ASSEMBLY, No. 2053

STATE OF NEW JERSEY
219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:
Assemblywoman ELIANA PINTOR MARIN
District 29 (Essex)

SYNOPSIS
Changes eligibility requirements and benefits under Grow New Jersey Assistance Program; extends program application deadline.

CURRENT VERSION OF TEXT
Introduced Pending Technical Review by Legislative Counsel.
AN ACT concerning the Grow New Jersey Assistance Program and amending P.L.2011, c.149.

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

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

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

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

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

"Aviation district" means all areas within the boundaries of the "Atlantic City International Airport," established pursuant to section 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation Administration William J. Hughes Technical Center and the area within a one-mile radius of the outermost boundary of the "Atlantic City International Airport" and the Federal Aviation Administration William J. Hughes Technical Center.

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

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

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

a partnership;

an S corporation;

a limited liability company; or

a non-profit corporation.

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

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

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

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

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

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

d. any of the foregoing.

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

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

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

"Commitment period" means the period of time that is 1.5 times
the eligibility period for each applicable phase agreement.

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

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

"Disaster recovery project" means a project located on property
that has been wholly or substantially damaged or destroyed as a
result of a federally-declared disaster which, after utilizing all
disaster funds available from federal, State, county, and local
funding sources, demonstrates to the satisfaction of the authority
that access to additional funding authorized pursuant to the "New
(C.52:27D-489p et al.), is necessary to complete the redevelopment
project, and which is located within the qualified incentive area and
has been determined by the authority to be in an area appropriate
for development and in need of economic development incentive
assistance.

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

"Doctoral university" means a university located within New
Jersey that is classified as a doctoral university under the Carnegie
Classification of Institutions of Higher Education's Basic
Classification methodology on the effective date of P.L.2017, c.221.

"Eligibility period" means the period in which a business may
claim a tax credit under the Grow New Jersey Assistance Program
for a given project phase, beginning with the tax period in which the
authority accepts certification of the business that it has met the
capital investment and employment requirements of the Grow New
Jersey Assistance Program of the respective project phase and
extending thereafter for a term of not more than 10 years, with the
term to be determined solely at the discretion of the applicant
provided that the term of eligibility period may consist of
nonconsecutive tax years if the applicant elects at any time after the
end of the first tax period of the eligibility period to defer the
continuation of the eligibility period to a tax period to a subsequent
tax period.

"Eligible position" or "full-time job" means a full-time position
in a business in this State which the business has filled with a full-
time employee, a person employed by the business for
consideration for at least 35 hours per week who is primarily
located at the qualified business facility and spends at least 28 hours
per week at the qualified business facility.

"Full-time employee" means a person:

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

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

c. who is a resident of another State but whose income is not
et seq. or who is a partner of a business who works for the
partnership for at least 35 hours a week, or who renders any other
standard of service generally accepted by custom or practice as full-
time employment, and whose distributive share of income, gain,
loss, or deduction, or whose guaranteed payments, or any
combination thereof, is subject to the payment of estimated taxes, as
et seq.; and

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

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

the requirement that employee health benefits are to be provided
shall be deemed to be satisfied if the benefits are provided in
accordance with industry practice by a third party obligated to
provide such benefits pursuant to a collective bargaining agreement;
full-time employment shall include, but not be limited to,
employees that have been hired by way of a labor union hiring hall
or its equivalent;
35 hours of employment per week at a qualified business facility
shall constitute one "full-time employee," regardless of whether or
not the hours of work were performed by one or more persons.
For any project located in a Garden State Growth Zone which
qualifies under the "Municipal Rehabilitation and Economic
Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or any
project located in the Atlantic City Tourism District as established
pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated
by the Casino Reinvestment Development Authority, and which
will include a retail facility of at least 150,000 square feet, of which
at least 50 percent will be occupied by either a full-service
supermarket or grocery store, 30 hours of employment per week at a
qualified business facility shall constitute one "full-time employee,"
regardless of whether the hours of work were performed by one or
more persons, and the requirement that employee health benefits are
to be provided shall be deemed to be satisfied if the employees of
the business are covered by a collective bargaining agreement.
"Full-time employee" shall not include any person who works as
an independent contractor or on a consulting basis for the business,
except that any person working as an independent contractor for the
business shall be deemed a full-time employee if the business
demonstrates to the authority that:
(1) the person working as an independent contractor for the
business works for at least 35 hours a week, or renders any other
standard service generally accepted by custom or practice as full-
time employment, and the person is provided with employee health
benefits under a health benefits plan authorized pursuant to State or
federal law; and
(2) the business provides documentation to the authority to
permit the authority to verify the compensation paid to, and the time
worked by, the person working as an independent contractor.
The business shall provide to the authority an annual report that
identifies the number of persons working as independent contractors
for the business and their contractual or partnering relationship with
the business as provided pursuant to subsection i. of section 3 of
P.L.2011, c.149 (C.34:1B-244).
Full-time employee shall also not include any person who at the
time of project application works in New Jersey for consideration
for at least 35 hours per week, or who renders any other standard of
service generally accepted by custom or practice as full-time
employment but who prior to project application was not provided,
by the business, with employee health benefits under a health
benefits plan authorized pursuant to State or federal law.
"Garden State Create Zone" means the campus of a doctoral university, and the area within a three-mile radius of the outermost boundary of the campus of a doctoral university, according to a map appearing in the doctoral university's official catalog or other official publication on the effective date of P.L.2017, c.221.

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

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

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

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

"Incentive phase agreement" means a sub-agreement of the incentive agreement that governs the timing, capital investment, employment levels, and other applicable details of the respective phase.

