

ASSEMBLY, No. 1190

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman ANDREW ZWICKER

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

SYNOPSIS

"New Jersey Innovation Assistance Act"; establishes New Jersey Innovation Assistance Program to provide tax credits to certain businesses.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT providing tax credits to certain businesses and
2 supplementing P.L.1974, c.80 (C.34:1B-1 et seq.).

3

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

6

7 1. This act shall be known and may be cited as the "New Jersey
8 Innovation Assistance Act."

9

10 2. As used in P.L. , c. (C.) (pending before the
11 Legislature as this bill):

12 "Affiliate" means an entity that directly or indirectly controls, is
13 under common control with, or is controlled by the business.
14 Control exists in all cases in which the entity is a member of a
15 controlled group of corporations as defined pursuant to section 1563
16 of the Internal Revenue Code of 1986 (26 U.S.C. s.1563) or the
17 entity is an organization in a group of organizations under common
18 control as defined pursuant to subsection (b) or (c) of section 414 of
19 the Internal Revenue Code of 1986 (26 U.S.C. s.414). A taxpayer
20 may establish by clear and convincing evidence, as determined by
21 the Director of the Division of Taxation in the Department of the
22 Treasury, that control exists in situations involving lesser
23 percentages of ownership than required by those statutes. An
24 affiliate of a business may contribute to meeting either the qualified
25 investment or new full-time employee requirements of a business
26 that applies for a credit under section 3 of P.L. , c. (C.)
27 (pending before the Legislature as this bill).

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

30 "Aviation district" means the area within a one-mile radius of the
31 outermost boundary of the "Atlantic City International Airport,"
32 established pursuant to section 24 of P.L.1991, c.252 (C.27:25A-
33 24).

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

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

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

41 a partnership;

42 an S corporation;

43 a limited liability company; or

44 a nonprofit corporation.

45 If the business or tenant is a cooperative or part of a cooperative,
46 then the cooperative may qualify for credits by counting the full-
47 time employees and capital investments of its member
48 organizations, and the cooperative may distribute credits to its

1 member organizations. If the business or tenant is a cooperative
2 that leases to its member organizations, the lease shall be treated as
3 a lease to an affiliate or affiliates.

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

7 "Capital investment" in a qualified business facility means
8 expenses by a business or any affiliate of the business incurred after
9 application for any of the following:

10 a. site preparation and construction, repair, renovation,
11 improvement, equipping, or furnishing on real property or of a
12 building, structure, facility, or improvement to real property;

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

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

22 d. in a Garden State Growth Zone, the following also qualify as
23 a capital investment: any development, redevelopment, and
24 relocation costs, including, but not limited to, site acquisition if
25 made within 24 months of application to the authority, engineering,
26 legal, accounting, and other professional services required; and
27 relocation, environmental remediation, and infrastructure
28 improvements for the project area, including, but not limited to, on-
29 and off-site utility, road, pier, wharf, bulkhead, or sidewalk
30 construction or repair.

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

1 area in the qualified business facility made or acquired prior to the
2 date of application.

3 "College or university" means a county college, an independent
4 institution of higher education, a public research university, or a
5 State college.

6 "Commitment period" means the period of time that is two times
7 the eligibility period.

8 "County college" means an educational institution established by
9 one or more counties, pursuant to chapter 64A of Title 18A of the
10 New Jersey Statutes.

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

16 "Disaster recovery project" means a project located on property
17 that has been wholly or substantially damaged or destroyed as a
18 result of a federally-declared disaster which, after utilizing all
19 disaster funds available from federal, State, county, and local
20 funding sources, demonstrates to the satisfaction of the authority
21 that access to additional funding authorized pursuant to P.L. , c.
22 (C.) (pending before the Legislature as this bill), is necessary to
23 complete the redevelopment project, and which is located within the
24 qualified incentive area and has been determined by the authority to
25 be in an area appropriate for development and in need of economic
26 development incentive assistance.

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

36 "Doctoral university" means a university located within New
37 Jersey that is classified as a doctoral university under the Carnegie
38 Classification of Institutions of Higher Education's Basic
39 Classification methodology on the effective date of P.L. ,
40 c. (C.) (pending before the Legislature as this bill).

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

1 "Eligible position" or "full-time job" means a full-time position
2 in a business in this State which the business has filled with a full-
3 time employee.

4 "Full-time employee" means a person:

5 a. who is employed by a business for consideration for at least
6 35 hours a week, or who renders any other standard of service
7 generally accepted by custom or practice as full-time employment;
8 or

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

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

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

30 "Full-time employee" shall not include any person who works as
31 an independent contractor or on a consulting basis for the business
32 or any person who, at the time of project application, works in New
33 Jersey for consideration for at least 35 hours per week for the
34 business, or who renders any other standard of service generally
35 accepted by custom or practice as full-time employment, but who,
36 prior to project application, was not provided, by the business, with
37 employee health benefits under a health benefits plan authorized
38 pursuant to State or federal law.

39 "Garden State Create Zone" means the campus of a doctoral
40 university, and the area within a three-mile radius of the outermost
41 boundary of the campus of a doctoral university, according to a map
42 appearing in the doctoral university's official catalog or other
43 official publication on the effective date of P.L. , c. (C.)
44 (pending before the Legislature as this bill).

