district" pursuant to the "Quality
35 Education Act of 1990," P.L.1990, c.52 (C.18A:7D-1 et al.), or at
36 any time in the last 10 years have been qualified to receive
37 assistance under P.L.1978, c.14 (C.52:27D-178 et seq.) and that fall
38 within the jurisdiction of any of the regional entities specified in
39 subsection a. of this section.

40 d. Notwithstanding the provisions of subsection b. of this
41 section, or any other law or regulation to the contrary, for purposes
42 of mixed use projects or qualified residential projects in which a
43 business receives a tax credit pursuant to P.L.2007, c.346 (C.34:1B-
44 207 et seq.) or a tax credit pursuant to section 35 of P.L.2009, c.90
45 (C.34:1B-209.3) or a tax credit pursuant to section 6 of P.L.2009,
46 c.90 (C.52:27D-489f), as amended by the "New Jersey Economic
47 Opportunity Act of 2013," P.L. , c. (C.) (pending before the
48 Legislature as this bill), or both, an "eligible municipality," as

1 defined in section 2 of P.L.2007, c.346 (C.34:1B-208), or the
2 municipality in which a redevelopment project, as defined in
3 section 3 of P.L.2009, c.90 (C.52:27D-489c), is located, as
4 applicable, shall have the option of deciding the percentage of
5 newly-constructed residential units within the project, up to 20
6 percent of the total, required to be reserved for occupancy by low or
7 moderate income households. For a mixed use project or a
8 qualified residential project that has received preliminary or final
9 site plan approval prior to the effective date of P.L.2011, c.89, the
10 percentage shall be deemed to be the percentage, if any, of units
11 required to be reserved for low or moderate income households in
12 accordance with the terms and conditions of such approval.
13 (cf: P.L.2011, c.89, s.5)

14

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

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

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

21 "Ancillary infrastructure project" means **[public]** structures or
22 improvements that are located **[in the public right-of-way]** outside
23 the project area of a redevelopment project, including parking
24 garages, freight rail spurs, roadway overpasses, and train station
25 platforms, provided a developer or municipal redeveloper has
26 demonstrated that the redevelopment project would not be
27 economically viable or promote the use of public transportation
28 without such improvements.

29 "Authority" means the New Jersey Economic Development
30 Authority established under section 4 of P.L.1974, c.80 (C.34:1B-
31 4).

32 "Deep poverty pocket" means any census tract determined by the
33 United States Census Bureau as having, at the time of an
34 application for a project, an average federal poverty level of 20
35 percent or more and which has been determined by the authority to
36 be an area in need of economic development incentive assistance.

37 "Developer" means any person who enters or proposes to enter
38 into a redevelopment incentive grant agreement pursuant to the
39 provisions of section 9 of P.L.2009, c.90 (C.52:27D-489i). A
40 developer also may be a municipal government or a redevelopment
41 agency as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3).

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

44 "Disaster recovery project" means a redevelopment project
45 located on property that has been damaged or destroyed as a result
46 of a federally-declared disaster.

47 "Distressed municipality" means an eligible municipality under
48 section 2 of P.L.2007, c.346 (C.34:1B-208), a municipality

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

9 "Eligible revenue" means the property tax increment and any
10 other incremental revenues set forth in section 11 of P.L.2009, c.90
11 (C.52:27D-489k).

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

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

23 "Infrastructure improvements in the public right-of-way" mean
24 public structures or improvements located in the public right of way
25 that are located within a project area or that constitute an ancillary
26 infrastructure project.

27 "Low income housing" means housing affordable according to
28 federal Department of Housing and Urban Development or other
29 recognized standards for home ownership and rental costs and
30 occupied or reserved for occupancy by households with a gross
31 household income equal to 50 percent or less of the median gross
32 household income for households of the same size within the
33 housing region in which the housing is located.

34 "Major rail station" means a railroad station which provides
35 access to the public to a minimum of seven commuter rail lines.

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

40 "Project area" means land or lands under common ownership or
41 control including through one or more property owners
42 associations, a joint venture between one or more property owners,
43 a redevelopment agreement with a municipality, or as otherwise
44 established by a municipality.

45 "Project cost" means the costs incurred in connection with the
46 redevelopment project by the developer and such landlords, tenants,
47 or other business occupants as may be part of the project until the
48 issuance of a permanent certificate of occupancy, or until such other

1 time specified by the authority, for a specific investment or
2 improvement, including lands, buildings, improvements, real or
3 personal property, or any interest therein, including leases
4 discounted to present value, including lands under water, riparian
5 rights, space rights, and air rights acquired, owned, developed or
6 redeveloped, constructed, reconstructed, rehabilitated, or improved,
7 any environmental remediation costs, plus soft costs not directly
8 related to construction, of an amount not to exceed 20 percent of the
9 total costs, capitalized interest paid to third parties, and the cost of
10 infrastructure improvements, including ancillary infrastructure
11 projects, but excluding any particular costs for which the project
12 has received federal, State, or local grant funding.

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

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

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

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

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

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

44 "Qualified incubator facility" means a commercial building
45 having over 100,000 square feet of office, laboratory, or industrial
46 space with at least 75 percent of its gross leasable area restricted to
47 use by a technology startup company during the commitment
48 period.

1 “Qualified residential project” means the portion of a
2 redevelopment project that is predominantly residential and
3 includes multi-family residential units, hotel units, or dormitory
4 units for purchase or lease that represent at least \$17,500,000 of the
5 total project cost or \$10,000,000 of the total project cost if the
6 project is a disaster recovery project.

7 "Qualifying economic redevelopment and growth grant incentive
8 area" means any area designated pursuant to P.L.1985, c.398
9 (C.52:18A-196 et seq.) as Planning Area 1 (Metropolitan), Planning
10 Area 2 (Suburban), [or a center as designated by the State Planning
11 Commission; an area zoned for development pursuant to] Planning
12 Area 3 (Fringe Planning Area), or Planning Area 4A (Rural
13 Planning Area); a designated center, or a designated growth center
14 in an endorsed plan until June 30, 2013, or until the State Planning
15 Commission revises and readopts New Jersey’s State Strategic Plan
16 and adopts regulations to refine this definition as it pertains to
17 Statewide planning areas, whichever is later; a smart growth area
18 and planning area designated in a master plan adopted by the New
19 Jersey Meadowlands Commission pursuant to subsection (i) of
20 section 6 of P.L.1968, c.404 (C.13:17-6) [or subject to a
21 redevelopment plan adopted by the New Jersey Meadowlands
22 Commission pursuant to section 20 of P.L.1968, c.404 (C.13:17-
23 21); any land owned by the New Jersey Sports and Exposition
24 Authority, established pursuant to P.L.1971, c.137 (C.5:10-1 et
25 seq.), within the boundaries of the Hackensack Meadowlands
26 District as delineated in section 4 of P.L.1968, c.404 (C.13:17-4); a
27 pinelands regional growth area, a pinelands town management area,
28 a pinelands village, or a military and federal installation area
29 established pursuant to the pinelands comprehensive management
30 plan adopted pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.); a
31 transit village, as determined by the Commissioner of
32 Transportation; and federally owned land approved for closure
33 under a federal Base Realignment Closing Commission action]; a
34 regional growth area, village, and town, designated in the
35 comprehensive management plan prepared and adopted by the
36 Pinelands Commission pursuant to section 7 of the "Pinelands
37 Protection Act," P.L.1979, c.111 (C.13:18A-8); the planning area of
38 the Highlands Region as defined in section 3 of the "Highlands
39 Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-3),
40 and any Highlands center designated by the Highlands Water
41 Protection and Planning Council, established pursuant to section 4
42 of P.L.2004, c.120 (C.13:20-4); an urban enterprise zone designated
43 pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.) or P.L.2001,
44 c.347 (C.52:27H-66.2 et al.); an area determined to be in need of
45 redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79
46 (C.40A:12A-5 and 40A:12A-6) and as approved by the Department
47 of Community Affairs; or similar areas designated by the
48 Department of Environmental Protection. "Qualifying economic