"Incentive phase agreement effective date" means the date the authority issues a tax credit for a portion of the total tax credits awarded proportionate to the number of new full-time jobs created during the respective phase, based on documentation submitted by a business pursuant to section 6 of P.L.2011, c.149 (C.34:1B-247).

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

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

"Mega project" means:

a. [a qualified business facility located in a port district housing a business in the logistics, manufacturing, energy, defense, or maritime industries, either:
   (1) having a capital investment in excess of $20,000,000, and at which more than 250 full-time employees of the business are created or retained; or
   (2) at which more than 1,000 full-time employees of the business are created or retained;] (Deleted by amendment, P.L.____, c.) (pending before the Legislature as this bill)

b. [a qualified business facility located in an aviation district housing a business in the aviation industry, in a Garden State Growth Zone, or in a priority area housing the United States headquarters and related facilities of an automobile manufacturer, either:
   (1) having a capital investment in excess of $20,000,000, and at which more than 250 full-time employees of the business are created or retained, or
   (2) at which more than 1,000 full-time employees of the business are created or retained;] (Deleted by amendment, P.L.____, c.) (pending before the Legislature as this bill)

c. [a qualified business facility located in an urban transit hub housing a business of any kind, having a capital investment in excess of $50,000,000, and at which more than 250 full-time employees of the business are created or retained;] (Deleted by amendment, P.L.____, c.) (pending before the Legislature as this bill)

d. [a project located in an area designated in need of redevelopment, pursuant to P.L.1992, c.79 (C.40A:12A-1 et al.) prior to the enactment of P.L.2014, c.63 (C.34:1B-251 et al.) within Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, or Salem counties having a capital investment in excess of $20,000,000, and at which more than 150 full-time employees of the business are created or retained; or] (Deleted by amendment, P.L.____, c.) (pending before the Legislature as this bill)

e. [a qualified business facility primarily used by a business principally engaged in research, development, or manufacture of a drug or device, as defined in R.S.24:1-1, or primarily used by a business licensed to conduct a clinical laboratory and business facility pursuant to the "New Jersey Clinical Laboratory Improvement Act," P.L.1975, c.166 (C.45:9-42.26 et seq.), either:
(1) having a capital investment in excess of $20,000,000, and at
which more than 250 full-time employees of the business are
created or retained, or
(2) at which more than 1,000 full-time employees of the
business are created or retained. [Deleted by amendment, P.L.   ,
which more than 250 full-time employees of the business are
created or retained.]

f. a transformative project of special economic importance as
measured by the level of new jobs, new capital investment, and
opportunities to leverage leadership in a high-priority targeted
industry, as determined by the authority pursuant to rules and
regulations promulgated to implement P.L.   , c.   (pending before the Legislature as this bill)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Public research university" means a public research university as defined in section 3 of P.L.1994, c.48 (C.18A:3B-3).

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

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

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

"Qualified incentive area" means:
a. an aviation district;
b. a port district;
c. a distressed municipality or urban transit hub municipality;
d. an area (1) designated pursuant to the "State Planning Act,"
P.L.1985, c.398 (C.52:18A-196 et seq.), as:
   (a) Planning Area 1 (Metropolitan);
   (b) Planning Area 2 (Suburban); or
   (c) Planning Area 3 (Fringe Planning Area);
(2) located within a smart growth area and planning area
designated in a master plan adopted by the New Jersey
Meadowlands Commission pursuant to subsection (i) of section 6 of
P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan
adopted by the New Jersey Meadowlands Commission pursuant to
section 20 of P.L.1968, c.404 (C.13:17-21);
(3) located within any land owned by the New Jersey Sports and
Exposition Authority, established pursuant to P.L.1971, c.137
(C.5:10-1 et seq.), within the boundaries of the Hackensack
Meadowlands District as delineated in section 4 of P.L.1968, c.404
(C.13:17-4);
(4) located within a regional growth area, rural development
area zoned for industrial use as of the effective date of P.L.2016,
c.75, town, village, or a military and federal installation area
designated in the comprehensive management plan prepared and
adopted by the Pinelands Commission pursuant to the "Pinelands
(5) located within the planning area of the Highlands Region as
defined in section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands
development credit receiving area or redevelopment area;
(6) located within a Garden State Growth Zone;
(7) located within land approved for closure under any federal
Commission on Base Realignment and Closure action; or
(8) located only within the following portions of the areas
designated pursuant to the "State Planning Act," P.L.1985, c.398
(C.52:18A-196 et seq.), as Planning Area 4A (Rural Planning
Area), Planning Area 4B (Rural/Environmentally Sensitive) or
Planning Area 5 (Environmentally Sensitive) if Planning Area 4A
(Rural Planning Area), Planning Area 4B (Rural/Environmentally
Sensitive) or Planning Area 5 (Environmentally Sensitive) is
located within:
   (a) a designated center under the State Development and
   Redevelopment Plan;
   (b) a designated growth center in an endorsed plan until the
   State Planning Commission revises and readopts New Jersey's State
   Strategic Plan and adopts regulations to revise this definition as it
   pertains to Statewide planning areas;
   (c) any area determined to be in need of redevelopment pursuant
to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and
C.40A:12A-6) or in need of rehabilitation pursuant to section 14 of P.L.1992, c.79 (C.40A:12A-14);

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

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

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

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

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

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

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

"SDA municipality" means a municipality in which an SDA district is situate.
"Small Business" means a business engaged in the conduct of a trade or business in this State that qualifies as a "small business concern" within the meaning of the federal "Small Business Act," Pub.L.85-536 (15 U.S.C. s.631 et seq.) for the purpose of the small business's eligibility for performing a contract offered by the federal government or for assistance from the United States Small Business Administration. "Small business" shall also include a small business established and operating in this State that is certified, pursuant to federal law, under the United States Small Business Administration’s 8(a) Business Development Program or the HUBZone Program, or as a Small Disadvantaged Business, or as a Section 3 business concern by the United States Department of Housing and Urban Development.