45 "Garden State Growth Zone" or "growth zone" means the four
46 New Jersey cities with the lowest median family income based on
47 the 2009 American Community Survey from the US Census, (Table
48 708. Household, Family, and Per Capita Income and Individuals,

1 and Families Below Poverty Level by City: 2009); or a municipality
2 which contains a Tourism District as established pursuant to section
3 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino
4 Reinvestment Development Authority.

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

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

15 "Incentive effective date" means the date the authority issues a
16 tax credit based on documentation submitted by a business pursuant
17 to section 6 of P.L. , c. (C.) (pending before the Legislature
18 as this bill).

19 "Independent institution of higher education" means a college or
20 university incorporated and located in New Jersey, which by virtue
21 of law or character or license is a nonprofit educational institution
22 authorized to grant academic degrees and which provides a level of
23 education which is equivalent to the education provided by the
24 State's public institutions of higher education, as attested by the
25 receipt of and continuation of regional accreditation by the Middle
26 States Association of Colleges and Schools, and which is eligible to
27 receive State aid under the provisions of the Constitution of the
28 United States and the Constitution of the State of New Jersey, but
29 does not include any educational institution dedicated primarily to
30 the education or training of ministers, priests, rabbis, or other
31 professional persons in the field of religion.

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

36 "Mega project" means:

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

40 (1) having a capital investment in excess of \$20,000,000, and at
41 which more than 250 full-time jobs are created; or

42 (2) at which more than 1,000 full-time jobs of the business are
43 created;

44 b. a qualified business facility located in an urban transit hub
45 housing a business of any kind, having a capital investment in
46 excess of \$50,000,000, and at which more than 250 full-time
47 employees of the business are created;

1 c. a qualified business facility primarily used by a business
2 principally engaged in research, development, or manufacture of a
3 drug or device, as defined in R.S.24:1-1, or primarily used by a
4 business licensed to conduct a clinical laboratory and business
5 facility pursuant to the "New Jersey Clinical Laboratory
6 Improvement Act," P.L.1975, c.166 (C.45:9-42.26 et seq.), either:

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

10 (2) at which more than 1,000 full-time employees of the
11 business are created.

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

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

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

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

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

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

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

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

- 1 b. intersect with portions of: a deep poverty pocket, a port
- 2 district, or federally-owned land approved for closure under a
- 3 federal Commission on Base Realignment and Closure action;
- 4 c. are the proposed site of a disaster recovery project, a
- 5 qualified incubator facility, a highlands development credit
- 6 receiving area or redevelopment area, a tourism destination project,
- 7 or transit oriented development; or
- 8 d. contain: a vacant commercial building having over 400,000
- 9 square feet of office, laboratory, or industrial space available for
- 10 occupancy for a period of over one year; or a site that has been
- 11 negatively impacted by the approval of a "qualified business
- 12 facility," as defined pursuant to section 2 of P.L.2007, c.346
- 13 (C.34:1B-208).
- 14 "Professional employer organization" means an employee leasing
- 15 company registered with the Department of Labor and Workforce
- 16 Development pursuant to P.L.2001, c.260 (C.34:8-67 et seq.).
- 17 "Program" means the "New Jersey Innovation Assistance
- 18 Program" established pursuant to section 3 of P.L. , c. (C.)
- 19 (pending before the Legislature as this bill).
- 20 "Public research university" means a public research university
- 21 as defined in section 3 of P.L.1994, c.48 (C.18A:3B-3).
- 22 "Qualified business facility" means any building, complex of
- 23 buildings or structural components of buildings, and all machinery
- 24 and equipment located within a qualified incentive area, used in
- 25 connection with the operation of a business that is not solely
- 26 engaged in final point of sale retail business at that location.
- 27 "Qualified incentive area" means:
- 28 a. an aviation district;
- 29 b. a port district;
- 30 c. a distressed municipality or urban transit hub municipality;
- 31 d. an area that is:
- 32 (1) designated pursuant to the "State Planning Act," P.L.1985,
- 33 c.398 (C.52:18A-196 et al.), as:
- 34 (a) Planning Area 1 (Metropolitan);
- 35 (b) Planning Area 2 (Suburban); or
- 36 (c) Planning Area 3 (Fringe Planning Area);
- 37 (2) located within a smart growth area and planning area
- 38 designated in a master plan adopted by the New Jersey
- 39 Meadowlands Commission pursuant to subsection (i) of section 6 of
- 40 P.L.1968, c.404 (C.13:17-6) or section 10 of P.L.2015, c.19
- 41 (C.5:10A-10) or subject to a redevelopment plan adopted by the
- 42 New Jersey Meadowlands Commission pursuant to section 20 of
- 43 P.L.1968, c.404 (C.13:17-21) or section 7 of P.L.2015, c.19
- 44 (C.5:10A.7);
- 45 (3) located within any land owned by the New Jersey Sports and
- 46 Exposition Authority, established pursuant to P.L.1971, c.137
- 47 (C.5:10-1 et seq.), within the boundaries of the Hackensack