1 redevelopment and growth grant incentive area" shall not include an
2 area designated pursuant to the State Development and
3 Redevelopment Plan adopted, as of the effective date of P.L.2008,
4 c.78, pursuant to "State Planning Act," P.L.1985, c.398 (C.52:18A-
5 196 et al.) as Planning Area 4B (Rural/Environmentally Sensitive)
6 or Planning Area 5 (Environmentally Sensitive), except for any area
7 within Planning Area 4B or Planning Area 5 that is a deep poverty
8 pocket, a designated center or a designated growth center in an
9 endorsed plan, any property consisting of a disaster recovery
10 project, qualified incubator facility, tourism destination project,
11 transit project, or vacant health facility project, any vacant
12 commercial building, or any federally owned land approved for
13 closure under a federal Base Realignment Closing Commission
14 action.

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

27 "Redevelopment project" means a specific **[work]** investment or
28 improvement, including lands, buildings, improvements, real and
29 personal property or any interest therein, including lands under
30 water, riparian rights, space rights and air rights, acquired, owned,
31 leased, developed or redeveloped, constructed, reconstructed,
32 rehabilitated or improved, undertaken by a developer, owner or
33 tenant, or both, within a project area and any ancillary infrastructure
34 project **[associated therewith]** including infrastructure
35 improvements in the public right of way, as set forth in an
36 application to be made to the authority. The use of the term
37 "redevelopment project" in sections 3 through 18 of P.L.2009, c.90
38 (C.52:27D-489c et al.) shall not be limited to only a redevelopment
39 project located in an area determined to be in need of
40 redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79
41 (C.40A:12A-5 and 40A:12A-6).

42 "Redevelopment utility" means a self-liquidating fund created by
43 a municipality pursuant to section 12 of P.L.2009, c.90 (C.52:27D-
44 489l) to account for revenues collected and incentive grants paid
45 pursuant to section 11 of P.L.2009, c.90 (C.52:27D-489k), or other
46 revenues dedicated to a redevelopment project.

47 "Revenue increment base" means the amounts of all eligible
48 revenues from sources within the redevelopment project area in the

1 calendar year preceding the year in which the redevelopment
2 incentive grant agreement is executed, as certified by the State
3 Treasurer for State revenues, and the chief financial officer of the
4 municipality for municipal revenues.

5 “SDA district” means the 31 school districts designated pursuant
6 to P.L.2000, c.72 (C.18A:7G-1 et seq.).

7 “SDA municipality” means a municipality in which all public
8 school students attend school in a SDA district.

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

14 “Tourism destination project” means a redevelopment project
15 that will be among the most visited privately owned or operated
16 tourism or recreation sites in the State as determined at the
17 discretion of the authority.

18 “Transit project” means a redevelopment project located within a
19 1/2-mile radius surrounding the mid-point of a New Jersey Transit
20 Corporation, Port Authority Transit Corporation, or Port Authority
21 Trans-Hudson Corporation rail, bus, or ferry station platform area,
22 including all light rail stations.

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

27 “Urban transit hub site” means a project location within a 1/2-
28 mile radius surrounding the mid-point of a New Jersey Transit
29 Corporation, Port Authority Transit Corporation, or Port Authority
30 Trans-Hudson Corporation rail, bus, or ferry station platform area,
31 including all light rail stations, or adjacent to freight rail, in any
32 municipality considered an "eligible municipality," as defined
33 pursuant to section 2 of P.L.2007, c.346 (C.34:1B-208), as of
34 December 31, 2012.

35 “Vacant commercial building” means any commercial building
36 or complex of commercial buildings having over 400,000 square
37 feet of office, laboratory, or industrial space that is more than 70
38 percent unoccupied at the time of application to the authority or is
39 negatively impacted by the approval of a “qualified business
40 facility,” as defined pursuant to section 2 of P.L.2007, c.346
41 (C.34:1B-208).

42 “Vacant health facility project” means a redevelopment project
43 where a health facility currently exists and is considered vacant. A
44 health facility shall be considered vacant if at least 70 percent of
45 that facility has not been open to the public or utilized to serve any
46 patients at the time of application to the authority.

47 “Workforce housing” means affordable housing according to
48 federal Department of Housing and Urban Development or other

1 recognized standards for home ownership and rental costs and
2 occupied or reserved for occupancy by households with a gross
3 household income equal to more than 50 percent but less than 120
4 percent of the median gross household income for households of the
5 same size within the housing region in which the housing is located.
6 (cf: P.L.2011, c.89, s.6)

7
8 18. Section 6 of P.L.2009, c.90 (C.52:27D-489f) is amended to
9 read as follows:

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

1 fee imposed pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1),
2 or the portion of the fee imposed pursuant to section 3 of P.L.1968,
3 c.49 (C.46:15-7) derived from the sale of real property at the site of
4 the redevelopment project and paid to the State Treasurer for use by
5 the State, that is not credited to the "Shore Protection Fund" or the
6 "Neighborhood Preservation Nonlapsing Revolving Fund" ("New
7 Jersey Affordable Housing Trust Fund") pursuant to section 4 of
8 P.L.1968, c.49 (C.46:15-8).