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

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

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

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

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

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

"Urban transit hub municipality” means a municipality: a. which qualifies for State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.), or which has continued to be a qualified municipality
thereunder pursuant to P.L.2007, c.111; and b. in which 30 percent or more of the value of real property was exempt from local property taxation during tax year 2006. The percentage of exempt property shall be calculated by dividing the total exempt value by the sum of the net valuation which is taxable and that which is tax exempt. (cf: P.L.2018, c.120, s.1)

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

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

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

1) the business, expressly including its landlord or seller, will make, acquire, or lease a capital investment equal to, or greater than, the applicable amount set forth in subsection b. of this section at a qualified business facility at which it will:

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

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

or

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

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

(3) the capital investment resultant from the award of tax credits and the resultant retention and creation of full-time jobs will yield a net positive benefit to the State equaling at least [110] 130 percent of the requested tax credit allocation amount, or for a phased project the requested tax credit allocation amount for the initial phase, and on a cumulative basis each phase thereafter, which determination is calculated prior to taking into account the value of the requested tax credit and shall be based on the benefits generated during the [first 20 years following the completion of the project] period of time from approval through the end of the commitment period, or
through the end of the longer period of extended commitment that
the business may elect for purposes of receiving credit for benefits
projected to occur after the expiration of the commitment period,
except that:

(a) for a project located in a priority area, the determination
shall be based on the benefits generated during the period of time
from approval through the end of the commitment period, as
determined by the authority, and shall equal at least 120 percent of
the requested tax credit award amount, and,

(b) for a project located in a distressed municipality, the
determination shall be based on the benefits generated during the
period of time from approval through the end of the commitment
period, as determined by the authority, and shall equal at least 110
percent of the requested tax credit award amount, and,

(c) for a mega project or a project located in a Garden State
Growth Zone, the determination shall be based on the benefits
generated [during a period of up to 30 years following the
completion of the project, as determined by the authority] during
the period of time from approval through the end of the
commitment period, and shall equal at least 110 percent of the
requested tax credit award amount, and

[(b)] (d) for a project located in a Garden State Growth Zone
which qualified for the "Municipal Rehabilitation and Economic
positive benefit determination shall be based on the benefits
generated during a period of up to 35 years following completion of
the project, as determined by the authority, and shall equal at least
100 percent of the requested tax credit allocation amount and may
utilize the value of those property taxes subject to the provisions of
section 24 of P.L.2013 c.161 (C.52:27D-489s), or the value of those
property taxes that would have been assessed on the new
construction, improvements, or substantial rehabilitation of
structures on real property if the structures were not exempt because
they are on real property owned by a public entity, and incremental
sales and excise taxes that are derived from activities within the
area and which are rebated or retained by the municipality pursuant
to the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303
(C.52:27H-60 et seq.) or any other law providing for such rebate or
retention; and

(e) the net economic benefits shall be discounted to reflect the
uncertainty of the business’s location after the commitment period
expires, provided that a business may elect a period of extended
commitment for which time the economic benefits shall be
creditable to the determination of the net economic benefit of the
project, and a business electing a period of extended commitment
and failing to maintain the project through the expiration of that
extended commitment period shall be obligated to repay a
proportion of the incremental benefits received on account of
having extended the commitment period, taking into consideration
the number of years of extended commitment during which the
business maintained the project; and

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

With respect to the provisions of paragraph (3) of this
subsection, in the case of a project located in a Garden State
Growth Zone, the authority, in its discretion, may award bonuses in
its net positive benefit calculation.

b. For all projects approved after the effective date of
P.L.2013, c.161, the minimum capital investment required to be
eligible under this program shall be as follows:

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

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

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

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

The minimum capital investment required by this subsection
shall be reduced by one-third for projects located in a Garden State
Growth Zone or projects located within Atlantic, Burlington,
Camden, Cape May, Cumberland, Gloucester, Ocean, or Salem
counties, and by one-half for projects in which the business is a
small business.

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

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

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

(3) for any other business, a minimum of 35 new or 50 retained
full-time jobs.
The minimum number of new or retained full-time jobs required by this subsection shall be reduced by one-quarter for projects located in a Garden State Growth Zone or projects located within Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, or Salem counties, and by one-half for projects in which the business is a small business.

Each person working as independent contractor for the business may be counted as eight tenths of a full-time employee for the purposes of calculating the business’s Statewide workforce.