1 Meadowlands District as delineated in section 4 of P.L.1968, c.404
2 (C.13:17-4);
3 (4) located within a regional growth area, rural development
4 area zoned for industrial use as of the effective date of P.L. ,
5 c. (C.) (pending before the Legislature as this bill), town,
6 village, or a military and federal installation area designated in the
7 comprehensive management plan prepared and adopted by the
8 Pinelands Commission pursuant to the "Pinelands Protection Act,"
9 P.L.1979, c.111 (C.13:18A-1 et seq.);
10 (5) located within the planning area of the Highlands Region as
11 defined in section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands
12 development credit receiving area or redevelopment area;
13 (6) located within a Garden State Growth Zone;
14 (7) located within land approved for closure under any federal
15 Commission on Base Realignment and Closure action; or
16 (8) located only within the following portions of the areas
17 designated pursuant to the "State Planning Act," P.L.1985, c.398
18 (C.52:18A-196 et al.), as Planning Area 4A (Rural Planning Area),
19 Planning Area 4B (Rural/Environmentally Sensitive) or Planning
20 Area 5 (Environmentally Sensitive) if Planning Area 4A (Rural
21 Planning Area), Planning Area 4B (Rural/Environmentally
22 Sensitive) or Planning Area 5 (Environmentally Sensitive) is
23 located within:
24 (a) a designated center under the State Development and
25 Redevelopment Plan;
26 (b) a designated growth center in an endorsed plan until the
27 State Planning Commission revises and readopts New Jersey's State
28 Strategic Plan and adopts regulations to revise this definition as it
29 pertains to Statewide planning areas;
30 (c) any area determined to be in need of redevelopment pursuant
31 to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and
32 C.40A:12A-6) or in need of rehabilitation pursuant to section 14 of
33 P.L.1992, c.79 (C.40A:12A-14);
34 (d) any area on which a structure exists or previously existed
35 including any desired expansion of the footprint of the existing or
36 previously existing structure provided the expansion otherwise
37 complies with all applicable federal, State, county, and local
38 permits and approvals;
39 (e) the planning area of the Highlands Region as defined in
40 section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands
41 development credit receiving area or redevelopment area; or
42 (f) any area on which an existing tourism destination project is
43 located.
44 "Qualified incentive area" shall not include any property located
45 within the preservation area of the Highlands Region as defined in
46 section 3 of P.L.2004, c.120 (C.13:20-3).
47 "Qualified incubator facility" means a commercial building
48 located within a qualified incentive area: which contains 50,000 or

1 more square feet of office, laboratory, or industrial space; which is
2 located near, and presents opportunities for collaboration with, a
3 research institution, teaching hospital, college, or university; and
4 within which, at least 50 percent of the gross leasable area is
5 restricted for use by one or more technology startup companies
6 during the commitment period.

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

9 "SDA municipality" means a municipality in which an SDA
10 district is situated.

11 "State college" means a State college or university established
12 pursuant to chapter 64 of Title 18A of the New Jersey Statutes.

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

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

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

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

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

43 "Urban transit hub municipality" means a municipality:

44 a. which qualifies for State aid pursuant to P.L.1978, c.14
45 (C.52:27D-178 et seq.), or which has continued to be a qualified
46 municipality thereunder pursuant to P.L.2007, c.111; and

47 b. in which 30 percent or more of the value of real property
48 was exempt from local property taxation during tax year 2006. The

1 percentage of exempt property shall be calculated by dividing the
2 total exempt value by the sum of the net valuation which is taxable
3 and that which is tax exempt.
4

5 3. a. The New Jersey Innovation Assistance Program is hereby
6 established as a program under the jurisdiction of the New Jersey
7 Economic Development Authority and shall be administered by the
8 authority. The purpose of the program is to encourage business
9 development and job creation resulting in growing the State's
10 economy. To implement this purpose, the program may provide tax
11 credits to eligible businesses that create new full-time jobs for an
12 eligibility period not to exceed 10 years.

13 To be eligible for any tax credits pursuant to P.L. , c. (C.)
14 (pending before the Legislature as this bill), a business's chief
15 executive officer or equivalent officer shall submit a program
16 application and demonstrate to the authority, at the time of
17 application, that:

18 (1) the business, expressly including its landlord or seller, will
19 make, acquire, or lease a capital investment equal to, or greater
20 than, the applicable amount set forth in subsection b. of this section
21 at a qualified business facility at which the business will create new
22 full-time jobs in an amount equal to or greater than the applicable
23 number set forth in subsection c. of this section while also
24 maintaining the number of previously existing full-time jobs in this
25 State;

26 (2) the qualified business facility shall be constructed in
27 accordance with the minimum environmental and sustainability
28 standards established by the authority pursuant to subsection b. of
29 section 8 of P.L. , c. (C.) (pending before the Legislature as
30 this bill);

31 (3) the capital investment resultant from the award of tax credits
32 and the resultant creation of new full-time jobs will yield a net
33 positive benefit to the State equaling at least 110 percent of the
34 requested tax credit allocation amount, which determination is
35 calculated prior to taking into account the value of the requested tax
36 credit and shall be based on the benefits generated during the first
37 20 years following the completion of the project;

38 (4) the business has complied with all requirements for filing tax
39 and information returns and for paying or remitting required State
40 taxes and fees by submitting, as a part of the application, a tax
41 clearance certificate, as described in section 1 of P.L.2007, c.101
42 (C.54:50-39); and

43 (5) the award of tax credits will be a material factor in the
44 business's decision to create the minimum number of new full-time
45 jobs for eligibility under the program.

