

ASSEMBLY, No. 1906

STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

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District 33 (Hudson)

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

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District 33 (Hudson)

SYNOPSIS

“Digital Currency Jobs Creation Act.”

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 8/28/2018)

1 AN ACT concerning digital currency, supplementing various parts
2 of the statutory law, and amending P.L.2011, c.149 and
3 P.L.1996, c.2.
4

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

8 1. (New section) This act shall be known and may be cited as
9 the “Digital Currency Jobs Creation Act.”
10

11 2. (New section) The purpose of this act is to promote
12 innovation in the burgeoning digital currency industry, to protect
13 consumers of digital currency services, and to create jobs in the
14 State of New Jersey.
15

16 3. (New section) As used in this act:

17 “Administrator” means a centralized authority with the power to
18 remove digital currency from circulation or to modify the
19 information stored in a distributed digital verification system.

20 “Affiliate” means any person that directly or indirectly controls,
21 is controlled by, or is under common control with, another person.

22 “Commissioner” means the Commissioner of Banking and
23 Insurance.

24 “Cyber security events” means any act or attempt, successful or
25 unsuccessful, to gain unauthorized access to, disrupt, or misuse a
26 registrant’s electronic systems or information stored on such
27 systems.

28 “Digital currency” means any type of digital unit that, regardless
29 of legal tender status, has no administrator and is:

- 30 a. used as a currency, medium of exchange or stored value; or
31 b. used as a substitute for government currency.

32 “Digital currency” shall not include:

33 (1) digital units that have nominal or no value as a currency or
34 medium of exchange and are not used as a substitute for
35 government currency;

36 (2) digital units that can be used solely with a gift card program;

37 (3) digital units that are used solely within online gaming
38 platforms and have no market or application outside of those
39 gaming platforms, or can be redeemed for real-world goods,
40 services, discounts, or purchases, but cannot be converted into, or
41 redeemed for government currency or digital currency; or

42 (4) digital units that are used solely within an affinity program
43 but do not otherwise meet the definition of digital currency as
44 defined herein.

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 “Digital currency custodial activity” means any person who as a
2 business maintains custody of digital currency owned, directly or
3 through intermediaries, by a New Jersey person, regardless of
4 whether the business incorporates the transmission, transfer,
5 exchange, administration, receipts, control, or issuance of digital
6 currency.

7 “Digital currency servicer” means:

- 8 a. any person who, as its primary business, engages in digital
9 currency creation, including mining;
10 b. any person who, as its primary business, engages in the
11 provision of a distributed digital verification system; or
12 c. any registrant.

13 “Distributed digital verification system” means a decentralized
14 system for the trustless verification of information without the use
15 of an intermediary custodian of that information.

16 “Distributed digital verification system activity” includes
17 systems for tracking chain of title to property or rights into a
18 commercial agreement.

19 “Gift card program” means a credit program that is:

- 20 a. usable at a single merchant or an affiliated group of
21 merchants that share the same name, mark or logo or is usable at
22 multiple unaffiliated merchants or service providers;
23 b. issued for a specified amount;
24 c. potentially but not necessarily able to be increased in value
25 or reloaded;
26 d. purchased and reloaded on a prepaid basis for the future
27 purchase or delivery of goods or services;
28 e. honored upon presentation; and
29 f. potentially but not necessarily able to be redeemed for the
30 same type of funds that were used to purchase or load the device.

31 “Government currency” means government-issued currency that
32 is designated as legal tender in its country of issuance through
33 government decree, regulation, or law.

34 “New Jersey person” means any person that resides, is located,
35 or is conducting business in New Jersey.

36 “Payment processor” means any person who acts as a payment
37 processor to facilitate the purchase of, or payment of a bill for, a
38 good or service through a clearance and settlement system by
39 agreement with the creditor or seller. A payment processor:

- 40 a. facilitates the purchase of goods or services, or the payment
41 of bills for goods or services other than money transmission itself;
42 and
43 b. provides its services pursuant to a formal agreement with, at
44 minimum, the seller or creditor that provided the goods or services
45 and receives the funds.

46 “Person” means any individual, partnership, corporation,
47 association, trust, or other business combination or entity, however
48 organized.

1 “Principal beneficiary” means any person entitled to 10 percent
2 or more of the benefits of a trust.

3 “Principal officer” means an executive officer of an entity,
4 including the chief executive, financial, operating, and compliance
5 officers, president, managing partner, general partner, controlling
6 partner, and trustee, as applicable.

7 “Principal stockholder” means any person that directly or
8 indirectly owns, controls, or holds with power to vote 10 percent or
9 more of any class of outstanding capital stock of a corporate entity
10 or possesses the power to direct or cause the direction of the
11 management or policies of the entity.

12 “Qualified trust company” means banks, trust companies, bank
13 holding companies credit unions, building and loan associations,
14 savings and loan associations, savings banks or mutual banks
15 organized under the laws of any state or the United States, provided
16 that they do not issue or sell payment instruments through
17 authorized delegates who are not banks, bank holding companies,
18 credit unions, building and loan associations, savings and loan
19 associations, savings banks or mutual banks.

20 “Registrant” means a person duly registered or completing a
21 registration under this act.

22 “Registration” means the process set forth in section 6 of this act.

23

24 4. (New section) A municipality shall not prohibit, abridge,
25 levy a tax upon, or otherwise restrict the creation, retention,
26 transmission or any other use of the digital currency within the
27 State, except as otherwise provided for in this act.

28

29 5. (New section) a. No person shall, without completing a
30 registration as set forth in this act, engage in any digital currency
31 custodial activity for more than 30 days. Only a person engaging in
32 digital currency custodial activity as its primary business may
33 complete a registration under this act.

34 b. This section shall not apply to qualified trust companies and
35 payment processors.

36

37 6. (New section) The registration required under this act shall
38 be in writing, under oath, and completed in a form prescribed by the
39 Department of Banking and Insurance, which shall contain the
40 following:

41 a. the exact name of the registrant, including any “doing
42 business as” name, the form of organization, and the jurisdiction
43 where organized or incorporated;

44 b. a list of the registrants, affiliates, and an organization chart
45 illustrating the relationship between and among the applicant and its
46 affiliates;

47 c. for each principal officer, principal stockholder, and
48 principal beneficiary of the registrant, as applicable, and for all

1 individuals to be employed by the registrant, who have access to
2 any customer funds, whether denominated in digital currency or
3 government currency:

- 4 (1) a set of completed fingerprints; and
5 (2) two portrait-style photographs of each individual measuring
6 not more than two inches by two inches;
7 d. an organization chart of the registrant and its management
8 structure, including its principal officers or senior management,
9 indicating lines of authority and the allocation of duties among its
10 principal officers or senior management;
11 e. a business plan, including a description of the proposed,
12 current, and historical business of the registrant, including details
13 on the products and services provided and to be provided, all
14 associated website addresses, the jurisdictions in which the
15 registrant is engaged in business, the principal place of business, the
16 primary markets of operation, the projected customer base, any
17 specific marketing targets, and the physical address of any
18 operation in New Jersey; and
19 f. a registration fee to be set by the commissioner.
20

21 7. (New section) In the event of any material change in the
22 registration information required by section 6 of the act, the
23 registrant shall, within seven days of the change, supplement or
24 amend its registration by completing a form as prescribed by the
25 commissioner.
26

27 8. (New section) a. Each registrant shall establish and maintain
28 an effective cyber security program to ensure the availability and
29 functionality of the registrant's electronic systems and to protect
30 those systems and any sensitive data stored on those systems from
31 unauthorized access or tampering. The cyber security program shall
32 be designed to, at a minimum, perform the following core cyber
33 security functions:

- 34 (1) identify internal and external cyber risks by, at a minimum,
35 identifying the information stored on the registrant's systems, the
36 sensitivity of such information, and how and by whom such
37 information may be accessed;
38 (2) protect the registrant's electronic systems, and the
39 information stored on those systems from unauthorized access, use
40 of other malicious acts through the use of defensive infrastructure
41 and the implementation of policies and procedures;
42 (3) detect system intrusions, data breaches, unauthorized access
43 to systems or information, malware, and other cyber security
44 events;
45 (4) respond to detected cyber security events to mitigate any
46 negative effects; and
47 (5) recover from cyber security events and restore normal
48 operations and services.