9 b. Up to an average of 75 percent of the projected annual
10 incremental revenues, averaged over the length of time during
11 which the reimbursement shall be granted, may be pledged towards
12 the State portion of an incentive grant. In the case of a qualified
13 residential project, if the estimated amount of incremental revenues
14 pledged towards the State portion of an incentive grant would be
15 inadequate to fully fund the amount of such State portion of the
16 incentive grant, then in lieu of an incentive grant based on such
17 incremental revenue, the developer shall be awarded tax credits
18 equal to the full amount of the incentive grant. The value of all
19 credits approved by the authority pursuant to this section shall not
20 exceed \$750,000,000, of which \$250,000,000 shall be restricted to
21 qualified residential projects located on urban transit hub sites that
22 are commuter rail in nature; \$200,000,000 shall be restricted to
23 qualified residential projects in distressed municipalities or deep
24 poverty pockets; \$150,000,000 shall be restricted to qualified
25 residential projects that are disaster recovery projects; and the
26 remaining \$150,000,000 shall be used for qualified residential
27 projects in any municipality falling within a qualifying economic
28 redevelopment and growth incentive area. Not more than
29 \$40,000,000 of credits shall be awarded to any qualified residential
30 project in a distressed municipality and not more than \$20,000,000
31 of credits shall be awarded to any other qualified residential project.
32 The developer of a qualified residential project seeking an award of
33 credits towards the funding of its incentive grant shall submit an
34 incentive grant application prior to July 1, 2015 and if approved
35 shall submit a temporary certificate of occupancy for such project
36 no later than July 28, 2018. Credits awarded to a developer
37 pursuant to this subsection shall be subject to the same financial and
38 related analysis by the authority and shall be utilized or transferred
39 by the developer as if such credits had been awarded to the
40 developer pursuant to section 35 of P.L.2009, c.90 (C.34:1B-209.3)
41 for qualified residential projects thereunder. No portion of the
42 revenues pledged pursuant to the "New Jersey Economic
43 Opportunity Act of 2013," sections 1 through 21 of P.L. _____,
44 c. (C.) (pending before the Legislature as this bill) shall be
45 subject to withholding or retainage for adjustment, in the event the
46 developer or taxpayer waives its rights to claim a refund thereof.

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

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

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

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

15

16 19. Section 8 of P.L.2009, c.90 (C.52:27D-489h) is amended to
17 read as follows:

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

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

26 (b) Through regulation, the **【Economic Development Authority】**
27 authority shall establish standards for redevelopment projects
28 seeking State or local incentive grants based on the green building
29 manual prepared by the Commissioner of Community Affairs
30 pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6),
31 regarding the use of renewable energy, energy-efficient technology,
32 and non-renewable resources in order to reduce environmental
33 degradation and encourage long-term cost reduction.

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

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

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

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

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

45 c. (1) With regard to State tax revenues proposed to be pledged
46 for an incentive grant the authority and the State Treasurer shall
47 review the **【redevelopment】** project costs, and except with respect

1 to an application by a municipal redeveloper or with respect to a
2 qualified residential project, evaluate and validate the project
3 financing gap estimated by the developer, and conduct a State fiscal
4 impact analysis to ensure that the overall public assistance provided
5 to the project will result in net benefits to the State including,
6 without limitation, both direct and indirect economic benefits and
7 non-financial community revitalization objectives, including but not
8 limited to, the promotion of the use of public transportation in the
9 case of the ancillary infrastructure project portion of any transit
10 project.

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

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

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

32 (5) To the extent that either the authority or the Local Finance
33 Board does not promulgate the forms or procedures required by this
34 section, a municipality shall be permitted to submit an application
35 for the approval of a municipal incentive grant agreement, provided
36 the application contains all of the information required by the
37 Economic Redevelopment and Growth Grant program.

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

39

40 20. Section 9 of P.L.2009, c.90 (C.52:27D-489i) is amended to
41 read as follows:

42 9. a. The authority is authorized to enter into a redevelopment
43 incentive grant agreement with a developer for any redevelopment
44 project located within a qualifying economic redevelopment and
45 growth grant incentive area that does not qualify as such area solely
46 by virtue of being a transit village.

47 b. The decision whether or not to enter into a redevelopment
48 incentive grant agreement is solely within the discretion of the

1 authority and the State Treasurer, provided that they both agree to
2 enter into an agreement.

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

7 d. The redevelopment incentive grant agreement shall specify
8 the maximum amount of project costs, the amount of the incentive
9 grant to be awarded the developer, the frequency of payments, and
10 the length of time, which shall not exceed 20 years, during which
11 that reimbursement shall be granted. Except for redevelopment
12 incentive grant agreements with a municipal redeveloper or with the
13 developer of a redevelopment project solely with respect to the cost
14 of infrastructure improvements in the public right-of-way including
15 any ancillary infrastructure project in the public right-of-way, in no
16 event shall the combined amount of the reimbursements under
17 redevelopment incentive grant agreements with the State or
18 municipality exceed **【20】** 35 percent of the total project cost 【of the
19 project】. The authority shall be permitted to increase the amount of
20 the reimbursement under the redevelopment incentive grant
21 agreement with the State by up to five percent of the total project
22 cost if the project is: (1) located in a distressed municipality which
23 lacks adequate access to nutritious food in the judgment of the
24 Chief Executive Officer of the authority and will include either a
25 supermarket or grocery store with a minimum of 15,000 square feet
26 of selling space devoted to the sale of consumable products or a
27 prepared food establishment selling only nutritious ready-to-serve
28 meals as a result of financial inducements to be given by the
29 developer to the operator of such premises; (2) located in a
30 distressed municipality which lacks adequate access to health care
31 and health services in the judgment of the Chief Executive Officer
32 of the authority and will include a health care and health services
33 support center with a minimum of 10,000 square feet of space
34 devoted to the provision of health care and health services as a
35 result of financial inducements to be given by the developer to the
36 operator of such premises; (3) located in a distressed municipality
37 which has a business located therein that is required to respond to a
38 request for proposal to fulfill a contract with the federal government
39 as set forth in subsection d. of section 3 of P.L.2011, c.149
40 (C.34:1B-244); (4) a transit project; (5) a qualified residential
41 project in which at least 10 percent of the residential units are
42 constructed as and reserved for workforce housing; or (6) a disaster
43 recovery project. In addition, if there remains a project financing
44 gap with respect to a developer's redevelopment project after the
45 maximum combined amounts provided in this subsection are
46 considered, then the authority shall be permitted to make a bonus
47 award increasing the amount of the reimbursement under the
48 redevelopment incentive grant agreement with the State by up to 15

1 percent of the total project cost. In making a bonus award to a
2 developer, the authority shall consider any factors that are found to
3 contribute to the remaining project financing gap, such as whether
4 the project: (a) is located in a distressed municipality and there
5 exists a financial gap between the fair market commercial rental
6 rates in the relevant marketplace and the commercial rental rates
7 that are necessary to make the redevelopment project economically
8 feasible; (b) is located on an environmentally contaminated site
9 requiring remediation; (c) is a qualified residential project in which
10 at least 10 percent of the residential units are constructed as and
11 reserved for low income housing; (d) would include energy
12 efficiency or renewable energy features, measures or upgrades in
13 excess of the green building requirements of the Economic
14 Redevelopment and Growth Grant program which requirements
15 shall be as set forth in the New Jersey Green Building Manual
16 prepared by the Department of Community Affairs; or (e) is a
17 qualified incubator facility. For the purposes of calculating the total
18 project cost [of all projects], the cost of [infrastructure
19 improvements in the public right-of-way and] publicly owned
20 facilities, other than infrastructure improvements including any
21 ancillary infrastructure project, shall not be included. The amount
22 of the redevelopment incentive grant for a municipal redeveloper or
23 for the developer of a redevelopment project solely with respect to
24 the cost of infrastructure improvements in the public right-of-way
25 including any ancillary infrastructure project in the public right-of-
26 way may include the total cost of such infrastructure improvements
27 and publicly owned facilities.