d. To assist the authority in determining whether a proposed capital investment will yield a net positive benefit, the business's chief executive officer, or equivalent officer, shall submit a certification to the authority indicating: (1) that any existing full-time jobs are at risk of leaving the State or being eliminated; (2) that any projected creation or retention, as applicable, of new full-time jobs would not occur but for the provision of tax credits under the program; and (3) that the business's chief executive officer, or equivalent officer, has reviewed the information submitted to the authority and that the representations contained therein are accurate, provided however, that in satisfaction of the provisions of paragraphs (1) and (2) of this subsection, the certification with respect to a project in a Garden State Growth Zone that qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or a project located in a Garden State Growth Zone which contains a Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority, shall indicate that the provision of tax credits under the program is a material factor in the business decision to make a capital investment and locate in a Garden State Growth Zone that qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or a Garden State Growth Zone which contains a Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority. In the event that this certification by the business's chief executive officer, or equivalent officer, is found to be willfully false, the authority may revoke any award of tax credits in their entirety, which revocation shall be in addition to any other criminal or civil penalties that the business and the officer may be subject to. When considering an application involving intra-State job transfers, the authority shall require the business to submit the following information as part of its application: a full economic analysis of all locations under consideration by the business; all lease agreements, ownership documents, or substantially similar documentation for the business's current in-State locations; and all lease agreements, ownership documents, or substantially similar documentation for the potential out-of-State location alternatives, to the extent they exist. Based on
this information, and any other information deemed relevant by the
authority, the authority shall independently verify and confirm, by
way of making a factual finding by separate vote of the authority's
board, the business's assertion that the jobs are actually at risk of
leaving the State, and as to the date or dates at which the authority
expects that those jobs would actually leave the State, or, with
respect to projects located in a Garden State Growth Zone that
qualifies under the "Municipal Rehabilitation and Economic
Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or projects
located in a Garden State Growth Zone which contains a Tourism
District as established pursuant to section 5 of P.L.2011, c.18
(C.5:12-219) and regulated by the Casino Reinvestment
Development Authority, the business's assertion that the provision
of tax credits under the program is a material factor in the business's
decision to make a capital investment and locate in a Garden State
Growth Zone that qualifies under the "Municipal Rehabilitation and
in a Garden State Growth Zone which contains a Tourism District
as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219)
and regulated by the Casino Reinvestment Development Authority,
before a business may be awarded any tax credits under this section.
e. A project that consists solely of point-of-final-purchase
retail facilities shall not be eligible for a grant of tax credits. If a
project consists of both point-of-final-purchase retail facilities and
non-retail facilities, only the portion of the project consisting of
non-retail facilities shall be eligible for a grant of tax credits. For a
qualified business facility that is a mixed-use project that includes
retail facilities and that is located in a Garden State Growth Zone or
the Atlantic City Tourism District as established pursuant to section
5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino
Reinvestment Development Authority, retail facilities in an amount
up to 7.5 percent of the mixed-use project may be included in the
mixed-use project application for a grant of tax credits along with
the non-retail facilities, and that application may include in the
aggregate the pro-rata number of full-time employees employed by
any number of tenants or other occupants of the included retail
facilities. If a warehouse facility is part of a point-of-final-purchase
retail facility and supplies only that facility, the warehouse facility
shall not be eligible for a grant of tax credits. For the purposes of
this section, a retail facility of at least 150,000 square feet, of which
at least 50 percent is occupied by a full-service supermarket or
grocery store, located in a Garden State Growth Zone which
qualified under the "Municipal Rehabilitation and Economic
Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or a tourism
destination project in the Atlantic City Tourism District as
established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219), or
catalog distribution centers shall not be considered point-of-final-
purchase retail facilities.
f. The authority may determine as eligible for tax credits under the program any business that is required to respond to a request for proposals and to fulfill a contract with the federal government although the business's chief executive officer or equivalent officer has not demonstrated to the authority that the award of tax credits will be a material factor in the business's decision to retain the minimum number of retained full-time jobs, as otherwise required by this section. The authority may, in its discretion, consider the economic benefit of the retained jobs servicing the contract in conducting a net benefit analysis required by paragraph (4) of subsection a. of this section. For the purposes of this subsection, "retained full-time jobs" includes jobs that are at risk of being eliminated. Applications to the authority for eligibility under the program pursuant to the criteria set forth in this subsection shall be completed by December 31, 2013. Submission of a proposal to the federal government prior to authority approval shall not disqualify a business from the program.

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

h. A business shall not be required to purchase pinelands development credits under the “Pinelands Protection Act,” P.L.1979, c.111 (C.13:18A-1 et seq.), the pinelands comprehensive management plan, or any other rule or regulation adopted pursuant to that act in connection with any approval or relief obtained related to a qualified business facility located in an aviation district on or after the effective date of P.L.2018, c.120, except if seeking to develop in permanently protected open space pursuant to the Pinelands Protection Act.

i. Persons working as independent contractors for the business shall not be included in the business’s Statewide workforce total if those persons are simultaneously receiving a State economic incentive benefit for job creation or retention under any other program. Compliance period obligations of those persons following the receipt of an economic incentive benefit shall not disqualify inclusion of those persons as part of the business’s Statewide workforce total.

(cf: P.L.2018, c.120, s.2)

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

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

a. A detailed description of the proposed project which will result in job creation or retention, and the number of new or retained full-time jobs that are approved for tax credits.
b. for a phased project, an incentive phase agreement which for each phase identifies a description of the phase, the expected capital investment and number of new full-time jobs, and the time following acceptance of the incentive agreement when each phase is to begin and be completed, with the awarding of tax credits under the incentive agreement to be predicated on the number of full-time jobs created through the fulfillment of each incentive phase agreement.

c. The eligibility period of the tax credits, or for a phased project the eligibility period of the tax credits for each phase, including the first year for which the tax credits may be claimed.

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

e. A requirement that the applicant maintain the project at a location in New Jersey for the commitment period, with at least the minimum number of full-time employees as required by this program, and a provision to permit the authority to recapture all or part of any tax credits awarded, at its discretion, if the business does not remain in compliance with this provision for the required term, and in the instance of the business terminating an existing incentive agreement in order to participate in an incentive agreement authorized pursuant to the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), such permitted recapture may be calculated to recognize the period of time that the business was in compliance prior to termination.

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

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

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

i. A provision establishing the conditions under which the agreement may be terminated.