1 b. Each registrant shall implement a written cyber security
2 policy setting forth its policies and procedures for the protection of
3 its electronic systems and customer and counterparty data stored on
4 those systems, which shall be reviewed and approved by the
5 registrant's board of directors or equivalent governing body at least
6 annually. The cyber security policy shall address the following
7 areas:

- 8 (1) information security;
- 9 (2) data governance and classification;
- 10 (3) access controls;
- 11 (4) business continuity and disaster recovery planning and
12 resources;
- 13 (5) capacity and performance planning;
- 14 (6) systems operations and availability concerns;
- 15 (7) systems and network security;
- 16 (8) systems and application development and quality assurance;
- 17 (9) physical security and environmental controls;
- 18 (10) customer data privacy;
- 19 (11) vendor and third-party service provider management;
- 20 (12) monitoring and implementing changes to core protocols not
21 directly controlled by the registrant, as applicable; and
- 22 (13) incident response.

23 c. Each registrant shall designate a qualified employee to serve
24 as the registrant's Chief Information Security Officer responsible
25 for overseeing and implementing the registrant's cyber security
26 program and enforcing its cyber security policy.

27 d. Each registrant's cyber security program shall, at a
28 minimum, include audit functions as follows:

- 29 (1) Each registrant shall conduct penetration testing of its
30 electronic systems, at least annually, and vulnerability assessment
31 of those systems, at least quarterly; and
- 32 (2) Each registrant shall maintain audit trail systems that:
 - 33 (a) track and maintain data that allows for the complete and
34 accurate reconstruction of all financial transactions and accounting;
 - 35 (b) protect the integrity of data stored and maintained as part of
36 the audit trail from alteration or tampering;
 - 37 (c) protect the integrity of hardware from alteration or
38 tampering, including by limiting electronic and physical access
39 permissions to hardware and maintaining logs of physical access to
40 hardware that allows for event reconstruction;
 - 41 (d) log system events including, at minimum, access and
42 alterations made to the audit trail systems by the systems or by an
43 authorized user, and all system administrator functions performed
44 on the systems; and
 - 45 (e) maintain records produced as part of the audit trail in
46 accordance with the recordkeeping requirements set forth in this
47 act.

1 e. Each registrant's cyber security program shall, at minimum,
2 include written procedures, guidelines, and standards reasonably
3 designed to ensure the security of all applications utilized by the
4 registrant. All procedures, guidelines, and standards shall be
5 reviewed, assessed, and updated by the registrant's Chief
6 Information Security Officer at least annually.

7 f. Each registrant shall:

8 (1) employ cyber security personnel adequate to manage the
9 registrant's cyber security risks and to perform the core cyber
10 security functions specified in subsection a. of this section.

11 (2) provide and require cyber security personnel to attend
12 regular cyber security update and training sessions; and

13 (3) require key cyber security personnel to take steps to stay
14 abreast of changing cyber security threats and countermeasures.

15

16 9. (New section) Each registrant shall maintain and enforce
17 confidential, written compliance policies, including policies with
18 respect to anti-fraud, anti-money laundering, cyber security, privacy
19 and information security, which shall be reviewed and approved by
20 the registrant's board of directors or an equivalent governing body.

21

22 10. (New section) The registrant shall hold digital currency of
23 the same type and amount as that which it has custody from any
24 New Jersey person. Each registrant shall be prohibited from
25 selling, transferring, assigning, lending, hypothecating, pledging, or
26 otherwise using or encumbering any digital currency, the custody of
27 which is maintained for a New Jersey person, except for the sale,
28 transfer, or assignment of such assets at the direction of the New
29 Jersey person.

30

31 11. (New section) Each registrant shall make, keep, and preserve
32 all of its books and records of its digital currency custodial activity
33 in their original form or native file format for a period of at least
34 five years from the date of their creation and in a condition that will
35 allow the Department of Banking and Insurance to determine
36 whether the registrant is complying with all applicable laws, rules,
37 and regulations. The books and records maintained by each
38 registrant shall, without limitation, include:

39 a. for each transaction:

40 (1) the amount, date, and precise time of the transaction, any
41 payment instructions, the total amount of fees and charges received
42 and paid to, by, or on behalf of the registrant; and

43 (2) to the extent the registrant has knowledge of or has reason to
44 know, account numbers, telephone numbers, email addresses and
45 physical addresses of parties to the transaction;

46 b. a general ledger containing all asset, liability, ownership
47 equity, income, and expense accounts;

48 c. bank statements and bank reconciliation records;

- 1 d. any statements or valuations sent or provided to customers
2 and counterparties;
- 3 e. records or minutes of meetings of the board of directors or
4 an equivalent governing body;
- 5 f. communications and documentation related to investigations
6 of customer complaints and transaction error resolution or
7 concerning facts giving rise to possible violations of laws, rules, or
8 regulations; and
- 9 g. all other records required to be maintained in accordance
10 with this act.

11

12 12. (New section) a. No registrant shall advertise its products,
13 services, or activities in New Jersey or to any New Jersey person
14 without including the legal name of the registrant and the legend
15 that the registrant is a “registered New Jersey digital currency
16 custodian.”

17 b. Each registrant shall maintain, for examination by the
18 commissioner, all advertising and marketing materials for a period
19 of at least seven years from the date of their creation, including but
20 not limited to print media, internet media, including websites, radio
21 and television advertising, road show materials, presentations, and
22 brochures. Each registrant shall maintain hard copy, website
23 captures of material changes to internet advertising and marketing,
24 and audio and video scripts of its advertising and marketing
25 materials, as applicable.

26 c. In all advertising and marketing materials, each registrant
27 shall comply with all disclosure requirements under federal and
28 State laws, rules, and regulations.

29 d. In all advertising and marketing materials, each registrant
30 and any person or entity acting on its behalf, shall not, directly or
31 by implication, make any false, misleading, or deceptive
32 representations or omissions.

33

34 13. (New section) Each registrant shall permit and assist the
35 Department of Banking and Insurance to examine the registrant
36 whenever in the commissioner’s judgment such examination is
37 necessary or advisable, including, without limitation, to determine
38 compliance with the requirements set forth in this act. The
39 examination may include, without limitation, the premises, books,
40 records, and any other pertinent material of the registrant or its
41 affiliates.

42

43 14. (New section) a. Each registrant shall, prior to engaging in
44 digital currency custodial activity with any customer, disclose in
45 clear, conspicuous writing all material risks to the customer
46 associated with the particular digital currency custodial activities in
47 which it engages. Such risks may include, without limitation:

1 (1) Digital currency is not legal tender, is not backed by the
2 United States government, and the digital currency held by the
3 registrant on behalf of the customer is not subject to Federal
4 Deposit Insurance Corporation protections;

5 (2) Transactions in the digital currency held by the registrant on
6 behalf of the customer may be irreversible, and, accordingly, losses
7 due to fraudulent or accidental transactions may not be recoverable;

8 (3) Laws determining the rights and obligations of digital
9 currency users are not fully developed, and a court of law may find
10 that the elements of this transaction, including without limitation
11 the timing, amount, identity or location of the parties, may not be
12 the same as if the transaction had occurred with the U.S. dollar;

13 (4) The value of the digital currency held by the registrant on
14 behalf of the customer may change more quickly and unexpectedly
15 than that of government currencies like the U.S. dollar, and may in
16 fact become zero; and

17 (5) Technological difficulties experienced by the registrant may
18 prevent the customer from accessing the digital currency held by
19 the registrant on behalf of the customer.