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

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

- 43 (1) the economic feasibility of the redevelopment project;
- 44 (2) the extent of economic and related social distress in the
45 municipality and the area to be affected by the redevelopment
46 project or the level of site specific distress to include dilapidated
47 conditions, brownfields designation, environmental contamination,

- 1 pattern of vacancy, abandonment, or under utilization of the
2 property, or other site conditions as determined by the authority;
- 3 (3) the degree to which the redevelopment project will advance
4 State, regional, and local development and planning strategies;
- 5 (4) the likelihood that the redevelopment project shall, upon
6 completion, be capable of generating new tax revenue in an amount
7 in excess of the amount necessary to reimburse the developer for
8 project costs incurred as provided in the redevelopment incentive
9 grant agreement , provided, however that any tax revenue generated
10 by a redevelopment project that is a disaster recovery project shall
11 be considered new tax revenue even if the same or more tax revenue
12 was generated at or on the site prior to the disaster;
- 13 (5) the relationship of the redevelopment project to a
14 comprehensive local development strategy, including other major
15 projects undertaken within the municipality;
- 16 (6) the need of the redevelopment incentive grant agreement to
17 the viability of the redevelopment project or the promotion of the
18 use of public transportation; and
- 19 (7) the degree to which the redevelopment project enhances and
20 promotes job creation and economic development or the promotion
21 of the use of public transportation.
- 22 g. (1) A developer that has entered into a redevelopment
23 incentive grant agreement with the authority and the State Treasurer
24 pursuant to this section may, upon notice to and consent of the
25 authority and the State Treasurer, pledge and assign as security or
26 support for any loan or bond, any or all of its right, title and interest
27 in and to such agreements and in the incentive grants payable
28 thereunder, and the right to receive same, along with the rights and
29 remedies provided to the developer under such agreement. Any
30 such assignment shall be an absolute assignment for all purposes,
31 including the federal bankruptcy code.
- 32 (2) Any pledge of incentive grants made by the developer shall
33 be valid and binding from the time when the pledge is made and
34 filed in the records of the authority. The incentive grants so
35 pledged and thereafter received by the developer shall immediately
36 be subject to the lien of the pledge without any physical delivery
37 thereof or further act, and the lien of any pledge shall be valid and
38 binding as against all parties having claims of any kind in tort,
39 contract, or otherwise against the developer irrespective of whether
40 the parties have notice thereof. Neither the redevelopment
41 incentive grant agreement nor any other instrument by which a
42 pledge under this section is created need be filed or recorded except
43 with the authority.
- 44 (cf: P.L.2010, c.10, s.9)
- 45
- 46 21. Section 11 of P.L.2009, c.90 (C.52:27D-489k) is amended to
47 read as follows:

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

6 b. The redevelopment incentive grant agreement shall specify
7 the maximum amount of project costs, the amount of the incentive
8 grant to be awarded the developer, the frequency of payments, and
9 the length of time, which shall not exceed 20 years, during which
10 that reimbursement shall be granted. Except for redevelopment
11 incentive grants with a municipal redeveloper or with the developer
12 of a redevelopment project solely with respect to the cost of
13 infrastructure improvements in the public right-of-way including
14 any ancillary infrastructure project in the public right-of-way, in no
15 event shall the combined amount of the reimbursements under
16 redevelopment incentive grant agreements with the State or
17 municipality exceed ~~20~~ 35 percent of the total project cost ~~of the~~
18 project plus any bonus award of the State or municipal portion of
19 such combined amount as set forth in subsection d. of section 9 of
20 P.L.2009, c.90 (C.52:27D-489i). For the purposes of calculating
21 the total project cost ~~of all projects~~, the cost of ~~infrastructure~~
22 improvements in the public right-of-way and publicly owned
23 facilities, other than infrastructure improvements including any
24 ancillary infrastructure project, shall not be included. The amount
25 of the redevelopment incentive grant for a municipal redeveloper or
26 for the developer of a redevelopment project solely with respect to
27 the cost of infrastructure improvements in the public right-of-way
28 including any ancillary infrastructure project in the public right-of-
29 way may include the total cost of such infrastructure improvements
30 and publicly owned facilities.

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

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

43 (1) incremental payments in lieu of taxes, with respect to
44 property located in the district, made pursuant to the "Five-Year
45 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et
46 seq.), or the "Long Term Tax Exemption Law," P.L.1991, c.431
47 (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
14 from activities within the area and which are rebated to or retained
15 by the municipality pursuant to the "New Jersey Urban Enterprise
16 Zones 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
37 incremental municipal revenues that may become available;
- 38 (10) the property tax increment.
- 39 The incremental revenue for the revenues listed in this
40 subsection, when applicable, shall be calculated as the difference
41 between the amount collected in any fiscal year from any eligible
42 revenue source included in the local redevelopment incentive grant
43 agreement, less the revenue increment base for that eligible
44 revenue.
- 45 e. (1) In calculating the general tax rate of a municipality each
46 year, the aggregate amount of the incremental ratable value over the
47 property tax increment base in the redevelopment project area that

1 is pledged as part of a redevelopment incentive grant agreement
2 shall be excluded from the ratable base of a municipality.

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

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

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

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

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

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

43
44 22. (New section) Sections 22 through 34 of P.L. , c. (C.)
45 (pending before the Legislature as this bill) shall be known and may
46 be cited as the "New Jersey Residential Foreclosure Transformation
47 Act."

1 23. (New section) The Legislature finds and declares that:

2 a. In recent years, there has been an enormous expansion in
3 the number of mortgage foreclosure filings in New Jersey and
4 across the nation. The number of mortgage foreclosure actions filed
5 in the New Jersey Courts grew from just over 20,000 in 2005 to
6 more than 51,000 in 2008, 66,000 in 2009, and 58,000 in 2010.

7 b. Preliminary information indicates a decline in the number of
8 residential mortgage foreclosure filings over 2011. However, this
9 decline is largely attributable to actions undertaken by the New
10 Jersey Judiciary which, in December of 2010, suspended the
11 processing of uncontested residential foreclosures by the six biggest
12 lenders in order to address "robo-signing" and other processing
13 irregularities.

14 c. Despite this decline, it has been reported that more than one
15 in 10 New Jersey mortgage loans are already in foreclosure or are
16 90 days or more in arrears. Because of the large number of
17 foreclosures filed during the 2009-2010 period, and the Judiciary's
18 suspension of foreclosure processing, reports indicate that as of
19 August 2011 more than 100,000 residential foreclosure cases were
20 still open. Now that the courts have resumed processing
21 foreclosures for the big six lenders, it is widely believed that
22 foreclosure filings will increase during 2012. This is due in part to
23 the large number of mortgages that are seriously delinquent, or
24 more than 90 days past due. Reports have indicated that during the
25 suspension period mortgage lenders were waiting to file more than
26 28,000 additional foreclosures and that another 55,000 mortgage
27 loans were over 90 days delinquent.

