

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.



1 **AN ACT** concerning the Grow New Jersey Assistance Program and
2 amending P.L.2011, c.149.

3

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

6

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

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

10 "Affiliate" means an entity that directly or indirectly controls, is
11 under common control with, or is controlled by the business.
12 Control exists in all cases in which the entity is a member of a
13 controlled group of corporations as defined pursuant to section 1563
14 of the Internal Revenue Code of 1986 (26 U.S.C. s.1563) or the
15 entity is an organization in a group of organizations under common
16 control as defined pursuant to subsection (b) or (c) of section 414 of
17 the Internal Revenue Code of 1986 (26 U.S.C. s.414). A taxpayer
18 may establish by clear and convincing evidence, as determined by
19 the Director of the Division of Taxation in the Department of the
20 Treasury, that control exists in situations involving lesser
21 percentages of ownership than required by those statutes. An
22 affiliate of a business may contribute to meeting either the qualified
23 investment or full-time employee requirements of a business that
24 applies for a credit under section 3 of P.L.2007, c.346 (C.34:1B-
25 209).

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

28 "Aviation district" means all areas within the boundaries of the
29 "Atlantic City International Airport," established pursuant to section
30 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation
31 Administration William J. Hughes Technical Center and the area
32 within a one-mile radius of the outermost boundary of the "Atlantic
33 City International Airport" and the Federal Aviation Administration
34 William J. Hughes Technical Center.

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

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

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

42 a partnership;

43 an S corporation;

44 a limited liability company; or

45 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.

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

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

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

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

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

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

26 d. any of the foregoing.

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

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

1 after the date of application equals at least 50 percent of the amount
2 of capital investment, allocated to the premises of the qualified
3 business facility being acquired or leased on the basis of the gross
4 leasable area of the premises in relation to the total gross leasable
5 area in the qualified business facility made or acquired prior to the
6 date of application.

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

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

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

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

20 "Disaster recovery project" means a project located on property
21 that has been wholly or substantially damaged or destroyed as a
22 result of a federally-declared disaster which, after utilizing all
23 disaster funds available from federal, State, county, and local
24 funding sources, demonstrates to the satisfaction of the authority
25 that access to additional funding authorized pursuant to the "New
26 Jersey Economic Opportunity Act of 2013," P.L.2013, c.161
27 (C.52:27D-489p et al.), is necessary to complete the redevelopment
28 project, and which is located within the qualified incentive area and
29 has been determined by the authority to be in an area appropriate
30 for development and in need of economic development incentive
31 assistance.

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

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

45 "Eligibility period" means the period in which a business may
46 claim a tax credit under the Grow New Jersey Assistance Program
47 for a given project phase, beginning with the tax period in which the
48 authority accepts certification of the business that it has met the

1 capital investment and employment requirements of the Grow New
2 Jersey Assistance Program of the respective project phase and
3 extending thereafter for a term of not more than 10 years, with the
4 term to be determined solely at the discretion of the applicant
5 provided that the term of eligibility period may consist of
6 nonconsecutive tax years if the applicant elects at any time after the
7 end of the first tax period of the eligibility period to defer the
8 continuation of the eligibility period to a tax period to a subsequent
9 tax period.

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

16 "Full-time employee" means a person:

17 a. who is employed by a business for consideration for at least
18 35 hours a week, or who renders any other standard of service
19 generally accepted by custom or practice as full-time employment;
20 or

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

29 c. who is a resident of another State but whose income is not
30 subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
31 et seq. or who is a partner of a business who works for the
32 partnership for at least 35 hours a week, or who renders any other
33 standard of service generally accepted by custom or practice as full-
34 time employment, and whose distributive share of income, gain,
35 loss, or deduction, or whose guaranteed payments, or any
36 combination thereof, is subject to the payment of estimated taxes, as
37 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
38 et seq.; and

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

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

46 the requirement that employee health benefits are to be provided
47 shall be deemed to be satisfied if the benefits are provided in

1 accordance with industry practice by a third party obligated to
2 provide such benefits pursuant to a collective bargaining agreement;
3 full-time employment shall include, but not be limited to,
4 employees that have been hired by way of a labor union hiring hall
5 or its equivalent;

6 35 hours of employment per week at a qualified business facility
7 shall constitute one "full-time employee," regardless of whether or
8 not the hours of work were performed by one or more persons.