20 b. Each registrant shall, prior to engaging in digital currency
21 custodial activity with any customer, disclose in clear, conspicuous
22 writing all relevant terms and conditions associated with its digital
23 currency custodial activity. Such disclosures may include, without
24 limitation:

25 (1) the customer's liability for unauthorized transactions;

26 (2) the customer's right to interrupt or prevent any transaction
27 and the procedure to initiate such an interruption or prevention;

28 (3) the circumstances under which the registrant will, absent a
29 court or government order, disclose information concerning the
30 customer's account to third parties;

31 (4) the customer's right to receive periodic account statements
32 and valuations from the registrant;

33 (5) the customer's right to receive a receipt, trade ticket, or
34 other evidence of a transaction; and

35 (6) the customer's right to prior notice of a change in the
36 registrant's rules or policies.

37 c. Each registrant shall, prior to engaging in digital currency
38 custodial activity with any customer, disclose in clear, conspicuous
39 writing the terms and conditions of the transaction. The disclosures
40 may include, without limitation:

41 (1) the amount of the transaction;

42 (2) any fees, expenses, and charges borne by the customer,
43 including applicable exchange rates;

44 (3) the type and nature of the transaction; and

45 (4) a warning that once executed the transaction may not be
46 undone.

47 d. Each registrant shall ensure that all disclosures required in
48 the section are acknowledged in writing as received by customers.

1 e. Each registrant shall, upon completion of any transaction,
2 provide to any customer initiating the transaction, a receipt
3 containing the following information:

- 4 (1) the name and contact information of the registrant, including
5 a telephone number established by the registrant to answer
6 questions and register complaints;
7 (2) the type, value, date, and precise time of the transaction;
8 (3) any fee charged; and
9 (4) any exchange rate applied.

10

11 15. (New section) a. Each registrant shall establish and
12 maintain written policies and procedures to fairly and timely
13 resolve customer complaints.

14 b. Each registrant shall provide, in a clear and conspicuous
15 manner, on its website or websites, and in all physical locations the
16 following disclosures:

17 (1) the registrant's mailing address, email address, and
18 telephone number for the receipt of complaints;

19 (2) a statement that the complainant may also bring a complaint
20 to the attention of the Department of Banking and Insurance; and

21 (3) the Department of Banking and Insurance's mailing address,
22 website, and telephone number.

23

24 16. (New section) a. If it appears to the commissioner that any
25 person has committed or is about to commit a violation of any
26 provision of this act or of any rule or order of the commissioner, the
27 commissioner may apply to the Superior Court for an order
28 enjoining that person from violating or continuing to violate this act
29 or any rule, regulation or order of the commissioner and for
30 injunctive or other relief as the nature of the case may require.

31 b. If, after notice and hearing, the commissioner finds that a
32 person has violated any provision of this act or a rule adopted under
33 this act, the commissioner may order the person to pay the
34 commissioner a civil penalty in an amount specified by the
35 commissioner, not to exceed \$5,000 for each violation. Each
36 violation shall constitute a separate offense and the penalty under
37 this section shall be in addition to a suspension or revocation of a
38 license. No proceeding shall be initiated and no penalty shall be
39 assessed pursuant to this section until after that person has been
40 notified in writing of the nature of the violation and has been
41 afforded a reasonable period of time, as set forth in the notice, to
42 correct the violation and has failed to do so. The provisions of the
43 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10
44 et seq.), shall apply.

45 c. The commissioner, in the exercise of the commissioner's
46 reasonable judgment, is authorized to compromise, settle, and
47 collect civil penalties with any person for violations of any

1 provision of this act, or of any rule, regulation or order issued or
2 promulgated pursuant to this act.

3

4 17. (New section) a. Receipts from retail sales of energy and
5 utility service to a digital currency servicer or a company registered
6 under the “Digital Currency Jobs Creation Act,”
7 P.L. , c. (C.) (pending before the Legislature as this bill)
8 for use or consumption directly and primarily in the creation of
9 digital currency, including mining, shall be exempt from the tax
10 imposed under the "Sales and Use Tax Act," P.L.1966, c.30
11 (C.54:32B-1 et seq.).

12 b. A digital currency servicer may file an application for a sales
13 and use tax exemption with the Director of the Division of Taxation
14 in the Department of the Treasury. The director shall process the
15 application within 20 business days of receipt thereof. An
16 exemption for a digital currency servicer shall commence upon
17 notice of approval of its application. Upon approval of its
18 application, the director shall provide prompt notice to a business.

19 c. For the purposes of this section:

20 “Digital currency” means any type of digital unit that, regardless
21 of legal tender status, has no administrator and is:

22 (1) used as a currency, medium of exchange or stored value; or

23 (2) used as a substitute for government currency.

24 “Digital currency” shall not include:

25 (a) digital units that have nominal or no value as a currency or
26 medium of exchange and are not used as a substitute for
27 government currency;

28 (b) digital units that can be used solely with a gift card program
29 as defined in section 3 of P.L. , c. (C.)(pending before the
30 Legislature as this bill);

31 (c) digital units that are used solely within online gaming
32 platforms and have no market or application outside of those
33 gaming platforms, or can be redeemed for real-world goods,
34 services, discounts, or purchases, but cannot be converted into, or
35 redeemed for government currency or digital currency; or

36 (d) digital units that are used solely within an affinity program
37 but do not otherwise meet the definition of digital currency as
38 defined herein.

39 “Digital currency servicer” means

40 (1) any person who, as its primary business, engages in digital
41 currency creation, including mining;

42 (2) any person who, as its primary business, engages in the
43 provision of a distributed digital verification system; or

44 (3) any registrant registered pursuant to P.L. , c. (C.)
45 (pending before the Legislature as this bill).

46

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

1 2. As used in P.L.2011, c.149 (C.34:1B-242 et seq.):
2 "Affiliate" means an entity that directly or indirectly controls, is
3 under common control with, or is controlled by the business.
4 Control exists in all cases in which the entity is a member of a
5 controlled group of corporations as defined pursuant to section 1563
6 of the Internal Revenue Code of 1986 (26 U.S.C.s.1563) or the
7 entity is an organization in a group of organizations under common
8 control as defined pursuant to subsection (b) or (c) of section 414 of
9 the Internal Revenue Code of 1986 (26 U.S.C.s.414). A taxpayer
10 may establish by clear and convincing evidence, as determined by
11 the Director of the Division of Taxation in the Department of the
12 Treasury, that control exists in situations involving lesser
13 percentages of ownership than required by those statutes. An
14 affiliate of a business may contribute to meeting either the qualified
15 investment or full-time employee requirements of a business that
16 applies for a credit under section 3 of P.L.2007, c.346 (C.34:1B-
17 209).
18 "Authority" means the New Jersey Economic Development
19 Authority established by section 4 of P.L.1974, c.80 (C.34:1B-4).
20 "Aviation district" means the area within a one-mile radius of the
21 outermost boundary of the "Atlantic City International Airport,"
22 established pursuant to section 24 of P.L.1991, c.252 (C.27:25A-
23 24).
24 "Business" means an applicant proposing to own or lease
25 premises in a qualified business facility that is:
26 a corporation that is subject to the tax imposed pursuant to
27 section 5 of P.L.1945, c.162 (C.54:10A-5);
28 a corporation that is subject to the tax imposed pursuant to
29 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3),
30 section 1 of P.L.1950, c.231 (C.17:32-15) or N.J.S.17B:23-5;
31 a partnership;
32 an S corporation;
33 a limited liability company; or
34 a non-profit corporation.
35 If the business or tenant is a cooperative or part of a cooperative,
36 then the cooperative may qualify for credits by counting the full-
37 time employees and capital investments of its member
38 organizations, and the cooperative may distribute credits to its
39 member organizations. If the business or tenant is a cooperative
40 that leases to its member organizations, the lease shall be treated as
41 a lease to an affiliate or affiliates.
42 A business shall include an affiliate of the business if that
43 business applies for a credit based upon any capital investment
44 made by or full-time employees of an affiliate.
45 "Capital investment" in a qualified business facility means
46 expenses by a business or any affiliate of the business incurred after
47 application for:

- 1 a. site preparation and construction, repair, renovation,
- 2 improvement, equipping, or furnishing on real property or of a
- 3 building, structure, facility, or improvement to real property;
- 4 b. obtaining and installing furnishings and machinery,
- 5 apparatus, or equipment, including but not limited to material goods
- 6 subject to bonus depreciation under sections 168 and 179 of the
- 7 federal Internal Revenue Code (26 U.S.C. s.168 and s.179), for the
- 8 operation of a business on real property or in a building, structure,
- 9 facility, or improvement to real property;
- 10 c. receiving Highlands Development Credits under the
- 11 Highlands Transfer Development Rights Program authorized
- 12 pursuant to section 13 of P.L.2004, c.120 (C.13:20-13); or
- 13 d. any of the foregoing.

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

23 In addition to the foregoing, if a business acquires or leases a
24 qualified business facility, the capital investment made or acquired
25 by the seller or owner, as the case may be, if pertaining primarily to
26 the premises of the qualified business facility, shall be considered a
27 capital investment by the business and, if pertaining generally to the
28 qualified business facility being acquired or leased, shall be
29 allocated to the premises of the qualified business facility on the
30 basis of the gross leasable area of the premises in relation to the
31 total gross leasable area in the qualified business facility. The
32 capital investment described herein may include any capital
33 investment made or acquired within 24 months prior to the date of
34 application so long as the amount of capital investment made or
35 acquired by the business, any affiliate of the business, or any owner
36 after the date of application equals at least 50 percent of the amount
37 of capital investment, allocated to the premises of the qualified
38 business facility being acquired or leased on the basis of the gross
39 leasable area of such premises in relation to the total gross leasable
40 area in the qualified business facility made or acquired prior to the
41 date of application.

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

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

1 "Disaster recovery project" means a project located on property
2 that has been wholly or substantially damaged or destroyed as a
3 result of a federally-declared disaster which, after utilizing all
4 disaster funds available from federal, State, county, and local
5 funding sources, demonstrates to the satisfaction of the authority
6 that access to additional funding authorized pursuant to the "New
7 Jersey Economic Opportunity Act of 2013," P.L.2013,
8 c.161 (C.52:27D-489p et al.), is necessary to complete such
9 redevelopment project, and which is located within the qualified
10 incentive area and has been determined by the authority to be in an
11 area appropriate for development and in need of economic
12 development incentive assistance.

13 "Digital currency servicer" means the same as defined in the
14 "Digital Currency Jobs Creation Act," P.L. , c. (C.)(pending
15 before the Legislature as this bill).

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

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

33 "Eligible position" or "full-time job" means a full-time position
34 in a business in this State which the business has filled with a full-
35 time employee.

36 "Full-time employee" means a person:

37 a. who is employed by a business for consideration for at least
38 35 hours a week, or who renders any other standard of service
39 generally accepted by custom or practice as full-time employment,
40 or

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

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

11 d. who, except for purposes of the Statewide workforce, is
12 provided, by the business, with employee health benefits under a
13 health benefits plan authorized pursuant to State or federal law.

14 With respect to a logistics, manufacturing, energy, defense,
15 aviation, or maritime business, excluding primarily warehouse or
16 distribution operations, located in a port district having a container
17 terminal:

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

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

25 35 hours of employment per week at a qualified business facility
26 shall constitute one "full-time employee," regardless of whether or
27 not the hours of work were performed by one or more persons.

28 For any project located in a Garden State Growth Zone which
29 qualifies under the "Municipal Rehabilitation and Economic
30 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or any
31 project located in the Atlantic City Tourism District as established
32 pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated
33 by the Casino Reinvestment Development Authority, and which
34 will include a retail facility of at least 150,000 square feet, of which
35 at least 50 percent will be occupied by either a full-service
36 supermarket or grocery store, 30 hours of employment per week at a
37 qualified business facility shall constitute one "full-time employee,"
38 regardless of whether or not the hours of work were performed by
39 one or more persons, and the requirement that employee health
40 benefits are to be provided shall be deemed to be satisfied if the
41 employees of the business are covered by a collective bargaining
42 agreement.

43 "Full-time employee" shall not include any person who works as
44 an independent contractor or on a consulting basis for the business.
45 Full-time employee shall also not include any person who at the
46 time of project application works in New Jersey for consideration
47 for at least 35 hours per week, or who renders any other standard of
48 service generally accepted by custom or practice as full-time

1 employment but who prior to project application was not provided,
2 by the business, with employee health benefits under a health
3 benefits plan authorized pursuant to State or federal law.

4 "Garden State Growth Zone" or "growth zone" means the four
5 New Jersey cities with the lowest median family income based on
6 the 2009 American Community Survey from the US Census, (Table
7 708. Household, Family, and Per Capita Income and Individuals,
8 and Families Below Poverty Level by City: 2009); or a municipality
9 which contains a Tourism District as established pursuant to section
10 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino
11 Reinvestment Development Authority.

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

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

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

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

30 "Mega project" means:

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

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

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

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

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

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

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

5 d. a project located in an area designated in need of
6 redevelopment, pursuant to P.L.1992, c.79 (C.40A:12A-1 et al.)
7 prior to the enactment of P.L.2014, c.63 (C.34:1B-251 et al.) within
8 Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester,
9 Ocean, or Salem counties having a capital investment in excess of
10 \$20,000,000, and at which more than 150 full-time employees of a
11 business are created or retained.

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

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

27 "Municipal Revitalization Index" means the 2007 index by the
28 Office for Planning Advocacy within the Department of State
29 measuring or ranking municipal distress.

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

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

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

40 "Port district" means the portions of a qualified incentive area
41 that are located within:

42 a. the "Port of New York District" of the Port Authority of
43 New York and New Jersey, as defined in Article II of the Compact
44 Between the States of New York and New Jersey of 1921; or

45 b. a 15-mile radius of the outermost boundary of each marine
46 terminal facility established, acquired, constructed, rehabilitated, or
47 improved by the South Jersey Port District established pursuant to

1 "The South Jersey Port Corporation Act," P.L.1968,
2 c.60 (C.12:11A-1 et seq.).