46 b. The minimum capital investment required for a project to be
47 eligible under the program shall be:

1 (1) for the rehabilitation, improvement, fit-out, or retrofit of an
2 existing industrial, warehousing, logistics, or research and
3 development premises for continued similar use by the business in
4 at least 51 percent of the gross leasable area of the premises, a
5 minimum investment of \$20 per square foot of gross leasable area;

6 (2) for the new construction of an industrial, warehousing,
7 logistics, or research and development premises for similar use by
8 the business in at least 51 percent of the gross leasable area of the
9 premises, a minimum investment of \$60 per square foot of gross
10 leasable area;

11 (3) for the rehabilitation, improvement, fit-out, or retrofit of an
12 existing premises that does not qualify pursuant to paragraph (1) or
13 (2) of this subsection, a minimum investment of \$40 per square foot
14 of gross leasable area; and

15 (4) for the new construction of a premises that does not qualify
16 pursuant to paragraph (1) or (2) of this subsection, a minimum
17 investment of \$120 per square foot of gross leasable area.

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

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

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

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

26 d. (1) To assist the authority in determining whether a
27 proposed capital investment will yield a net positive benefit, the
28 business's chief executive officer, or equivalent officer, shall submit
29 a certification to the authority indicating:

30 (a) that any projected creation of new full-time jobs would not
31 occur but for the provision of tax credits under the program; and

32 (b) that the business's chief executive officer, or equivalent
33 officer, has reviewed the information submitted to the authority and
34 that the representations contained therein are accurate.

35 (2) When considering an application, based upon new full-time
36 jobs, that involves intra-State job transfers of previously existing
37 full-time jobs, the authority shall require the business to submit the
38 following information as part of its application: a full economic
39 analysis of all locations under consideration by the business; all
40 lease agreements, ownership documents, or substantially similar
41 documentation for the business's current in-State locations.

42 (3) In the event that this certification by the business's chief
43 executive officer, or equivalent officer, is found to be willfully
44 false, the authority may revoke any award of tax credits in their
45 entirety, which revocation shall be in addition to any other criminal
46 or civil penalties that the business and the officer may be subject to.

47 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 an issuance of tax credits
- 4 pursuant to P.L. , c. (C.) (pending before the Legislature as
- 5 this bill).
- 6 f. Nothing shall preclude a business from applying for tax
- 7 credits under the program for more than one project at a qualified
- 8 business facility within this State pursuant to one or more
- 9 applications.
- 10
- 11 4. The authority shall require an eligible business to enter into
- 12 an incentive agreement prior to the issuance of tax credits. The
- 13 incentive agreement shall include, but shall not be limited to, the
- 14 following:
- 15 a. a detailed description of the proposed project which will
- 16 result in job creation, and the number of new full-time jobs that are
- 17 approved for tax credits;
- 18 b. the eligibility period of the tax credits, including the first
- 19 year for which the tax credits may be claimed;
- 20 c. personnel information that will enable the authority to
- 21 administer the program;
- 22 d. a requirement that the applicant maintain the qualified
- 23 business facility at a location in New Jersey for the commitment
- 24 period, with at least the existing number of full-time jobs and the
- 25 minimum number of new full-time jobs as required by the program,
- 26 and a provision to permit the authority to recapture all or part of any
- 27 tax credits awarded, at its discretion, if the business does not remain
- 28 in compliance with this provision for the required term, and in the
- 29 instance of the business terminating an existing incentive
- 30 agreement, such permitted recapture may be calculated to recognize
- 31 the period of time that the business was in compliance prior to
- 32 termination;
- 33 e. a method for the business to certify that it has met the capital
- 34 investment and employment requirements of the program criteria
- 35 established pursuant to subsections b. and c. of section 3 of P.L. ,
- 36 c. (C.) (pending before the Legislature as this bill) and to
- 37 report annually to the authority the number of full-time jobs for
- 38 which the tax credits are to be made;
- 39 f. a provision permitting an audit of the payroll records of the
- 40 business from time to time, as the authority deems necessary;
- 41 g. a provision which permits the authority to amend the
- 42 agreement; and
- 43 h. a provision establishing the conditions under which the
- 44 agreement may be terminated.
- 45
- 46 5. a. The total amount of the tax credit for an eligible business
- 47 for each new full-time job shall be as set forth in subsections b.
- 48 through e. of this section. The total tax credit amount shall be

1 calculated and credited to the business annually for each year of the
2 eligibility period. A business may assign its ability to apply for the
3 tax credit under this subsection to a nonprofit organization with a
4 mission dedicated to attracting investment and completing
5 development and redevelopment projects in a Garden State Growth
6 Zone. The nonprofit organization or an organization operating a
7 qualified incubator facility may make an application on behalf of a
8 business which meets the requirements for the tax credit, or a group
9 of non-qualifying businesses or positions, located at a qualified
10 business facility, that shall be considered a unified project for the
11 purposes of the tax credits provided under this section.

12 b. The base amount of the tax credit for each new full-time job
13 shall be as follows:

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

17 (b) for a qualified business facility located within a Garden
18 State Create Zone and used by an eligible business in a targeted
19 industry to conduct a collaborative research relationship with a
20 doctoral university within the zone, \$5,000 per year;

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

24 (3) for a qualified business facility in a priority area, \$3,000 per
25 year; and

26 (4) for a qualified business facility in other eligible areas, \$500
27 per year.