28 d. Many of these foreclosed residential properties are vacant,
29 undermining the health, safety, and economic vitality of
30 neighborhoods, depressing their property values, and reducing
31 revenues to municipalities.

32 e. It is the public policy of this State to encourage the
33 production of low-income and moderate-income housing to serve
34 the general welfare of all the State's residents.

35 f. The availability of tens of thousands of foreclosed
36 residential properties presents a unique opportunity for the State to
37 facilitate the purchase and dedication, or the rental, of housing units
38 for low-income and moderate-income residents.

39 g. Establishment of a temporary program within the New
40 Jersey Housing and Mortgage Finance Agency dedicated to the
41 purpose of identifying foreclosed residential properties and
42 facilitating their purchase and dedication for occupancy or their
43 rental, including, but not limited to, low-income and moderate-
44 income families, is in the public interest of the State.

45

46 24. (New section) As used in Sections 22 through 34 of P.L. ,

47 c. (C.) (pending before the Legislature as this bill):

1 "Affordable" means a sales price or rent within the means of a
2 low- or moderate- income household.

3 "Agency" means the New Jersey Housing and Mortgage Finance
4 Agency established pursuant to section 4 of P.L.1983, c.530
5 (C.55:14K-4).

6 "Community development financial institution" means an entity
7 designated and certified by the United States Department of the
8 Treasury as a Community Development Financial Institution
9 pursuant to 12 CFR Part 1805.

10 "Contractor" means a qualified community development
11 financial institution that enters into a contract or loan with the
12 agency pursuant to section 28 of P.L. , c. (C.) (pending
13 before the Legislature as this bill).

14 "Eligible property" means any residential property that is owned
15 by an institutional lender as the result of a mortgage foreclosure.

16 "Institutional lender" or "lender" means any lawfully constituted
17 mortgage lender, mortgage investor, or mortgage loan servicer that
18 owns an eligible property including, but not limited to any agency
19 or instrumentality of the United States, including, but not limited to,
20 the Government National Mortgage Association, the Federal Home
21 Loan Mortgage Corporation, the Federal National Mortgage
22 Association, the Federal Housing Administration, the Small
23 Business Administration, the Resolution Funding Corporation, and
24 the Federal Deposit Insurance Corporation.

25 "Intercreditor agreement" means an agreement among creditors
26 that sets forth the various lien positions and the rights and liabilities
27 of each creditor and its impacts on the other creditors.

28 "Low-income" means 50 percent or less of the median gross
29 household income for households of the same size within the
30 housing region in which the household is located, based upon the
31 United States Department of Housing and Urban Development's
32 Section 8 Income Limits (uncapped) averaged across counties for
33 the housing region.

34 "Low-income housing" means housing which is affordable,
35 according to United States Department of Housing and Urban
36 Development or other recognized standards for home ownership
37 and rental costs, and occupied or reserved for occupancy by
38 households with a gross household income equal to 50 percent or
39 less of the median gross household income for households of the
40 same size within the housing region in which the housing is located.

41 "Market-rate units" means housing which is not restricted to low-
42 and moderate-income households that may sell or rent at any price.

43 "Moderate-income" means more than 50 percent but less than 80
44 percent of the median gross household income for households of the
45 same size within the housing region in which the household is
46 located, based upon the United States Department of Housing and
47 Urban Development's Section 8 Income Limits (uncapped) averaged
48 across counties for the housing region.

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

9 "Program" means the "New Jersey Foreclosure Transformation
10 Program" established pursuant to P.L. , c. (C.) (pending
11 before the Legislature as this bill).

12 "Qualified community development financial institution" means
13 a community development financial institution that has a minimum
14 of \$50 million in assets under management and a minimum of two
15 years' experience in the financing and acquisition of real estate for
16 affordable housing.

17 "Qualifying household" means a very-low-, low-, or moderate-
18 income household, the head of which certifies in writing that the
19 household intends to occupy the property as a principal residence
20 for at least 12 months.

21 "Very-low-income" means 30 percent or less of the median gross
22 household income for households of the same size within the
23 housing region in which the household is located, based upon the
24 United States Department of Housing and Urban Development's
25 Section 8 Income Limits (uncapped) averaged across counties for
26 the housing region.

27 "Very-low-income housing" means housing which is affordable,
28 according to United States Department of Housing and Urban
29 Development or other recognized standards for home ownership
30 and rental costs, and occupied or reserved for occupancy by
31 households with a gross household income equal to 30 percent or
32 less of the median gross household income for households of the
33 same size within the housing region in which the housing is located.

34
35 25. (New section) There is established in the New Jersey
36 Housing and Mortgage Finance Agency the "New Jersey
37 Foreclosure Transformation Program," which shall be a temporary
38 program for the purpose of purchasing foreclosed residential
39 properties from institutional lenders and dedicating them for
40 occupancy as affordable housing.

41
42 26. (New section) To implement the program, the agency shall
43 have the following powers:

44 a. To enter into contracts and modify, or consent to the
45 modification of, any contract or agreement to which the agency is a
46 party or in which the agency has an interest under sections 22
47 through 34 of P.L. , c. (C.) (pending before the Legislature

1 as this bill), with or without public bidding, notwithstanding the
2 provisions of any other law.

3 b. To make advance, progress, or other payments.

4 c. To acquire, hold, lease, mortgage, maintain, and dispose of,
5 at public or private sale, real and personal property, using any
6 legally available private sector methods including without
7 limitation, securitization of debt or equity, limited partnerships,
8 mortgage investment conduits, and real estate investment trusts, and
9 otherwise exercise all the usual incidents of ownership of property
10 necessary and convenient to the operations of the agency; provided,
11 however, that every contract for the acquisition of real property
12 entered into by the agency, and every deed conveying real property
13 to the agency, shall provide that if the agency holds title to the
14 property on the 61st day after the date of the deed, all rights, title,
15 and interest conveyed to the agency shall automatically revert to
16 and vest in the grantor without the necessity of any further act on
17 the part of or on behalf of the grantor, it being the intent to convey a
18 determinable estate. In each case where title has reverted to and re-
19 vested in the grantor as provided in this subsection, the agency shall
20 memorialize the reversion and re-vesting of title by the immediate
21 execution and delivery of a deed to the grantor conveying all of the
22 agency's estate, right, title and interest in and to the property
23 described therein.

24 d. To sue and be sued in its own name in any court of
25 competent jurisdiction.

26

27 27. (New section) In addition to the powers of the agency
28 described in section 26 of P.L. , c. (C.) (pending before the
29 Legislature as this bill) in implementing the program, the agency
30 shall have the following powers:

31 a. The agency may enter into contracts with any person,
32 corporation, or entity which the agency determines to be necessary
33 or appropriate to carry out its responsibilities under sections 22
34 through 34 of P.L. , c. (C.) (pending before the Legislature
35 as this bill). Such contracts shall be subject to the procedures
36 adopted pursuant to section 28 of P.L. , c. (C.) (pending
37 before the Legislature as this bill).