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

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

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

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

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

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

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

31 "Qualified business facility" means any building, complex of
32 buildings or structural components of buildings, and all machinery
33 and equipment located within a qualified incentive area, used in
34 connection with the operation of a business that is not engaged in
35 final point of sale retail business at that location unless the building,
36 complex of buildings or structural components of buildings, and all
37 machinery and equipment located within a qualified incentive area,
38 are used in connection with the operation of:

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

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

46 "Qualified incentive area" means:

47 a. an aviation district;

48 b. a port district;

- 1 c. a distressed municipality or urban transit hub municipality;
- 2 d. an area (1) designated pursuant to the "State Planning Act,"
- 3 P.L.1985, c.398 (C.52:18A-196 et seq.), as:
 - 4 (a) Planning Area 1 (Metropolitan);
 - 5 (b) Planning Area 2 (Suburban); or
 - 6 (c) Planning Area 3 (Fringe Planning Area);
- 7 (2) located within a smart growth area and planning area
- 8 designated in a master plan adopted by the New Jersey
- 9 Meadowlands Commission pursuant to subsection (i) of section 6 of
- 10 P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan
- 11 adopted by the New Jersey Meadowlands Commission pursuant to
- 12 section 20 of P.L.1968, c.404 (C.13:17-21);
- 13 (3) located within any land owned by the New Jersey Sports and
- 14 Exposition Authority, established pursuant to P.L.1971, c.137
- 15 (C.5:10-1 et seq.), within the boundaries of the Hackensack
- 16 Meadowlands District as delineated in section 4 of P.L.1968, c.404
- 17 (C.13:17-4);
- 18 (4) located within a regional growth area, town, village, or a
- 19 military and federal installation area designated in the
- 20 comprehensive management plan prepared and adopted by the
- 21 Pinelands Commission pursuant to the "Pinelands Protection Act,"
- 22 P.L.1979, c.111 (C.13:18A-1 et seq.);
- 23 (5) located within the planning area of the Highlands Region as
- 24 defined in section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands
- 25 development credit receiving area or redevelopment area;
- 26 (6) located within a Garden State Growth Zone;
- 27 (7) located within land approved for closure under any federal
- 28 Commission on Base Realignment and Closure action; or
- 29 (8) located only within the following portions of the areas
- 30 designated pursuant to the "State Planning Act," P.L.1985, c.398
- 31 (C.52:18A-196 et al.), as Planning Area 4A (Rural Planning Area),
- 32 Planning Area 4B (Rural/Environmentally Sensitive) or Planning
- 33 Area 5 (Environmentally Sensitive) if Planning Area 4A (Rural
- 34 Planning Area), Planning Area 4B (Rural/Environmentally
- 35 Sensitive) or Planning Area 5 (Environmentally Sensitive) is
- 36 located within:
 - 37 (a) a designated center under the State Development and
 - 38 Redevelopment Plan;
 - 39 (b) a designated growth center in an endorsed plan until the
 - 40 State Planning Commission revises and readopts New Jersey's State
 - 41 Strategic Plan and adopts regulations to revise this definition as it
 - 42 pertains to Statewide planning areas;
 - 43 (c) any area determined to be in need of redevelopment pursuant
 - 44 to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-
 - 45 6) or in need of rehabilitation pursuant to section 14 of P.L.1992,
 - 46 c.79 (C.40A:12A-14);
 - 47 (d) any area on which a structure exists or previously existed
 - 48 including any desired expansion of the footprint of the existing or

1 previously existing structure provided such expansion otherwise
2 complies with all applicable federal, State, county, and local
3 permits and approvals;

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

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

9 "Qualified incentive area" shall not include any property located
10 within the preservation area of the Highlands Region as defined in
11 section 3 of P.L.2004, c.120 (C.13:20-3).

12 "Qualified incubator facility" means a commercial building
13 located within a qualified incentive area: which contains 50,000 or
14 more square feet of office, laboratory, or industrial space; which is
15 located near, and presents opportunities for collaboration with, a
16 research institution, teaching hospital, college, or university; and
17 within which, at least 50 percent of the gross leasable area is
18 restricted for use by one or more technology startup companies
19 during the commitment period.

20 "Retained full-time job" means an eligible position that currently
21 exists in New Jersey and is filled by a full-time employee but
22 which, because of a potential relocation by the business, is at risk of
23 being lost to another state or country, or eliminated. For the
24 purposes of determining a number of retained full-time jobs, the
25 eligible positions of an affiliate shall be considered eligible
26 positions of the business. For the purposes of the certifications and
27 annual reports required in the incentive agreement pursuant to
28 subsection e. of section 4 of P.L.2011, c.149 (C.34:1B-245), to the
29 extent an eligible position that was the basis of the award no longer
30 exists, a business shall include as a retained full-time job a new
31 eligible position that is filled by a full-time employee provided that
32 the position is included in the order of date of hire and is not the
33 basis for any other incentive award. For a project located in a
34 Garden State Growth Zone which qualified for the "Municipal
35 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
36 (C.52:27BBB-1 et al.), retained full-time job shall include any
37 employee previously employed in New Jersey and transferred to the
38 new location in the Garden State Growth Zone which qualified for
39 the "Municipal Rehabilitation and Economic Recovery Act,"
40 P.L.2002, c.43 (C.52:27BBB-1 et al.).

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

43 "SDA municipality" means a municipality in which an SDA
44 district is situate.

45 "Targeted industry" means any industry identified from time to
46 time by the authority including initially, a transportation,
47 manufacturing, defense, energy, logistics, life sciences, technology,
48 health, and finance business, but excluding a primarily warehouse

1 or distribution business. “Targeted industry” shall include the
2 digital currency industry and shall include a digital currency
3 servicer or a business registered under the “Digital Currency Jobs
4 Creation Act,” P.L. , c. (C.)(pending before the Legislature
5 as this bill).

6 "Technology startup company" means a for profit business that
7 has been in operation fewer than five years and is developing or
8 possesses a proprietary technology or business method of a high-
9 technology or life science-related product, process, or service which
10 the business intends to move to commercialization. “Technology
11 startup company” shall include a company that is a digital currency
12 servicer or a company registered under the “Digital Currency Jobs
13 Creation Act,” P.L. , c. (C.)(pending before the Legislature
14 as this bill), regardless of the number of years the business has been
15 in operation.

16 "Tourism destination project" means a qualified non-gaming
17 business facility that will be among the most visited privately
18 owned or operated tourism or recreation sites in the State, and
19 which is located within the qualified incentive area and has been
20 determined by the authority to be in an area appropriate for
21 development and in need of economic development incentive
22 assistance, including a non-gaming business within an established
23 Tourism District with a significant impact on the economic viability
24 of that District.

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

32 "Urban transit hub" means an urban transit hub, as defined in
33 section 2 of P.L.2007, c.346 (C.34:1B-208), that is located within
34 an eligible municipality, as defined in section 2 of P.L.2007,
35 c.346 (C.34:1B-208) and also located within a qualified incentive
36 area.

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

46 (cf: P.L.2014, c.63, s.2)

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

3 5. a. The total amount of tax credit for an eligible business for
4 each new or retained full-time job shall be as set forth in
5 subsections b. through f. of this section. The total tax credit amount
6 shall be calculated and credited to the business annually for each
7 year of the eligibility period. Notwithstanding any other provisions
8 of P.L.2013, c.161 (C.52:27D-489p et al.), a business may assign its
9 ability to apply for the tax credit under this subsection to a non-
10 profit organization with a mission dedicated to attracting investment
11 and completing development and redevelopment projects in a
12 Garden State Growth Zone. The non-profit organization or
13 organization operating a qualified incubator facility may make an
14 application on behalf of a business which meets the requirements
15 for the tax credit, or a group of non-qualifying businesses or
16 positions, located at a qualified business facility, that shall be
17 considered a unified project for the purposes of the incentives
18 provided under this section. For any project located in a Garden
19 State Growth Zone that qualifies under the "Municipal
20 Rehabilitation and Economic Recovery Act," P.L.2002,
21 c.43 (C.52:27BBB-1 et al.), or any project located in a Garden State
22 Growth Zone which contains a Tourism District as established
23 pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated
24 by the Casino Reinvestment Development Authority, and which
25 will include a retail facility of at least 150,000 square feet, of which
26 at least 50 percent will be occupied by either a full-service
27 supermarket or grocery store, a business may assign its ability to
28 apply for the tax credit under this subsection to the developer of the
29 facility. The developer may make an application on behalf of the
30 business which meets the requirements for the tax credit, or a group
31 of non-qualifying businesses located at the business facility, that
32 shall be considered a unified project for the purposes of the
33 incentives provided under this section, and the developer may apply
34 for tax credits available based on the number of jobs provided by
35 the business or businesses and the total capital investment of the
36 business or businesses and the developer.