28 c. In addition to the base amount of the tax credit, the amount
29 of the tax credit to be awarded for each new full-time job shall be
30 increased if the qualified business facility meets any of the
31 following priority criteria or other additional or replacement criteria
32 determined by the authority from time to time in response to
33 evolving economic or market conditions:

34 (1) for a qualified business facility located in a deep poverty
35 pocket or 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, an increase of \$1,500 per year;

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

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

42 (4) for a qualified business facility, other than a mega project, at
43 which the capital investment in industrial premises for industrial
44 use by the business is in excess of the minimum capital investment
45 required for eligibility pursuant to subsection b. of section 3 of
46 P.L. , c. (C.) (pending before the Legislature as this bill), an
47 increase of \$1,000 per year for each additional amount of
48 investment that exceeds the minimum amount required for

- 1 eligibility by 20 percent, with a maximum increase of \$3,000 per
2 year;
- 3 (5) for a business with new full-time jobs at the qualified
4 business facility with an average salary in excess of the existing
5 average salary for the county in which the qualified business facility
6 is located, or, in the case of a qualified business facility in a Garden
7 State Growth Zone, a business that employs full-time positions at
8 the qualified business facility with an average salary in excess of
9 the average salary for the Garden State Growth Zone, an increase of
10 \$250 per year during the commitment period for each 35 percent by
11 which the average salary levels for the new full-time employees at
12 the qualified business facility exceeds the county or Garden State
13 Growth Zone average salary, with a maximum increase of \$1,500
14 per year;
- 15 (6) for a business with large numbers of new full-time jobs
16 during the commitment period, the increases shall be in accordance
17 with the following schedule:
 - 18 (a) if the number of new full-time jobs is between 251 and 400,
19 \$500 per year;
 - 20 (b) if the number of new full-time jobs is between 401 and 600,
21 \$750 per year;
 - 22 (c) if the number of new full-time jobs is between 601 and 800,
23 \$1000 per year;
 - 24 (d) if the number of new full-time jobs is between 801 and
25 1,000, \$1,250 per year;
 - 26 (e) if the number of new full-time jobs is in excess of 1,000,
27 \$1,500 per year;
- 28 (7) for a business in a targeted industry, an increase of \$500 per
29 year;
- 30 (8) for a qualified business facility exceeding the Leadership in
31 Energy and Environmental Design's "Silver" rating standards or
32 completes substantial environmental remediation, an additional
33 increase of \$250 per year;
- 34 (9) for a mega project or a qualified business facility located
35 within a Garden State Growth Zone at which the capital investment
36 in industrial premises for industrial use by the business exceeds the
37 minimum capital investment required for eligibility pursuant to
38 subsection b. of section 3 of P.L. , c. (C.) (pending before
39 the Legislature as this bill), an increase of \$1,000 per year for each
40 additional amount of investment that exceeds the minimum amount
41 by 20 percent, with a maximum increase of \$5,000 per year;
- 42 (10) for a project located within a half-mile of any light rail
43 station constructed after the effective date of P.L. , c. (C.)
44 (pending before the Legislature as this bill), an increase of \$1,000
45 per year;
- 46 (11) for a project that generates solar energy on site for use
47 within the project of an amount that equals at least 50 percent of the
48 project's electric supply service needs, an increase of \$250 per year;

1 (12) for a qualified business facility that includes a vacant
2 commercial building having over 1,000,000 square feet of office or
3 laboratory space available for occupancy for a period of over one
4 year, an increase of \$1,000 per year;

5 (13) for an eligible business in a targeted industry at a qualified
6 business facility on the campus of a college or university other than
7 a doctoral university, or at a qualified business facility within a
8 three-mile radius of the outermost boundary of the campus of a
9 college or university other than a doctoral university, which facility
10 is used by the business to conduct a collaborative research
11 relationship with the college or university, an increase of \$1,000 per
12 year. The boundary of the campus of a college or university shall
13 be based upon a map appearing in the college's or university's
14 official catalog or other official publication on the effective date of
15 P.L. , c. (C.) (pending before the Legislature as this bill);
16 and

17 (14) for a qualified business facility located in a population
18 census tract that is certified and designated as an opportunity zone
19 pursuant to section 1400Z-1 of the federal Internal Revenue Code of
20 1986, 26 U.S.C. s.1400Z-1, an increase of \$500 per year.

21 d. The gross amount of the tax credit for an eligible business
22 for each new full-time job shall be the sum of the base amount as
23 set forth pursuant to subsection b. of this section and the various
24 additional bonus amounts for which the business is eligible pursuant
25 to subsection c. of this section, subject to the following limitations:

26 (1) for a mega project or a qualified business facility in a
27 Garden State Growth Zone, the gross amount for each new full-time
28 job shall not exceed \$15,000 per year;

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

32 (3) for a qualified business facility in a distressed municipality
33 the gross amount for each new full-time job shall not exceed
34 \$11,000 per year;

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

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

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

43 e. (1) Notwithstanding the provisions of subsections a. through
44 d. of this section, for each application approved by the authority's
45 board, the amount of tax credits available to be applied by the
46 business annually shall not exceed:

- 1 (a) \$30,000,000 and provides a net benefit to the State as
- 2 provided herein with respect to a mega project or a qualified
- 3 business facility in a Garden State Growth Zone;
- 4 (b) \$10,000,000 and provides a net benefit to the State as
- 5 provided herein with respect to a qualified business facility in an
- 6 urban transit hub municipality or a Garden State Create Zone;
- 7 (c) \$8,000,000 and provides a net benefit to the State as
- 8 provided herein with respect to a qualified business facility in a
- 9 distressed municipality;
- 10 (d) \$4,000,000 and provides a net benefit to the State as
- 11 provided herein with respect to a qualified business facility in other
- 12 priority areas, but not more than 90 percent of the withholdings of
- 13 the business from the qualified business facility; and
- 14 (e) \$2,500,000 and provides a net benefit to the State as
- 15 provided herein with respect to a qualified business facility in other
- 16 eligible areas, but not more than 90 percent of the withholdings of
- 17 the business from the qualified business facility.
- 18 Under subparagraphs (a) through (e) of this paragraph, for each
- 19 application for tax credits in excess of \$4,000,000 annually, the
- 20 amount of tax credits available to be applied by the business
- 21 annually shall be the lesser of the maximum amount under the
- 22 applicable paragraph or an amount determined by the authority
- 23 necessary to complete the project, with this determination made by
- 24 the authority's utilization of a full economic analysis of all locations
- 25 under consideration by the business, all lease agreements,
- 26 ownership documents, or substantially similar documentation for
- 27 the business's current in-State locations, as applicable, and all lease
- 28 agreements, ownership documents, or substantially similar
- 29 documentation for the potential out-of-State location alternatives, to
- 30 the extent they exist. Based on this information, and any other
- 31 information deemed relevant by the authority, the authority shall
- 32 independently verify and confirm the amount necessary to complete
- 33 the project.
- 34 (2) The combined value of all credits approved in any fiscal
- 35 year by the authority pursuant to P.L. , c. (C.) (pending
- 36 before the Legislature as this bill) shall not exceed \$200,000,000.
- 37
- 38 6. a. (1) A business shall submit its documentation to the
- 39 authority indicating that it has met the capital investment and
- 40 employment requirements specified in the incentive agreement for
- 41 certification of its tax credit amount within three years following
- 42 the date of approval of its application by the authority. The
- 43 authority shall have the discretion to grant two six-month
- 44 extensions of this deadline. Except as provided in subparagraph (b)
- 45 of this paragraph, in no event shall the incentive effective date
- 46 occur later than four years following the date of approval of an
- 47 application by the authority.

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

4 b. (1) In conducting its annual review, the authority may
5 require a business to submit any information determined by the
6 authority to be necessary and relevant to its review.

7 The credit amount for any tax period for which the
8 documentation of a business's credit amount remains uncertified as
9 of a date three years after the closing date of that period shall be
10 forfeited, although credit amounts for the remainder of the years of
11 the eligibility period shall remain available to it.

12 The credit amount may be taken by the tax certificate holder for
13 the tax period for which it was issued or may be carried forward for
14 use by the tax certificate holder in any of the next 20 successive tax
15 periods, and shall expire thereafter. The tax certificate holder may
16 transfer the tax credit amount on or after the date of issuance or at
17 any time within three years of the date of issuance for use by the
18 transferee in the tax period for which it was issued or in any of the
19 next 20 successive tax periods. Notwithstanding the foregoing, no
20 more than the amount of tax credits equal to the total credit amount
21 divided by the duration of the eligibility period in years may be
22 taken in any tax period.

23 (2) Credits granted to a partnership shall be passed through to
24 the partners, members, or owners, respectively, pro-rata or pursuant
25 to an executed agreement among the partners, members, or owners
26 documenting an alternate distribution method provided to the
27 Director of the Division of Taxation in the Department of the
28 Treasury accompanied by any additional information as the director
29 may require.

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

35 c. (1) If, in any tax period, the business reduces the total
36 number of full-time employees in its Statewide workforce by more
37 than 20 percent from the number of full-time employees in its
38 Statewide workforce in the last tax period prior to submitting an
39 application for the program as described in section 3 of P.L. ,
40 c. (C.) (pending before the Legislature as this bill), then the
41 business shall forfeit its credit amount for that tax period and each
42 subsequent tax period, until the first tax period for which
43 documentation demonstrating the restoration of the business's
44 Statewide workforce to the threshold levels required by the
45 incentive agreement has been reviewed and approved by the
46 authority, for which tax period and each subsequent tax period the
47 full amount of the credit shall be allowed.

1 (2) If, in any tax period, the number of full-time employees
2 employed by the business at the qualified business facility located
3 within a qualified incentive area drops below 80 percent of the
4 number of new and previously existing full-time jobs specified in
5 the incentive agreement, then the business shall forfeit its credit
6 amount for that tax period and each subsequent tax period, until the
7 first tax period for which documentation demonstrating the
8 restoration of the number of full-time employees employed by the
9 business at the qualified business facility to 80 percent of the
10 number of jobs specified in the incentive agreement.

11 (3) If the qualified business facility is sold by the owner in
12 whole or in part during the eligibility period, the new owner shall
13 not acquire the capital investment of the seller and the seller shall
14 forfeit all credits for the tax period in which the sale occurs and all
15 subsequent tax periods, provided however that any credits of the
16 business shall remain unaffected.