38 b. In carrying out the agency's duties under sections 22 through
39 34 of P.L. , c. (C.) (pending before the Legislature as this
40 bill), the agency may utilize the services of private persons,
41 including real estate and loan portfolio asset management, property
42 management, auction marketing, and brokerage services, if such
43 services are available in the private sector and the agency
44 determines utilization of such services are practicable and efficient.

45

46 28. (New section) a. (1) To implement the program, the agency
47 shall enter into contracts or loans, or both, with no more than two
48 qualified community development financial institutions to

1 negotiate, bid for, and purchase eligible properties and mortgage
2 assets from institutional lenders for the purpose of producing
3 affordable housing. In selecting contractors from among qualified
4 community development financial institutions, the agency shall
5 accord a strong preference to qualified community development
6 financial institutions that have substantial experience in lending in
7 New Jersey and substantial knowledge of New Jersey real estate
8 markets. The agency may enter into contracts or loans, or both,
9 with a partnership or consortia of organizations, as long as a
10 qualified community development financial institution is the lead
11 entity, or a partnership or consortia of multiple qualified community
12 development financial institutions.

13 (2) The contracts shall specify the amounts, schedules, and
14 types of funding to be provided by the agency to the qualified
15 community development financial institutions, the repayment
16 schedule for the portion of that funding to be repaid, and targeted
17 goals of affordable housing to be produced. The agency may
18 condition funding and goals upon the availability of funds to the
19 agency. The contracts shall specify reasonable administrative costs
20 sufficient to enable the qualified community development financial
21 institutions to exercise their obligations pursuant to sections 22
22 through 34 of P.L. , c. (C.) (pending before the Legislature
23 as this bill). The contracts shall set forth criteria for instances when
24 the purchase, sale, lease, and conveyance of properties as market-
25 rate units furthers the purposes of P.L. , c. (C.) (pending
26 before the Legislature as this bill).

27 b. (1) As soon as possible after the agency or one of its
28 contractors enters into a contract to purchase an eligible property or
29 mortgage asset for use as affordable housing, the agency or
30 contractor shall provide the municipality in which the property is
31 located a 45-day period of time within which the municipal
32 governing body may:

33 (a) consent or withhold consent to the agency's or contractor's
34 purchase of the eligible property for use as affordable housing, or

35 (b) opt to purchase the property in lieu of the agency or
36 contractor in accordance with the provisions set forth in this act.
37 The municipality may waive these rights through written notice to
38 the agency or, if so designated by the agency, its contractors, prior
39 to the expiration of the 45-day period.

40 (2) Those eligible properties purchased by the qualified
41 community development financial institutions and designated
42 pursuant to this act for use as affordable housing shall be restricted
43 for occupancy as affordable housing for a period of 30 years. The
44 restriction shall be set forth in the deed and recorded in the office of
45 the county recording officer of the county wherein the real estate is
46 situated. Affordability controls shall be imposed upon purchase and
47 maintained upon transfer in accordance with the provisions of the

1 Uniform Housing Affordability Controls promulgated by the
2 agency.

3 c. (1) As soon as possible after entering into a contract to
4 purchase an eligible property for use as affordable housing, but not
5 less than five days after the date the agency or its contractors enters
6 into the contract, the agency or its contractors shall provide written
7 notice by personal service or certified mail to the governing body of
8 the municipality within which the eligible property is located. The
9 notice shall inform the municipal governing body of:

10 (a) the agency's or contractor's intent to purchase the eligible
11 property and to restrict it for use as affordable housing for 30 years,

12 (b) the municipality's opportunity to consent or to withhold
13 consent to the proposed purchase and dedication of the property for
14 affordable housing,

15 (c) the municipality's opportunity to purchase the eligible
16 property,

17 (d) the municipality's right of first refusal to purchase the
18 property, and

19 (e) the municipality's right to use monies deposited in its
20 affordable housing trust fund.

21 (2) As soon as possible after entering into a contract to purchase
22 an eligible property, but not less than five days after the date the
23 agency or its contractors enters into the contract, the agency or its
24 contractors shall list the property on the Department of the
25 Treasury's website. The listing shall contain basic information
26 about the property, including but not limited to location, condition,
27 and information relating to the estimated fair market value of the
28 property. The agency or its contractors shall make information
29 about the listing available to the agency and, upon request, to
30 municipalities, other public agencies, community development
31 corporations, developers, and qualifying households.

32 (3) The agency or its contractors shall allow public agencies,
33 community development corporations, developers, and qualifying
34 households reasonable access to an eligible property for purposes of
35 inspection.

36 d. (1) In order to consent or withhold consent to the proposed
37 purchase and dedication of an eligible property as affordable
38 housing or exercise its right to purchase an eligible property, the
39 governing body of the municipality shall provide written notice to
40 the executive director of the agency or, if so designated by the
41 agency, its contractors, within 45 days of the municipality's receipt
42 of the notice required pursuant to subsection c. of this section.

43 (2) The governing body of a municipality may adopt a
44 resolution authorizing the mayor or other designated municipal
45 official to respond to notices received pursuant to subsection c. of
46 this section. The resolution may establish parameters for that
47 exercise of authority, including but not limited to the total amount

1 of funds that may be expended and the amount that may be
2 expended for each unit of housing.

3 (3) A municipality may use any available funding sources to
4 purchase eligible properties or mortgage assets through the agency
5 pursuant to sections 22 through 34 of P.L. , c. (C.)
6 (pending before the Legislature as this bill), except for funds that
7 are dedicated to another purpose by law, covenant, or other
8 obligation.

9 (4) Whenever a municipality does not exercise an option to
10 purchase an eligible property under this section or withhold consent
11 to the proposed purchase and dedication of the property for
12 affordable housing within 45 days of the municipality's receipt of
13 the notice required pursuant to subsection c. of this section, the
14 agency or its contractors may convey the property for occupancy as
15 affordable housing subject to a 30-year deed restriction to another
16 public agency, a community development corporation, a developer,
17 or a qualifying household or the contractors may lease the property
18 for occupancy as affordable housing subject to a 30-year deed
19 restriction. A municipality that does not exercise an option to
20 purchase an eligible property under this section may adopt a
21 resolution authorizing the agency or its contractors to use monies
22 deposited in that municipality's affordable housing trust fund, up to
23 and including the negotiated purchase price of the eligible property,
24 and apply those funds to the purchase of the eligible property.

25 e. Notwithstanding any other provision of this section to the
26 contrary, the agency and, if authorized by contract, its contractors,
27 may purchase, sell, lease, and convey market rate-units without
28 offering those units to the municipality and without imposing
29 affordability controls upon the property if the purchase, sale, lease,
30 and conveyance of those properties as market-rate units satisfy
31 criteria established pursuant to contract in accordance with
32 subsection a. of this section and does not violate the terms of any
33 other provision of law or requirement, including those governing
34 the use of funds used to make the purchase.