37 b. The base amount of the tax credit for each new or retained
38 full-time job shall be as follows:

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

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

45 (3) for a project in a priority area, \$3,000 per year; and

46 (4) for a project in other eligible areas, \$500 per year.

47 c. In addition to the base amount of the tax credit, the amount
48 of the tax credit to be awarded for each new or retained full-time

- 1 job shall be increased if the qualified business facility meets any of
2 the following priority criteria or other additional or replacement
3 criteria determined by the authority from time to time in response to
4 evolving economic or market conditions:
- 5 (1) for a qualified business facility located in a deep poverty
6 pocket or in an area that is the subject of a Choice Neighborhoods
7 Transformation Plan funded by the federal Department of Housing
8 and Urban Development, an increase of \$1,500 per year;
 - 9 (2) for a qualified business facility located in a qualified
10 incubator facility, an increase of \$500 per year;
 - 11 (3) for a qualified business facility located in a mixed-use
12 development that incorporates sufficient moderate income housing
13 on site to accommodate a minimum of 20 percent of the full-time
14 employees of the business, an increase of \$500 per year;
 - 15 (4) for a qualified business facility located within a transit
16 oriented development, an increase of \$2,000 per year;
 - 17 (5) for a qualified business facility, other than a mega project, at
18 which the capital investment in industrial premises for industrial
19 use by the business is in excess of the minimum capital investment
20 required for eligibility pursuant to subsection b. of section 3 of
21 P.L.2011, c.149 (C.34:1B-244), an increase of \$1,000 per year for
22 each additional amount of investment that exceeds the minimum
23 amount required for eligibility by 20 percent, with a maximum
24 increase of \$3,000 per year;
 - 25 (6) for a business with new full-time jobs and retained full-time
26 jobs at the project with an average salary in excess of the existing
27 average salary for the county in which the project is located, or, in
28 the case of a project in a Garden State Growth Zone, a business that
29 employs full-time positions at the project with an average salary in
30 excess of the average salary for the Garden State Growth Zone, an
31 increase of \$250 per year during the commitment period for each 35
32 percent by which the project's average salary levels exceeds the
33 county or Garden State Growth Zone average salary, with a
34 maximum increase of \$1,500 per year;
 - 35 (7) for a business with large numbers of new full-time jobs and
36 retained full-time jobs during the commitment period, the increases
37 shall be in accordance with the following schedule:
 - 38 (a) if the number of new full-time jobs and retained full-time
39 jobs is between 251 and 400, \$500 per year;
 - 40 (b) if the number of new full-time jobs and retained full-time
41 jobs is between 401 and 600, \$750 per year;
 - 42 (c) if the number of new full-time jobs and retained full-time
43 jobs is between 601 and 800, \$1000 per year;
 - 44 (d) if the number of new full-time jobs and retained full-time
45 jobs is between 801 and 1,000, \$1,250 per year;
 - 46 (e) if the number of new full-time jobs and retained full-time
47 jobs is in excess of 1,000, \$1,500 per year;

- 1 (8) for a business in a targeted industry, an increase of \$500 per
2 year, except in the case of a business in a targeted industry that is a
3 digital currency servicer or a registrant under the “Digital Currency
4 Jobs Creation Act,” P.L. , c. (C.)(pending before the
5 Legislature as this bill) an increase of \$5,000 per year;
- 6 (9) for a qualified business facility exceeding the Leadership in
7 Energy and Environmental Design's "Silver" rating standards or
8 completes substantial environmental remediation, an additional
9 increase of \$250 per year;
- 10 (10) for a mega project or a project located within a Garden
11 State Growth Zone at which the capital investment in industrial
12 premises for industrial use by the business is in excess of the
13 minimum capital investment required for eligibility pursuant to
14 subsection b. of section 3 of P.L.2011, c.149 (C.34:1B-244), an
15 increase of \$1,000 per year for each additional amount of
16 investment that exceeds the minimum amount by 20 percent, with a
17 maximum increase of \$5,000 per year;
- 18 (11) for a project in which a business retains at least 400 jobs
19 and is located within the municipality in which it was located
20 immediately prior to the filing of the application hereunder and is
21 the United States headquarters of an automobile manufacturer, an
22 increase of \$1,500 per year;
- 23 (12) for a project located in a municipality in Atlantic,
24 Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean,
25 and Salem counties with a 2007 Municipality Revitalization Index
26 greater than 465, an increase of \$1,000 per year;
- 27 (13) for a project located within a half-mile of any light rail
28 station constructed after the effective date of P.L.2013, c.161
29 (C.52:27D-489p et al.), an increase of \$1,000 per year;
- 30 (14) for a marine terminal project in a municipality located
31 outside the Garden State Growth Zone, but within the geographical
32 boundaries of the South Jersey Port District, an increase of \$1,500
33 per year;
- 34 (15) for a project located within an area determined to be in need
35 of redevelopment pursuant to sections 5 and 6 of P.L.1992,
36 c.79 (C.40A:12A-5 and C.40A:12A-6), and which is located within
37 a quarter mile of at least one United States Highway and at least
38 two New Jersey State Highways, an increase of \$1,500 per year;
- 39 (16) for a project that generates solar energy on site for use
40 within the project of an amount that equals at least 50 percent of the
41 project's electric supply service needs, an increase of \$250 per year;
42 and
- 43 (17) for a qualified business facility that includes a vacant
44 commercial building having over 1,000,000 square feet of office or
45 laboratory space available for occupancy for a period of over one
46 year, an increase of \$1,000 per year.
- 47 d. The gross amount of the tax credit for an eligible business
48 for each new or retained full-time job shall be the sum of the base

1 amount as set forth pursuant to subsection b. of this section and the
2 various additional bonus amounts for which the business is eligible
3 pursuant to subsection c. of this section, subject to the following
4 limitations:

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

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

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

14 (4) for a qualified business facility in other priority areas, the
15 gross amount for each new or retained full-time job shall not exceed
16 \$10,500 per year;

17 (5) for a qualified business facility in other eligible areas, the
18 gross amount for each new or retained full-time job shall not exceed
19 \$6,000 per year; and

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

22 Notwithstanding anything to the contrary set forth herein and in
23 the provisions of subsections a. through f. of this section, but
24 subject to the provisions of paragraph (1) of subsection f. of this
25 section, for a project located within a Garden State Growth Zone
26 which qualifies for the "Municipal Rehabilitation and Economic
27 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), which
28 creates 35 or more full-time jobs new to the municipality, the total
29 tax credit shall be:

30 (a) for a project which creates 35 or more full-time jobs new to
31 the municipality and makes a capital investment of at least
32 \$5,000,000, the total tax credit amount per full-time job shall be the
33 greater of: (i) the total tax credit amount for a qualifying project in
34 a Garden State Growth Zone as calculated pursuant to subsections
35 a. through f. of this section; or (ii) the total capital investment of the
36 project divided by the total number of full-time jobs at that project
37 but not greater than \$2,000,000 per year over the grant term of ten
38 years;