17 d. The authority shall not enter into an incentive agreement
18 with a business that has previously received incentives pursuant to
19 the "Business Retention and Relocation Assistance Act," P.L.1996,
20 c.25 (C.34:1B-112 et seq.), the "Business Employment Incentive
21 Program Act," P.L.1996, c.26 (C.34:1B-124 et al.), the "Grow New
22 Jersey Assistance Act," P.L.2011, c.149 (C.34:1B-242 et seq.), the
23 "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161
24 (C.52:27D-489p et al.), the "Transformative Headquarters
25 Economic Assistance Program" established pursuant to section 3 of
26 P.L.2017, c.282 (C.34:1B-258), or any other program administered
27 by the authority unless:

28 (1) the business has satisfied all of its obligations underlying the
29 previous award of incentives or is compliant with section 4 of
30 P.L. , c. (C.) (pending before the Legislature as this bill); or

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

35

36 7. A business may apply to the Director of the Division of
37 Taxation in the Department of the Treasury and the Chief Executive
38 Officer of the authority for a tax credit transfer certificate, covering
39 one or more years, in lieu of the business being allowed any amount
40 of the credit against the tax liability of the business. The tax credit
41 transfer certificate, upon receipt thereof by the business from the
42 director and the Chief Executive Officer of the authority, may be
43 sold or assigned, in full or in part, in an amount not less than
44 \$25,000, to any other person that may have a tax liability pursuant
45 to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to sections 2
46 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), pursuant to
47 section 1 of P.L.1950, c.231 (C.17:32-15), or pursuant to
48 N.J.S.17B:23-5. The certificate provided to the business shall

1 include a statement waiving the business's right to claim that
2 amount of the credit against the taxes that the business has elected
3 to sell or assign. The sale or assignment of any amount of a tax
4 credit transfer certificate allowed under this section shall not be
5 exchanged for consideration received by the business of less than
6 75 percent of the transferred credit amount before considering any
7 further discounting to present value which shall be permitted,
8 except that the 75 percent minimum measure of consideration shall
9 not apply to the sale or assignment of a tax credit transfer certificate
10 to an affiliate irrespective of whether the affiliate met the capital
11 investment and employment requirements specified in the incentive
12 agreement. Any amount of a tax credit transfer certificate used by a
13 purchaser or assignee against a tax liability shall be subject to the
14 same limitations and conditions that apply to the use of the credit by
15 the business that originally applied for and was allowed the credit.

16
17 8. a. The Chief Executive Officer of the authority, in
18 consultation with the Director of the Division of Taxation in the
19 Department of the Treasury, shall adopt rules in accordance with
20 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
21 seq.) as are necessary to implement P.L. , c. (C.) (pending
22 before the Legislature as this bill), including but not limited to:
23 examples of and the determination of capital investment; the
24 enumeration of qualified incentive areas; the enumeration of
25 specific targeted industries; specific delineation of the incentive
26 areas; the determination of the limits, if any, on the expense or type
27 of furnishings that may constitute capital improvements; the
28 promulgation of procedures and forms necessary to apply for a tax
29 credit, including the enumeration of the certification procedures;
30 and provisions for tax credit applicants to be charged an initial
31 application fee, and ongoing service fees, to cover the
32 administrative costs related to the tax credit.

33 b. Through regulation, the Chief Executive Officer of the
34 authority, in consultation with the Secretary of Higher Education,
35 shall establish standards for collaborative research relationships
36 between businesses in targeted industries and colleges and
37 universities sufficient to qualify a business for an enhanced base or
38 bonus tax credit amount under paragraph (13) of subsection c. of
39 section 5 of P.L. , c. (C.) (pending before the Legislature as
40 this bill).

41 c. Through regulation, the authority shall establish minimum
42 standards by which qualified business facilities shall be constructed
43 or renovated in compliance with the minimum environmental and
44 sustainability standards.

45
46 9. This act shall take effect on July 1, 2019 or on the 90th day
47 following enactment, whichever is later. The Chief Executive
48 Officer of the authority and the authority may take such anticipatory

1 administrative action in advance thereof as shall be necessary for
2 the implementation of this act.

3
4
5 STATEMENT

6
7 This bill, the “New Jersey Innovation Assistance Act,”
8 establishes the New Jersey Innovation Assistance Program
9 (program) under the jurisdiction of the New Jersey Economic
10 Development Authority (EDA). The EDA is required to administer
11 the program to encourage business development and job creation to
12 grow the State’s economy by providing tax credits, for an eligibility
13 period of up to 10 years, to eligible businesses that create new full-
14 time jobs.

15 Under the bill, a business's chief executive officer or equivalent
16 officer is required to demonstrate to the EDA, at the time of
17 program application, that the business will make, acquire, or lease
18 certain capital investments at a qualified business facility (facility)
19 at which the business will create new full-time jobs while also
20 maintaining the number of previously existing full-time jobs in this
21 State. The business's chief executive officer or equivalent officer is
22 also required to demonstrate that the business has complied with all
23 requirements for filing tax and information returns and for paying
24 or remitting required State taxes and fees, and that the award of tax
25 credits will be a material factor in the business's decision to create
26 the minimum number of new full-time jobs.

27 The bill establishes minimum capital investment required for a
28 project to be eligible under the program, with lower minimum
29 capital investment requirements for rehabilitation and improvement
30 of existing properties and higher capital investment requirements
31 for new construction. In addition, the capital investment
32 requirements under the bill are lower for capital investments in the
33 rehabilitation, improvement, or new construction of premises for
34 industrial, warehousing, logistics, or research and development
35 uses.

36 The bill also establishes the following minimum requirements for
37 the number of new full-time jobs required to be eligible under this
38 program:

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

41 (2) for a business engaged primarily in a targeted industry, as
42 defined in the bill, other than a technology startup company or a
43 manufacturing company, a minimum of 25 new full-time jobs; and

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

45 The bill requires the business's chief executive officer, or
46 equivalent officer, to submit a certification to the EDA indicating
47 that any projected creation of new full-time jobs would not occur

1 without provision of tax credits under the program and attesting to
2 the accuracy of that information.