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

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

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

   (1) (a) for a qualified business facility located within an urban transit hub municipality, located within a Garden State Growth Zone, or which is a mega project, $5,000 per year;
   (b) for a qualified business facility located within a Garden State Create Zone and used by an eligible business in a targeted industry to conduct a collaborative research relationship with a doctoral university within the zone, $5,000 per year;
   (2) for a qualified business facility located within a distressed municipality but not qualifying under paragraph (1) of this subsection, $4,000 per year;
   (3) for a project in a priority area, $3,000 per year; and
   (4) for a project in other eligible areas, $500 per year.

c. In addition to the base amount of the tax credit, the amount of the tax credit to be awarded for each new or retained full-time job shall be increased if the qualified business facility meets any of the following priority criteria or other additional or replacement criteria determined by the authority from time to time in response to evolving economic or market conditions:
(1) for a qualified business facility located in a deep poverty pocket or in an area that is the subject of a Choice Neighborhoods Transformation Plan funded by the federal Department of Housing and Urban Development, an increase of $1,500 per year;

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

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

(4) for a qualified business facility located within a transit oriented development and located either in a Garden State Growth Zone or in a municipality which is not an urban transit hub municipality, an increase of $2,000 per year;

(5) for a qualified business facility, other than a mega project, at which the capital investment in industrial or research and development premises for industrial or research and development use by the business is in excess of the minimum capital investment required for eligibility pursuant to subsection b. of section 3 of P.L.2011, c.149 (C.34:1B-244), an increase of $1,000 per year for each additional amount of investment that exceeds the minimum amount required for eligibility by [20]% of the minimum investment required by paragraph (3) or (4) above, with a maximum increase of $3,000 per year;

(6) for a business with new full-time jobs and retained full-time jobs at the project with an average salary in excess of the existing average salary for the county in which the project is located, or, in the case of a project in a Garden State Growth Zone, a business that employs full-time positions at the project with an average salary in excess of the average salary for the Garden State Growth Zone, an increase of $250 per year during the commitment period for each 5% by which the project’s average salary exceeds the county or Garden State Growth Zone average salary, with a maximum increase of $1,500 per year;

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

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

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

(c) if the number of new full-time jobs and retained full-time jobs is between 601 and 800, $1,000 per year;

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

(e) if the number of new full-time jobs and retained full-time jobs is in excess of 1,000, $1,500 per year;

(8) for a business in a targeted industry, an increase of $500 per year;
(9) for a qualified business facility exceeding the Leadership in Energy and Environmental Design's "Silver" rating standards or completes substantial environmental remediation, an additional increase of $250 per year;

(10) for a mega project or a project located within a Garden State Growth Zone at which the capital investment in industrial or research and development premises for industrial or research and development use by the business exceeds the minimum capital investment required for eligibility pursuant to subsection b. of section 3 of P.L.2011, c.149 (C.34:1B-244), an increase of $1,000 per year for each additional amount of investment that exceeds the minimum amount by [20] 40 percent, with a maximum increase of $5,000 per year;

(11) [for a project in which a business retains at least 400 jobs and is located within the municipality in which it was located immediately prior to the filing of the application hereunder and is the United States headquarters of an automobile manufacturer, an increase of $1,500 per year.] (Deleted by amendment, P.L. , c. ) (pending before the Legislature as this bill)

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

(13) for a project located within a half-mile of any light rail station constructed after the effective date of P.L.2013, c.161 (C.52:27D-489p et al.), an increase of $1,000 per year;

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

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

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

(17) for a qualified business facility that includes a vacant commercial building having over 1,000,000 square feet of office or laboratory space available for occupancy for a period of over one year, an increase of $1,000 per year; [and ]

(18) for an eligible business in a targeted industry at a qualified business facility on the campus of a college or university other than a doctoral university, or at a qualified business facility within a three-mile radius of the outermost boundary of the campus of a college or university other than a doctoral university, which facility is used by the business to conduct a collaborative research
relationship with the college or university, an increase of $1,000 per year. The boundary of the campus of a college or university shall be based upon a map appearing in the college's or university's official catalog or other official publication on the effective date of P.L.2017, c.221; and

(19) for a small business, an increase of $500 per year.

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

(1) for a mega project or a project in a Garden State Growth Zone, the gross amount for each new or retained full-time job shall not exceed $15,000; $12,000 per year;

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

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

(4) for a qualified business facility in other priority areas, the gross amount for each new or retained full-time job shall not exceed $10,500; $7,500 per year;

(5) for a qualified business facility in other eligible areas, the gross amount for each new or retained full-time job shall not exceed $6,000; $5,500 per year; and

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

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

(a) for a project which creates 35 or more full-time jobs new to the municipality and makes a capital investment of at least $5,000,000, the total tax credit amount per full-time job shall be the greater of: (i) the total tax credit amount for a qualifying project in a Garden State Growth Zone as calculated pursuant to subsections a. through f. of this section; or (ii) the total capital investment of the project divided by the total number of full-time jobs at that project but not greater than $2,000,000 per year over the grant term of ten years;
(b) For a project which creates 70 or more full-time jobs new to the municipality and makes a capital investment of at least $10,000,000, the total tax credit amount per full-time job shall be the greater of: (i) the total tax credit amount for a qualifying project in a Garden State Growth Zone as calculated pursuant to subsections a. through f. of this section; or (ii) the total capital investment of the project divided by the total number of full-time jobs at that project but not greater than $3,000,000 per year over the grant term of ten years;

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

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

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

e. After the determination by the authority of the gross amount of tax credits for which a business is eligible pursuant to subsection d. of this section, the final total tax credit amount shall be calculated as follows:

(1) For each new full-time job, the business shall be allowed tax credits equaling 100 percent of the gross amount of tax credits for each new full-time job; and