35 f. All purchases, sales, leases, and conveyances of property by
36 qualified community development financial institutions exercised
37 pursuant to this section shall be deemed to lessen the burdens of
38 government in furthering the purposes of sections 22 through 34 of
39 P.L. , c. (C.) (pending before the Legislature as this bill).

40
41 29. (New section) a. A municipality that purchases an eligible
42 property pursuant to sections 22 through 34 of P.L. , c. (C.)
43 (pending before the Legislature as this bill) shall sell and convey or
44 lease the housing unit or units acquired within 60 days of the date
45 of purchase, unless it is not possible to do so due to practical or
46 market conditions. In the event that an eligible property is not
47 conveyed or leased within 180 days of the date of purchase, or
48 remains vacant for a 180-day period during the pendency of

1 affordability controls, the agency may commence proceedings to
2 take control of the property and to sell and convey or lease the
3 property in furtherance of the purposes of sections 22 through 34 of
4 P.L. , c. (C.) (pending before the Legislature as this bill)
5 and deed restrictions of record.

6 b. The governing body of a municipality that purchases an
7 eligible property pursuant to sections 22 through 34 of P.L. ,
8 c. (C.) (pending before the Legislature as this bill) may, by
9 resolution, authorize the private sale and conveyance or the lease of
10 a housing unit or units acquired pursuant to sections 22 through 34
11 of P.L. , c. (C.) (pending before the Legislature as this
12 bill). Every deed and rental agreement shall contain a provision
13 specifying the requirement that the housing unit or units shall
14 remain available to low- and moderate-income households for a
15 period of at least 30 years.

16 c. Except as provided in subsection d. of this section, whenever
17 the agency, its contractors, or a municipality purchases an eligible
18 property pursuant to sections 22 through 34 of P.L. , c. (C.)
19 (pending before the Legislature as this bill) from monies deposited
20 in the municipality's affordable housing trust fund and dedicates the
21 property for affordable housing, as required by sections 22 through
22 34 of P.L. , c. (C.) (pending before the Legislature as this
23 bill), that municipality shall receive two units of credit towards its
24 affordable housing obligation for each unit of affordable housing
25 dedicated and provided.

26 d. The total number of bonus units of credit beyond the actual
27 units of housing provided pursuant to sections 22 through 34 of
28 P.L. , c. (C.) (pending before the Legislature as this bill)
29 shall not exceed 25 percent of whatever the municipality's
30 affordable housing obligation may be. No unit of affordable
31 housing shall receive the bonus units of credit described in sections
32 22 through 34 of P.L. , c. (C.) (pending before the Legislature
33 as this bill) in addition to any other type of additional units of credit
34 that may be available towards a municipality's affordable housing
35 obligation.

36
37 30. (New section) The agency and the State Treasurer shall
38 prioritize the allocation of tax-exempt private activity bonds in the
39 amount necessary to effectuate the purposes of sections 22 through
40 34 of P.L. , c. (C.) (pending before the Legislature as this
41 bill) in each year until the agency ceases operation of the program,
42 provided that the proceeds of tax-exempt private activity bonds to
43 support the purposes of sections 22 through 34 of P.L. , c. (C.)
44 (pending before the Legislature as this bill) shall be limited to
45 contracts with and loans to qualified community development
46 financial institutions pursuant to section 28 of P.L. , c. (C.)
47 (pending before the Legislature as this bill).

1 31. (New section) a. For the purposes of this section:

2 "Foreclosure-impacted municipality" means a municipality that
3 documents a minimum of 10 units of housing that have been
4 foreclosed upon and have remained unsold on a Multiple Listing
5 Service for at least 60 days; and

6 "Units of housing" means units of housing that are not age-
7 restricted and are habitable year-round, including but not limited to,
8 single family homes, condominium units, cooperative units, and
9 mobile homes with at least two bedrooms.

10 b. (1) Prior to the date that a foreclosure-impacted
11 municipality's development fees or payments-in-lieu fees are
12 scheduled to transfer to the "New Jersey Affordable Housing Trust
13 Fund" pursuant to section 8 of P.L.2008, c.46 (C.52:27D-329.2) or
14 section 9 of P.L.2008, c.46 (C.52:27D-329.3), the municipality may
15 adopt a resolution committing the expenditure of municipal
16 affordable housing trust fund monies. These funds shall be used to
17 produce very-low-income, low-income, and moderate-income
18 housing. The resolution shall authorize the transfer of a minimum
19 of \$150,000 from the municipality's municipal affordable housing
20 trust fund to the "Foreclosure to Affordable Housing
21 Transformation Fund" established pursuant to section 32 of P.L. ,
22 c. (C.) (pending before the Legislature as this bill) for use by
23 the agency or its contractors for the provision of affordable housing
24 pursuant to this section and the procedures specified in section 28
25 of P.L. , c. (C.) (pending before the Legislature as this
26 bill).

27 (2) The resolution may authorize the mayor or other designated
28 municipal official to exercise the municipal powers described in
29 section 28 of P.L. , c. (C.) (pending before the Legislature
30 as this bill). The resolution may establish parameters for that
31 exercise of authority, including but not limited to purchase price
32 levels for the exercise of that power.

33 c. (1) The agency or its contractors shall use funds transferred
34 pursuant to subsection b. of this section to produce very-low-, low-,
35 and moderate-income housing within the municipality transferring
36 funds pursuant to this section, with a deed restriction specifying that
37 the housing unit or units shall remain available to low- and
38 moderate-income households for a period of at least 30 years.

39 (2) If the agency or its contractors are unable to utilize some or
40 all of the funds provided to produce affordable housing within the
41 municipality within two years of the transfer of such funds to the
42 "Foreclosure to Affordable Housing Transformation Fund"
43 established pursuant to section 32 of P.L. , c. (C.) (pending
44 before the Legislature as this bill), the funds shall be returned to the
45 municipality as soon as practicable after the two-year anniversary of
46 such transfer. From the date any such funds are returned to the
47 municipality, the municipality shall be required to commit the funds
48 in accordance with section 8 of P.L.2008, c.46 (C.52:27D-329.2) or

1 section 9 of P.L.2008, c.46 (C.52:27D-329.3), as applicable, within
2 the time constraints set forth in those sections or within six months
3 after the date of transfer of funds back to the municipality,
4 whichever is later.

5 d. Affordable housing created pursuant to this section through
6 the "Foreclosure to Affordable Housing Transformation Fund"
7 established pursuant to section 32 of P.L. , c. (C.) (pending
8 before the Legislature as this bill), shall receive additional
9 affordable housing credit as set forth in subsection c. of section 29
10 of P.L. , c. (C.) (pending before the Legislature as this
11 bill), even if the municipality does not exercise its right to purchase
12 the property.