3 Under the bill, an eligible business is required to to enter into an
4 incentive agreement with the EDA prior to the issuance of tax
5 credits. The incentive agreement is required to contain information
6 related to the proposed capital investment project, new job creation,
7 tax credit eligibility periods, business personnel, access to records,
8 business commitments, the recapture of incentives, business
9 certifications, and agreement amendment and termination. Under
10 the bill, a business in the program is generally required to maintain
11 the new full-time jobs, along with previously existing full-time
12 jobs, for a commitment period that is twice as long in duration as
13 the eligibility period.

14 The bill establishes procedures for the calculation of program tax
15 credits for each new full-time job based upon certain base amounts
16 and bonuses, and further establishes tax credit caps related to
17 individual facilities. Under the bill, the base amount of the tax
18 credit for each new full-time job is based on the location of the
19 facility in which the business makes a capital investment, the
20 industry in which the business operates, and the designation of the
21 capital investment project.

22 The bill limits the total tax credit available to an eligible business
23 under a program agreement for each new full-time job.

24 For an application for tax credits in excess of \$4,000,000
25 annually, the bill limits the amount of tax credits available to be
26 applied by the business to the lesser of the maximum amount under
27 the annual cumulative program tax credits available to the business
28 or an amount determined by the EDA necessary to complete the
29 project. The bill further specifies that the combined value of all
30 credits approved in any fiscal year under the program shall not
31 exceed \$200,000,000.

32 Unless otherwise specified, the bill requires a business to submit
33 documentation indicating that it has met the capital investment and
34 employment requirements for certification of its tax credit amount
35 within three years following the date of approval of the business's
36 program application, but the bill empowers the EDA to grant two
37 six-month extensions to the deadline.

38 Under the bill, the EDA may require a business to submit any
39 information determined by the EDA to be necessary and relevant to
40 the EDA's annual reviews. The bill provides that the credit amount
41 for a tax period shall be forfeited if the documentation of a
42 business's credit amount remains uncertified three years after the
43 tax period closes. Under the bill, the credit amount may be taken
44 by the tax certificate holder for the tax period for which it was
45 issued or may be carried forward for the next 20 successive tax
46 periods, and shall expire thereafter. The bill also includes
47 provisions related to the application of the tax credits and to the
48 distribution of tax credits when the credits are granted to a

1 partnership. The bill also requires the forfeiture of tax credits if a
2 business makes certain reductions to its workforce and provides for
3 the restoration of tax credits upon restoration of the business's
4 workforce. The bill also includes provisions related to the sale of a
5 facility during the business's commitment period.

6 The bill prohibits the EDA from entering into an incentive
7 agreement with a business that has previously received certain
8 incentives unless the business has satisfied all of its obligations
9 underlying the previous award of incentives or the capital
10 investment incurred and new full-time jobs pledged by the business
11 in the new incentive agreement are separate and apart from any
12 capital investment or jobs underlying the previous award of
13 incentives.

14 Under the bill, a business may apply to the Director of the
15 Division of Taxation in the Department of the Treasury and the
16 chief executive officer of the EDA for a tax credit transfer
17 certificate, covering one or more years, in lieu of the business being
18 allowed any amount of the credit against the tax liability of the
19 business. Under the bill, the tax certificate holder may transfer the
20 tax credit amount at any time within three years of the date of
21 issuance for use by the transferee in the tax period for which it was
22 issued or in any of the next 20 successive tax periods. A tax credit
23 transfer certificate may then be sold or assigned, in full or in part, in
24 an amount not less than \$25,000, to any other person that may have
25 certain tax liabilities. The bill prohibits the sale or assignment of
26 any amount of a tax credit transfer certificate for consideration of
27 less than 75 percent of the transferred credit amount, except that the
28 minimum measure of consideration shall not apply to the sale or
29 assignment of a tax credit transfer certificate to an affiliate of the
30 business.

31 Under the bill, the chief executive officer of the EDA, in
32 consultation with the Director of the Division of Taxation in the
33 Department of the Treasury, is required to adopt rules to implement
34 the bill, including but not limited to: examples of and the
35 determination of capital investment; the enumeration of qualified
36 incentive areas; the enumeration of specific targeted industries;
37 specific delineation of the incentive areas; the determination of the
38 limits, if any, on the expense or type of furnishings that may
39 constitute capital improvements; the promulgation of procedures
40 and forms necessary to apply for a tax credit, including the
41 enumeration of the certification procedures; and provisions for tax
42 credit applicants to be charged an initial application fee, and
43 ongoing service fees, to cover the administrative costs related to the
44 tax credit. The chief executive officer of the EDA, in consultation
45 the Secretary of Higher Education, is also required to establish
46 standards for collaborative research relationships between
47 businesses in targeted industries and colleges and universities
48 sufficient to qualify a business for enhanced base or bonus tax

1 credits under the program. The bill further requires the EDA to
2 establish minimum construction and renovation standards for
3 facilities that also meet minimum environmental and sustainability
4 standards.

5 The bill will take effect on July 1, 2019 or on the 90th day
6 following enactment, whichever is later. The Chief Executive
7 Officer of the EDA and the EDA are permitted to take anticipatory
8 administrative action in advance of the effective date as necessary
9 for the implementation of the bill.