(2) For each retained full-time job, the business shall be allowed tax credits equaling the lesser of:

(i) 80 percent of the gross amount of tax credits for each retained full-time job for a project located in a Garden State Growth Zone, a Garden State Create Zone, or an urban transit hub municipality;
(ii) 50 percent of the gross amount of tax credits for each retained full-time job; or

(iii) 40 percent of the gross amount of tax credits for each retained full-time job for a project located in other priority areas;

(iv) 30 percent of the gross amount of tax credits for each retained full-time job for a project located in other eligible areas; or

(v) one-tenth of the capital investment divided by the number of retained [and new] full-time jobs per year over the grant term of ten years, unless [the jobs are part of a mega project which is the United States headquarters of an automobile manufacturer located within a priority area or in a Garden State Growth Zone, in which case the business shall be entitled to tax credits equaling 100 percent of the gross amount of tax credits for each retained full-time job, or unless] the new qualified business facility would replace a facility that has been wholly or substantially damaged as a result of a federally-declared disaster, in which case the business shall be entitled to tax credits equaling 100 percent of the gross amount of tax credits for each retained full-time job.

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

(1) $35,000,000 and provides a net benefit to the State as provided herein with respect to a qualified business facility in a Garden State Growth Zone which qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or which contains a Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority but, unless the business is in a targeted industry and at least 25 percent of the employees of the business at the qualified business facility on a monthly average basis reside in a distressed municipality, not more than 100 percent of the withholdings of the business from the qualified business facility;

(2) $30,000,000 and provides a net benefit to the State as provided herein with respect to a mega project or a qualified business facility in a Garden State Growth Zone but, unless the business is in a targeted industry and at least 25 percent of the employees of the business at the qualified business facility on a monthly average basis reside in a distressed municipality, not more than 100 percent of the withholdings of the business from the qualified business facility;

(3) $10,000,000 and provides a net benefit to the State as provided herein with respect to a qualified business facility in an urban transit hub municipality or a Garden State Create Zone but, unless the business is in a targeted industry and at least 25 percent of the employees of the business at the qualified business facility on a monthly average basis reside in a distressed municipality, not more...
than 100 percent of the withholdings of the business from the qualified business facility:

(4) $8,000,000 and provides a net benefit to the State as provided herein with respect to a qualified business facility in a distressed municipality but, unless the business is in a targeted industry and at least 25 percent of the employees of the business at the qualified business facility on a monthly average basis reside in a distressed municipality, not more than 100 percent of the withholdings of the business from the qualified business facility;

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

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

A business may pursue separate awards for multiple projects provided that each such project individually satisfies the requirements of the program and provided that the limitations described in paragraphs (1) through (6) of this subsection shall apply cumulatively to each project unless the authority determines sufficient differentiability for a subsequent project to justify separate application of the limitations described in paragraphs (1) through (6) of this subsection.

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

(cf: P.L.2017, c.221, s.2)

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

6. a. (1) The combined value of all credits approved by the authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) and P.L.2011, c.149 (C.34:1B-242 et al.) prior to December 31, 2013 shall not exceed $1,750,000,000, except as may be increased by the authority as set forth in paragraph (5) of subsection a. of section 35 of P.L.2009, c.90 (C.34:1B-209.3). Following the enactment of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), there shall be no monetary cap on the value of credits approved by the authority attributable to the program pursuant to the "New Jersey Economic Opportunity Act of 2013,


(2) (Deleted by amendment, P.L.2013, c.161)

(3) (Deleted by amendment, P.L.2013, c.161)

(4) (Deleted by amendment, P.L.2013, c.161)

(5) (Deleted by amendment, P.L.2013, c.161)

b. (1) A business shall submit an application for tax credits prior to July 1, 2019. The authority shall not approve an application for tax credits unless the application was submitted prior to July 1, 2019. The authority shall have the discretion to grant two six-month extensions of this deadline. Except as provided in subparagraph (b) of this paragraph, in no event shall the incentive effective date, or for a phased project the incentive phase agreement effective date, occur later than four years following the date of approval of an application by the authority.

(b) As of the effective date of P.L.2017, c.314, a business which applied for the tax credit prior to July 1, 2014 under P.L.2011, c.149 (C.34:1B-242 et al.), shall submit its documentation to the authority no later than July 28, 2019, indicating that it has met the capital investment and employment requirements specified in the initial incentive phase agreement, for certification of its tax credit amount within three years following the date of approval of its application by the authority. The authority shall have the discretion to grant two six-month extensions of this deadline. Except as provided in subparagraph (b) of this paragraph, in no event shall the incentive effective date, or for a phased project the incentive phase agreement effective date, occur later than four years following the date of approval of an application by the authority.

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

(4) A business seeking a credit for a mega project shall apply for the credit within four years after the effective date of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161
The authority shall not approve an application for tax credits for a mega project unless the application was submitted prior to July 1, 2023.

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

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

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

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

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

(4) In lieu of applying any credit certificate or credit transfer certificate against tax liability otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), pursuant to section 1 of P.L.1950, c.231 (C.17:32-15), or pursuant to N.J.S.17B:23-5, the credit certificate or credit transfer certificate may be surrendered to the Division of Taxation in the Department of the Treasury for a cash payment equal to 90 percent of the amount of tax credits evidenced by the certificate, provided that the issuance date of the credit certificate or credit transfer certificate occurred at least two years prior to the date of surrender and provided further that the taxpayer surrendering the certificate or credit transfer certificate is the taxpayer to which the certificate or credit transfer certificate was initially issued.
d. (1) If, in any tax period, the business reduces the total number of full-time employees in its Statewide workforce by more than 20 percent from the number of full-time employees in its Statewide workforce in the last tax period prior to the credit amount approval under section 3 of P.L.2011, c.149 (C.34:1B-244), then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the business's Statewide workforce to the threshold levels required by the incentive agreement has been reviewed and approved by the authority, for which tax period and each subsequent tax period the full amount of the credit shall be allowed.