13 e. No agency of the State of New Jersey shall take any action
14 to transfer funds from a municipal affordable housing trust fund to
15 the "New Jersey Affordable Housing Trust Fund" established
16 pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320) when
17 such funds are designated to effectuate the purposes of sections 22
18 through 34 of P.L. , c. (C.) (pending before the Legislature
19 as this bill) during the timeframes established in this section.
20 Nothing in P.L. , c. (C.) (pending before the Legislature as
21 this bill) shall be construed as requiring the State to spend monies
22 that have been deposited in the General Fund to effectuate the
23 purposes of sections 22 through 34 of P.L. , c. (C.)
24 (pending before the Legislature as this bill).

25
26 32. (New section) a. There is established within the agency a
27 "Foreclosure to Affordable Housing Transformation Fund," which
28 shall be a non-lapsing, revolving fund and which shall be the
29 repository for funds appropriated or otherwise made available for
30 the purposes of sections 22 through 34 of P.L. , c. (C.)
31 (pending before the Legislature as this bill), and any interest earned
32 thereon. The fund shall be administered by the agency, in
33 accordance with its authority under section 5 of P.L.1983, c.530
34 (C.55:14K-5) to manage funds for housing programs.

35 b. The agency may transfer into the "Foreclosure to Affordable
36 Housing Transformation Fund" any amounts held or received by the
37 agency that may be used for the production of affordable housing
38 and that is needed by the agency or its contractors for the purchase
39 of eligible property. Subject to the provisions of sections 20
40 through 28 of P.L.1983, c.530 (C.55:14K-20 through C.55:14K-28),
41 the agency is authorized to issue its bonds to fund the activities of
42 the program; provided, however, that tax-exempt bonds shall only
43 be issued consistent with the requirements of section 30 of P.L. ,
44 c. (C.) (pending before the Legislature as this bill).

45 c. In any year in which the proceeds from the receipts of the
46 additional fee collected pursuant to paragraph (2) of subsection a. of
47 section 3 of P.L.1968, c.49 (C.46:15-7) exceeds \$75 million, the
48 first \$10 million above the \$75 million collected shall be transferred

1 into the "Foreclosure to Affordable Housing Transformation Fund"
2 for the purposes of the production of affordable housing.

3 d. Notwithstanding any provision of law to the contrary, the
4 Commissioner of Community Affairs may transfer into the
5 "Foreclosure to Affordable Housing Transformation Fund" amounts
6 held for the production of affordable housing and not designated for
7 a specific purpose beyond the overall production of affordable
8 housing by the annual budget, including but not limited to monies
9 deposited in the "New Jersey Affordable Housing Trust Fund,"
10 which amounts are needed by the agency for the purchase of
11 eligible property. The commissioner shall consider the transfer of
12 funds from the "New Jersey Affordable Housing Trust Fund" to the
13 "Foreclosure to Affordable Housing Transformation Fund" as a
14 priority for funding until the agency ceases the program's
15 operations.

16 e. All amounts deposited into the "Foreclosure to Affordable
17 Housing Transformation Fund" that are derived from federal
18 funding sources or are otherwise dedicated to the production of
19 affordable housing shall be used exclusively for the production of
20 affordable housing. The agency may use other funds for the
21 production of affordable housing or market rate housing.

22 f. The agency may use annually up to three percent of the
23 monies available in the fund for the payment of any necessary
24 administrative costs related to the administration of sections 22
25 through 34 of P.L. , c. (C.) (pending before the Legislature
26 as this bill).

27
28 33. (New section) a. On or before the last day of March in each
29 year, the agency shall make an annual report of the program's
30 activities for the preceding calendar year, and the program's
31 planned activities for the current and following calendar year, to the
32 Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
33 19.1), to the Legislature. The agency shall display the annual
34 reports on the agency's website.

35 b. Each annual report shall set forth the current nature and
36 extent of foreclosure activity in New Jersey and shall depict
37 changes in foreclosure activity from the prior calendar year. The
38 report shall set forth a complete operating and financial statement
39 covering the program's operations, transactions, and holdings
40 during the preceding year, including but not limited to:

- 41 (1) the total number of re-capitalized market rate units; and
42 (2) the total numbers of very-low-income, low-income, and
43 moderate-income units that were produced for sale and for rental in
44 the preceding year pursuant to this act, their locations by
45 municipality, and the sources of financing used.

46
47 34. (New section) The agency shall cease the program's
48 operations on December 31, 2017. On that date, any assets,

1 liabilities, properties, or funds held by the agency shall transfer to
2 other authorized programs operated by the agency.

3

4 35. This act shall take effect immediately.

5

6

STATEMENT

7

8 Sections 1 through 21 of this bill, designated as the "New Jersey
9 Economic Opportunity Act of 2013 of 2013," expands three
10 economic development incentive programs administered by the
11 New Jersey Economic Development Authority (EDA): (1) the
12 Grow New Jersey Assistance Program (GNJAP); (2) the Economic
13 Redevelopment and Growth Grant Program (ERGGP); and (3) the
14 Urban Transit Hub Tax Credit Program (UTHTCP). The GNJAP
15 would be the State's premiere business attraction and retention
16 incentive, sized and scaled to better match or surpass the financial
17 incentive packages being offered by neighboring and other
18 competing states without unnecessarily exceeding that goal, while
19 also providing bonuses to drive development to smart growth areas
20 in the State. The ERGGP would be the State's sole redeveloper
21 incentive, sized and scaled to more readily close project financing
22 gaps and build public infrastructure critical to redevelopment
23 projects while also providing bonuses to achieve public policy
24 objectives, such as bringing fresh produce to urban "food deserts,"
25 and rebuilding tourism destinations that were destroyed due to the
26 effects of Hurricane Sandy. Under the UTHTCP, the overall cap on
27 the EDA's grant of tax credits to eligible businesses would increase
28 from \$1.75 to \$2.5 billion and add eligibility criteria applicable to
29 maritime, manufacturing, and logistics businesses. In doing so, the
30 bill phases out the provisions of the Business Retention and
31 Relocation Assistance Grant Program and the Business
32 Employment Incentive Program, both of which are also
33 administered by the EDA.

34 Sections 22 through 34 of this bill, entitled the "New Jersey
35 Residential Foreclosure Transformation Act," establish the "New
36 Jersey Foreclosure Transformation Program" as a temporary
37 program within the New Jersey Housing and Mortgage Finance
38 Agency (HMFA) for the purpose of purchasing foreclosed
39 residential properties from institutional lenders and dedicating them
40 for occupancy as affordable housing. The HMFA shall cease the
41 program's operations on December 31, 2017. The bill empowers
42 the HMFA to purchase foreclosed residential property and mortgage
43 assets from institutional lenders in order to produce affordable
44 housing and dedicate it as such for 30 years. The bill directs the
45 HMFA to enter into contracts or loans, or both, with no more than
46 two experienced, financially sophisticated, community development
47 financial institutions to enhance the ability of the HMFA to fulfill
48 its purpose of producing affordable housing.