39 (b) for a project which creates 70 or more full-time jobs new to
40 the municipality and makes a capital investment of at least
41 \$10,000,000, the total tax credit amount per full-time job shall be
42 the greater of: (i) the total tax credit amount for a qualifying project
43 in a Garden State Growth Zone as calculated pursuant to
44 subsections a. through f. of this section; or (ii) the total capital
45 investment of the project divided by the total number of full-time
46 jobs at that project but not greater than \$3,000,000 per year over the
47 grant term of ten years;

1 (c) for a project which creates 100 or more full-time jobs new to
2 the municipality and makes a capital investment of at least
3 \$15,000,000, the total tax credit amount per full-time job shall be
4 the greater of: (i) the total tax credit amount for a qualifying project
5 in a Garden State Growth Zone as calculated pursuant to
6 subsections a. through f. of this section; or (ii) the total capital
7 investment of the project divided by the total number of full-time
8 jobs at that project but not greater than \$4,000,000 per year over the
9 grant term of ten years;

10 (d) for a project which creates 150 or more full-time jobs new to
11 the municipality and makes a capital investment of at least
12 \$20,000,000, the total tax credit amount per full-time job shall be
13 the greater of: (i) the total tax credit amount for a qualifying project
14 in a Garden State Growth Zone as calculated pursuant to
15 subsections a. through f. of this section; or (ii) the total capital
16 investment of the project divided by the total number of full-time
17 jobs at that project but not greater than \$5,000,000 per year over the
18 grant term of ten years; or

19 (e) for a project which creates 250 or more full-time jobs new to
20 the municipality and makes a capital investment of at least
21 \$30,000,000, the total tax credit amount per full-time job shall be
22 the greater of: (i) the total tax credit amount for a qualifying project
23 in a Garden State Growth Zone as calculated pursuant to
24 subsections a. through f. of this section; or (ii) the total capital
25 investment of the project divided by the total number of full-time
26 jobs as defined herein at that project divided by the ten-year grant
27 term.

28 e. After the determination by the authority of the gross amount
29 of tax credits for which a business is eligible pursuant to subsection
30 d. of this section, the final total tax credit amount shall be
31 calculated as follows: (1) for each new full-time job, the business
32 shall be allowed tax credits equaling 100 percent of the gross
33 amount of tax credits for each new full-time job; and (2) for each
34 retained full-time job, the business shall be allowed tax credits
35 equaling the lesser of 50 percent of the gross amount of tax credits
36 for each retained full-time job, or one-tenth of the capital
37 investment divided by the number of retained and new full-time
38 jobs per year over the grant term of ten years, unless the jobs are
39 part of a mega project which is the United States headquarters of an
40 automobile manufacturer located within a priority area or in a
41 Garden State Growth Zone, in which case the business shall be
42 entitled to tax credits equaling 100 percent of the gross amount of
43 tax credits for each retained full-time job, or unless the new
44 qualified business facility would replace a facility that has been
45 wholly or substantially damaged as a result of a federally-declared
46 disaster, in which case the business shall be entitled to tax credits
47 equaling 100 percent of the gross amount of tax credits for each
48 retained full-time job.

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

5 (1) \$35,000,000 and provides a net benefit to the State as
6 provided herein with respect to a qualified business facility in a
7 Garden State Growth Zone which qualifies under the "Municipal
8 Rehabilitation and Economic Recovery Act," P.L.2002,
9 c.43 (C.52:27BBB-1 et al.), or which contains a Tourism District as
10 established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and
11 regulated by the Casino Reinvestment Development Authority;

12 (2) \$30,000,000 and provides a net benefit to the State as
13 provided herein with respect to a mega project or a qualified
14 business facility in a Garden State Growth Zone;

15 (3) \$10,000,000 and provides a net benefit to the State as
16 provided herein with respect to a qualified business facility in an
17 urban transit hub municipality;

18 (4) \$8,000,000 and provides a net benefit to the State as
19 provided herein with respect to a qualified business facility in a
20 distressed municipality;

21 (5) \$4,000,000 and provides a net benefit to the State as
22 provided herein with respect to a qualified business facility in other
23 priority areas, but not more than 90 percent of the withholdings of
24 the business from the qualified business facility; and

25 (6) \$2,500,000 and provides a net benefit to the State as
26 provided herein with respect to a qualified business facility in other
27 eligible areas, but not more than 90 percent of the withholdings of
28 the business from the qualified business facility.

29 Under paragraphs (1) through (6) of this subsection, with the
30 exception of a project located within a Garden State Growth Zone
31 which qualifies for the "Municipal Rehabilitation and Economic
32 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.) , or which
33 contains a Tourism District as established pursuant to section 5 of
34 P.L.2011, c.18 (C.5:12-219) and regulated by the Casino
35 Reinvestment Development Authority, that divides the total capital
36 investment of the project by the total number of full-time jobs at
37 that project, for each application for tax credits in excess of
38 \$4,000,000 annually, the amount of tax credits available to be
39 applied by the business annually shall be the lesser of the maximum
40 amount under the applicable subsection or an amount determined by
41 the authority necessary to complete the project, with such
42 determination made by the authority's utilization of a full economic
43 analysis of all locations under consideration by the business; all
44 lease agreements, ownership documents, or substantially similar
45 documentation for the business's current in-State locations, as
46 applicable; and all lease agreements, ownership documents, or
47 substantially similar documentation for the potential out-of-State
48 location alternatives, to the extent they exist. Based on this

1 information, and any other information deemed relevant by the
2 authority, the authority shall independently verify and confirm the
3 amount necessary to complete the project.

4 (cf: P.L.2014, c.63, s.4)

5

6 20. Section 1 of P.L.1996, c.2 (C.54:48-4.2) is amended to read
7 as follows:

8 1. As used in **[this act]** P.L.1996, c.2 (C.54:48-4.2 et al.):

9 "Cardholder" means the person or organization named on the
10 face of a credit card or debit card to whom or for whose benefit the
11 credit card or debit card is issued by an issuer.

12 "Card payment system" means a technical procedure by which
13 tax obligations owed the State may be paid by credit card or debit
14 card.

15 "Credit card" means any instrument or device linked to an
16 established line of credit, whether known as a credit card, charge
17 card, credit plate, or by any other name, issued with or without fee
18 by an issuer for the use of the cardholder in satisfying outstanding
19 financial obligations, obtaining money, goods, services or anything
20 else of value on credit.

21 "Debit card" means any instrument or device, whether known as
22 a debit card, automated teller machine card, or by any other name,
23 issued with or without fee by an issuer for the use of the cardholder
24 in obtaining money, goods, services or anything else of value
25 through the electronic authorization of a financial institution to
26 debit the cardholder's account.

27 "Digital currency" means any type of digital unit that, regardless
28 of legal tender status, has no administrator and is:

- 29 a. used as a currency, medium of exchange or stored value; or
30 b. used as a substitute for government currency.

31 "Digital currency" shall not include:

32 (1) digital units that have nominal or no value as a currency or
33 medium of exchange and are not used as a substitute for
34 government currency;

35 (2) digital units that can be used solely with a gift card program
36 as defined in section 3 of P.L. , c. (C.)(pending before the
37 Legislature as this bill);

38 (3) digital units that are used solely within online gaming
39 platforms and have no market or application outside of those
40 gaming platforms, or can be redeemed for real-world goods,
41 services, discounts, or purchases, but cannot be converted into, or
42 redeemed for government currency or digital currency; or

43 (4) digital units that are used solely within an affinity program
44 but do not otherwise meet the definition of digital currency as
45 defined herein.

46 "Electronic funds transfer" means any transfer of funds or digital
47 currency, other than a transaction originated by check, draft, or
48 similar paper instrument, that is initiated through an electronic

1 terminal, telephone, or computer or magnetic tape for the purpose
2 of ordering, instructing or authorizing a financial institution to debit
3 or credit an account.