(2) If, in any tax period, the number of full-time employees employed by the business at the qualified business facility located within a qualified incentive area drops below 80 percent of the number of new and retained full-time jobs specified in the incentive agreement or the incentive phase agreement, then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the number of full-time employees employed by the business at the qualified business facility to 80 percent of the number of jobs specified in the incentive agreement or the incentive phase agreement.

(3) (a) If the qualified business facility is sold by the owner in whole or in part during the eligibility period, the new owner shall not acquire the capital investment of the seller and the seller shall forfeit all credits for the tax period in which the sale occurs and all subsequent tax periods, provided however that any credits of the business shall remain unaffected. If a tenant subleases its tenancy in whole or in part during the 10-year eligibility period, the new tenant shall not acquire the credit of the sublessor and the sublessor shall forfeit the credits for any tax period in which the portion of the qualified business facility that the sublessor continues to occupy fails to maintain the number of jobs required for the sublessor to earn tax credits for the tax period and fails to independently satisfy the minimum capital investment or sustainability requirements of the program.

(b) In connection with a regional distribution facility of foodstuffs, the business entity or entities which own or lease the facility shall qualify as a business regardless of: (i) the type of the business entity or entities which own or lease the facility; (ii) the ownership or leasing of the facility by more than one business entity; or (iii) the ownership of the business entity or entities which own or lease the facility. The ownership or leasing, whether by members, shareholders, partners, or other owners of the business entity or entities, shall be treated as ownership or leasing by affiliates. The members, shareholders, partners, or other ownership or leasing participants and others that are tenants in the facility shall
be treated as affiliates for the purpose of counting the full-time employees and capital investments in the facility. The business entity or entities may distribute credits to members, shareholders, partners, or other ownership or leasing participants in accordance with their respective interests. If the business entity or entities or their members, shareholders, partners, or other ownership or leasing participants lease space in the facility to members, shareholders, partners, or other ownership or leasing participants or others as tenants in the facility, the leases shall be treated as a lease to an affiliate, and the business entity or entities shall not be subject to forfeiture of the credits. For the purposes of this section, leasing shall include subleasing and tenants shall include subtenants.

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

(b) For a project located within a Garden State Growth Zone which qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or which contains a Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority, and which qualifies for a tax credit pursuant to subparagraph (ii) of subparagraphs (a) through (e) of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246), if, in any tax period the number of full-time employees employed by the business at the qualified business facility located within a qualified incentive area increases above the number of full-time employees specified in the incentive agreement such that the business shall then meet the minimum number of employees required in subparagraph (b), (c), (d), or (e) of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246), then the authority shall recalculate the total tax credit amount per full-time job by using the certified capital investment of the project allowable under the applicable subparagraph and the number of full-time jobs certified on the date of the recalculation and applying those numbers to subparagraph (b), (c), (d), or (e) of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246), until the first tax period for which documentation demonstrating a reduction of the number of full-time employees employed by the
business at the qualified business facility, at which time the tax
credit amount shall be adjusted accordingly pursuant to this section.

e. The authority shall not enter into an incentive agreement
with a business that has previously received incentives pursuant to
the "Business Retention and Relocation Assistance Act," P.L.1996,
c.25 (C.34:1B-112 et seq.), the "Business Employment Incentive
Program Act," P.L.1996, c.26 (C.34:1B-124 et al.), or any other
program administered by the authority unless:
   (1) the business has satisfied all of its obligations underlying the
previous award of incentives or is compliant with section 4 of
P.L.2011, c.149 (C.34:1B-245); or
   (2) the capital investment incurred and new or retained full-time
jobs pledged by the business in the new incentive agreement are
separate and apart from any capital investment or jobs underlying
the previous award of incentives.

f. A business which has already applied for a tax credit
incentive award prior to the effective date of the "New Jersey
489p et al.), but who has not yet been approved for the tax credits,
or has not executed an agreement with the authority, may proceed
under that application or seek to amend the application or reapply
for a tax credit incentive award for the same project or any part
thereof for the purpose of availing itself of any more favorable
provisions of the program.

g. (1) A business may change the location of the qualified
business facility to another facility:
   (a) meeting all applicable location qualifying criteria and having
a gross leasable area not less than the gross leasable area of the
qualified business facility initially approved by the authority if the
alternate qualified business facility meets the minimum capital
investment and sustainability requirements of the program; or
   (b) which does not meet all applicable location qualifying
criteria or which has less gross leasable area than the gross leasable
area of the qualified business facility initially approved by the
authority, if the alternate qualified business facility meets the
minimum capital investment and sustainability requirements of the
program, provided that the authority shall require a new cost benefit
analysis illustrating the economics of the project which reflect
occupancy at the alternate proposed qualified business facility
location for the remaining duration of the commitment period and
shall re-calculate the net economic benefit of the project to reflect
the economics of occupancy at the alternate proposed location for
the remaining duration of the net benefit test period in lieu of the
economics of continuing occupancy at the qualified business
facility proposed to be vacated, and provided further that the award
of tax credits shall be reduced consistent with the variations in
qualifying criteria for the alternate qualified business facility
location as well as in a manner consistent with the revised net economic benefit calculation.

(2) A business requesting a change to the qualified business facility shall be required to obtain the approval of the members of the authority if the modified project economics materially deviate from the economics of the initial approval in a manner that undermines the recommendation of approval made by the staff of the authority at the time of the initial approval.

h. A business may include an affiliate for any period provided that the business provides a valid tax clearance certificate for the affiliate, a verification of the nature of the affiliate relationship during the relevant period, and provided further that the affiliate provides acceptable responses to the authority’s legal disclosures inquiries, as determined by the authority. A formal modification of the authority’s approval or of the incentive agreement shall not be necessary to add or remove an affiliate after approval or execution of the incentive agreement.

i. A business may change its name that it has on file with the authority by providing a copy of the filed amendment to the certificate of incorporation or formation, as the case may be, of the business and a valid tax clearance certificate with the business’s new name. A formal modification of the authority’s approval shall not be necessary to change a business’s name after approval or execution of the incentive agreement.

(cf: P.L.2018, c.120, s.3)

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

8. a. The chief executive officer of the authority, in consultation with the Director of the Division of Taxation in the Department of the Treasury, shall adopt rules in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to implement P.L.2011, c.149 (C.34:1B-242 et al.), including but not limited to: examples of and the determination of capital investment; the enumeration of qualified incentive areas; the enumeration of specific targeted industries; specific delineation of the incentive areas; the determination of the limits, if any, on the expense or type of furnishings that may constitute capital improvements; the promulgation of procedures and forms necessary to apply for a tax credit, including the enumeration of the certification procedures and allocation of tax credits for different phases of a qualified business facility; and provisions for tax credit applicants to be charged an initial application fee, and ongoing service fees, to cover the administrative costs related to the tax credit, provided that, for a business that is a small business, the fees shall be reduced by 50 percent, and provided further that the authority shall defer the collection of a fee which is equal to one quarter of one percent of
the total award until the first annual tax credit certificate is issued to the business.

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

c. Through regulation, the chief executive officer of the authority, in consultation with the Secretary of Higher Education, shall establish standards for collaborative research relationships between businesses in targeted industries and colleges and universities sufficient to qualify a business for an enhanced base or bonus tax credit amount under P.L.2017, c.221 [1].

cf: P.L.2017, c.221, s.3

7. This act shall take effect on July 1, 2019, except that the New Jersey Economic Development Authority may take anticipatory action in advance thereof as shall be necessary to implement the provisions of P.L. , c. (C. ) (pending before the Legislature as this bill).

STATEMENT

This bill provides certain reductions, expansions, and simplifications to the ability of a business to qualify for tax credits awarded under the Grow New Jersey Assistance (Grow) Program.

The bill makes certain reductions to the program as follows:

The bill reduces the amount of a tax credit award (award) for retained jobs to a tiered percentage of:

(1) 80 percent for projects in a Garden State Growth Zone (GSGZ), Garden State Create Zone (GSCZ), and Urban Transit Hub (UTH) municipality;
(2) 50 percent for projects in a “distressed municipality”;
(3) 40 percent for projects in a “priority area”; and
(4) 30 percent for projects in “other eligible areas.”

The bill provides for a tiered net benefits test by project location type as follows:

(1) 110 percent for projects in GSGZs and distressed municipalities;
(2) 120 percent for projects in priority areas; and
(3) 130 percent for projects in other eligible areas.

The bill lowers the per-job annual award cap to:

(1) $12,000 for projects in a GSGZ;
(2) $10,000 for projects in a UTH municipality;
(3) $8,000 for projects in a distressed municipality;
(4) $7,500 for projects in a priority area; and
(5) $5,500 for projects in other eligible areas.
The bill applies a tax withholdings limitation to awards, tiered by location type as follows:

(1) 100 percent for projects in GSGZs, GSCZs, UTH municipalities, and distressed municipalities;
(2) 90 percent for projects in priority areas; and
(3) 80 percent for projects in other eligible areas.

Businesses in targeted industries with 25 percent or more of its employees residing in distressed areas are exempted from the tax withholding limitation.

The bill removes, restricts, or otherwise modifies the award bonus for certain types of projects.

The bill makes certain expansions to the program by:

(1) extending the deadline for authority acceptance of applications to the program to June 30, 2023;
(2) redefining the term “mega project” and extending the application deadline for a mega project;
(3) creating a project designation for small businesses that provides for a bonus award of up to $500 per year and a 50 percent reduction of any authority fee for that type of project;
(4) expanding the definition of full-time job to include contractors under certain circumstances and permitting their jobs at a project to be counted as 80 percent of the business’s Statewide workforce if the contractors work at least 35 hours per week at the project;
(5) permitting an add-on project, even if the add-on component is substantively similarly to project initially approved, so long as the add-on component stands on its own merit as to inducement;
(6) allowing the authority the discretion to permit a business a one-time election to pause the project performance for up to five years, provided that project lease is extended for the remaining term of commitment upon its resumption;
(7) including a mechanism for authority approval of phased projects;
(8) permitting a business to change its facility to another “like-kind” location, or to not-like-kind location provided the award is adjusted downward based only on differing conditions; and
(9) permitting subleasing of a project provided that the capital investment and jobs are maintained in the remaining project premises and the minimum amount of capital investment is met for the subleased portion of the project.

The bill provides for procedural simplifications for businesses qualified under the program by:

(1) requiring the Division of Taxation in the Department of the Treasury to allow an award to be claimed as a cash payment at 90 percent of the award amount once two years have passed from when the award was issued;
(2) simplifying the process for adding affiliates of the business assuming the business provides to the authority a clear tax account,
clean legal questionnaire response, and clear evidence of affiliate relationship; and
(3) simplifying the process for a name change of a business.