4 "Electronic funds transfer system" means a technical procedure
5 by which tax obligations owed the State may be paid by an
6 electronic transaction between the financial institution of the person
7 or organization owing the obligation and the financial institution of
8 the State.

9 "Issuer" means the business organization or financial institution
10 that issues a credit card or debit card, or its duly authorized agent.

11 "Service charge" means a mandatory fee to be charged by the
12 Division of Taxation in excess of the total obligation under [this
13 act] P.L.1996, c.2 (C.54:48-4.2 et al.) owed by a person or
14 organization to offset processing charges or discount fees for the
15 use of a card payment system or an electronic funds transfer system.
16 (cf: P.L.1996, c.2, s.1)

17

18 21. The Commissioner of Banking and Insurance shall adopt,
19 pursuant to the "Administrative Procedure Act," P.L.1968,
20 c.410 (C.52:14B-1 et seq.), rules and regulations the commissioner
21 deems to be necessary, to effectuate the purposes of this act.

22

23 22. This act shall take effect on the first day of the fourth month
24 after enactment, except the Commissioner of Banking and Insurance
25 may take such anticipatory action as may be necessary for the
26 implementation of this act.

27

28

29

STATEMENT

30

31 This bill, the "Digital Currency Jobs Creation Act," establishes a
32 regulatory framework for digital currency businesses to operate in
33 New Jersey and creates certain incentives for digital currency
34 businesses to locate in the State.

35 The bill defines a "digital currency servicer" to mean:

36 (1) any person who, as its primary business, engages in digital
37 currency creation, including mining;

38 (2) any person who, as its primary business, engages in the
39 provision of a distributed digital verification system; or

40 (3) any registrant under this bill.

41 Under the bill, "digital currency" means any type of digital unit
42 that, regardless of legal tender status, has no administrator and is:

43 (1) used as a currency, medium of exchange or stored value; or

44 (2) used as a substitute for government currency.

45 The bill excludes from the definition of "digital currency":

46 (1) digital units that have nominal or no value as a currency or
47 medium of exchange and are not used as a substitute for
48 government currency;

- 1 (2) digital units that can be used solely with a gift card program;
2 (3) digital units that are used solely within online gaming
3 platforms and have no market or application outside of those
4 gaming platforms, or can be redeemed for real-world goods,
5 services, discounts, or purchases, but cannot be converted into, or
6 redeemed for government currency or digital currency; or
7 (4) digital units that are used solely within an affinity program
8 but do not otherwise meet the definition of digital currency as
9 defined herein.

10 The bill prohibits a municipality from prohibiting, abridging,
11 levying a tax upon, or otherwise restricting the creation, retention,
12 transmission or any other use of the digital currency within the
13 State, except as otherwise provided for in the bill.

14 The bill provides that no person shall, without completing a
15 registration as set forth in the bill, engage in any digital currency
16 custodial activity for more than 30 days. Qualified trust companies
17 and payment processors are not required to register. Only a person
18 engaging in digital currency custodial activity as its primary
19 business is permitted to complete a registration under the bill.

20 The registration is to be in writing, under oath, and completed in
21 a form prescribed by the Department of Banking and Insurance, and
22 is required to contain certain information including:

- 23 (1) the exact name of the registrant, the form of organization,
24 and the jurisdiction where organized or incorporated;
25 (2) a list of the registrants, affiliates, and an organization chart
26 illustrating the relationship between and among the application and
27 its affiliates;
28 (3) fingerprints and photographs of key members of the
29 applicant's organization;
30 (4) an organization chart of the registrant and its management
31 structure;
32 (5) a business plan; and
33 (6) a registration fee set by the commissioner.

34 The bill requires each registrant to establish and maintain an
35 effective cyber security program to ensure the availability and
36 functionality of the registrant's electronic systems and to protect
37 those systems and any sensitive data stored on those systems from
38 unauthorized access or tampering.

39 Each registrant is required to designate a qualified employee to
40 serve as the registrant's Chief Information Security Officer
41 responsible for overseeing and implementing the registrant's cyber
42 security program and enforcing its cyber security policy.

43 Registrants are also required to maintain and enforce
44 confidential, written compliance policies, including policies with
45 respect to anti-fraud, anti-money laundering, cyber security, privacy
46 and information security, which shall be reviewed and approved by
47 the registrant's board of directors or an equivalent governing body.

1 The bill includes further consumer protections, including a
2 requirement that the registrant hold digital currency of the same
3 type and amount as that which it has custody from any person.
4 Registrants are prohibited from selling, transferring, assigning,
5 lending, hypothecating, pledging, or otherwise using or
6 encumbering any digital currency, the custody of which is
7 maintained for a New Jersey person, except for the sale, transfer, or
8 assignment of such assets at the direction of such person.

9 Registrants are required to make, keep, and preserve all of its
10 books and records of its digital currency custodial activity in their
11 original form or native file format for a period of at least five years
12 from the date of their creation and in a condition that will allow the
13 department to determine whether the registrant is complying with
14 all applicable laws, rules, and regulations.

15 The bill prohibits registrants from advertising its products,
16 services, or activities in New Jersey or to any New Jersey person
17 without including the legal name of the registrant and the legend
18 that such registrant is a “registered New Jersey digital currency
19 custodian.” The registrant shall maintain, for examination by the
20 superintendent, all advertising and marketing materials for a period
21 of at least seven years from the date of their creation, including but
22 not limited to print media, internet media, including websites, radio
23 and television advertising, road show materials, presentations, and
24 brochures.

25 The bill provides that registrants must, prior to engaging in
26 digital currency custodial activity with any customer, disclose in
27 clear, conspicuous writing all material risks and relevant terms and
28 conditions to the customer associated with the particular digital
29 currency custodial activities in which it engages. Certain risks and
30 relevant terms and conditions that must be disclosed are listed in the
31 bill. Registrants must also establish and maintain written policies
32 and procedures to fairly and timely resolve customer complaints.

33 The bill also provides certain incentives for digital currency
34 businesses to locate in New Jersey. The bill exempts receipts from
35 retail sales of energy and utility service to a digital currency
36 servicer or registrant for use or consumption directly and primarily
37 in the creation of digital currency, including mining, from the tax
38 imposed under New Jersey’s “Sales and Use Tax Act.” The bill
39 provides that a digital currency servicer or registrant may file an
40 application for a sales and use tax exemption with the Director of
41 the Division of Taxation in the Department of the Treasury.

42 The “Grow New Jersey Assistance Act,” N.J.S.A.34:1B-242,
43 provides certain business and insurance premiums tax credits for
44 job creation and retention in New Jersey. For the purposes of the
45 “Grow New Jersey Assistance Act,” the bill designates digital
46 currency servicers and registrants registered pursuant to this bill’s
47 provisions to be in a “targeted industry” and a “technology startup
48 company.” Therefore, in order for a digital currency servicer to be

1 eligible for that program, the minimum number of new or retained
2 full-time jobs would be a minimum of 10 new or 25 retained full-
3 time jobs, which is less than is required for certain other types of
4 business. Digital currency servicers and registrants would also be
5 eligible for, in addition to the base amount of the tax credit, an
6 additional \$5,000 for each new or retained full-time job each year.

7 Current law, N.J.S.A.54:48-4.3, allows the Director of the
8 Division of Taxation to establish an electronic funds transfer system
9 for payments of State taxes. The bill amends the definition of
10 "electronic funds transfer" to include any transfer of digital
11 currency. Thus, this change would allow the director to accept
12 digital currency in the payment of State taxes.

13 The bill also provides for penalties for a violation of the bill's
14 provisions, which include allowing the Commissioner of Banking
15 and Insurance to seek injunctive relief and a civil penalty in an
16 amount not to exceed \$5,000 for each violation.