9 For any project located in a Garden State Growth Zone which
10 qualifies under the "Municipal Rehabilitation and Economic
11 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or any
12 project located in the Atlantic City Tourism District as established
13 pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated
14 by the Casino Reinvestment Development Authority, and which
15 will include a retail facility of at least 150,000 square feet, of which
16 at least 50 percent will be occupied by either a full-service
17 supermarket or grocery store, 30 hours of employment per week at a
18 qualified business facility shall constitute one "full-time employee,"
19 regardless of whether the hours of work were performed by one or
20 more persons, and the requirement that employee health benefits are
21 to be provided shall be deemed to be satisfied if the employees of
22 the business are covered by a collective bargaining agreement.

23 "Full-time employee" shall not include any person who works as
24 an independent contractor or on a consulting basis for the business,
25 except that any person working as an independent contractor for the
26 business shall be deemed a full-time employee if the business
27 demonstrates to the authority that:

28 (1) the person working as an independent contractor for the
29 business works for at least 35 hours a week, or renders any other
30 standard service generally accepted by custom or practice as full-
31 time employment, and the person is provided with employee health
32 benefits under a health benefits plan authorized pursuant to State or
33 federal law; and

34 (2) the business provides documentation to the authority to
35 permit the authority to verify the compensation paid to, and the time
36 worked by, the person working as an independent contractor.

37 The business shall provide to the authority an annual report that
38 identifies the number of persons working as independent contractors
39 for the business and their contractual or partnering relationship with
40 the business as provided pursuant to subsection i. of section 3 of
41 P.L.2011, c.149 (C.34:1B-244).

42 Full-time employee shall also not include any person who at the
43 time of project application works in New Jersey for consideration
44 for at least 35 hours per week, or who renders any other standard of
45 service generally accepted by custom or practice as full-time
46 employment but who prior to project application was not provided,
47 by the business, with employee health benefits under a health
48 benefits plan authorized pursuant to State or federal law.

1 "Garden State Create Zone" means the campus of a doctoral
2 university, and the area within a three-mile radius of the outermost
3 boundary of the campus of a doctoral university, according to a map
4 appearing in the doctoral university's official catalog or other
5 official publication on the effective date of P.L.2017, c.221.

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

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

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

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

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

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

37 "Independent institution of higher education" means a college or
38 university incorporated and located in New Jersey, which by virtue
39 of law or character or license is a nonprofit educational institution
40 authorized to grant academic degrees and which provides a level of
41 education which is equivalent to the education provided by the
42 State's public institutions of higher education, as attested by the
43 receipt of and continuation of regional accreditation by the Middle
44 States Association of Colleges and Schools, and which is eligible to
45 receive State aid under the provisions of the Constitution of the
46 United States and the Constitution of the State of New Jersey, but
47 does not include any educational institution dedicated primarily to

1 the education or training of ministers, priests, rabbis or other
2 professional persons in the field of religion.

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

7 "Mega project" means:

8 a. **【**a qualified business facility located in a port district
9 housing a business in the logistics, manufacturing, energy, defense,
10 or maritime industries, either:

11 (1) having a capital investment in excess of \$20,000,000, and at
12 which more than 250 full-time employees of the business are
13 created or retained; or

14 (2) at which more than 1,000 full-time employees of the
15 business are created or retained;**】** (Deleted by amendment, P.L. ___,
16 c. __) (pending before the Legislature as this bill)

17 b. **【**a qualified business facility located in an aviation district
18 housing a business in the aviation industry, in a Garden State
19 Growth Zone, or in a priority area housing the United States
20 headquarters and related facilities of an automobile manufacturer,
21 either:

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

25 (2) at which more than 1,000 full-time employees of the
26 business are created or retained;**】** (Deleted by amendment, P.L. ___,
27 c. __) (pending before the Legislature as this bill)

28 c. **【**a qualified business facility located in an urban transit hub
29 housing a business of any kind, having a capital investment in
30 excess of \$50,000,000, and at which more than 250 full-time
31 employees of the business are created or retained;**】** (Deleted by
32 amendment, P.L. ___, c. __) (pending before the Legislature as this
33 bill)

34 d. **【**a project located in an area designated in need of
35 redevelopment, pursuant to P.L.1992, c.79 (C.40A:12A-1 et al.)
36 prior to the enactment of P.L.2014, c.63 (C.34:1B-251 et al.) within
37 Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester,
38 Ocean, or Salem counties having a capital investment in excess of
39 \$20,000,000, and at which more than 150 full-time employees of
40 the business are created or retained; or**】** (Deleted by amendment,
41 P.L. ___, c. __) (pending before the Legislature as this bill)

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

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

4 (2) at which more than 1,000 full-time employees of the
5 business are created or retained.】 (Deleted by amendment, P.L. ,
6 c.) (pending before the Legislature as this bill)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

48 "Qualified incentive area" means:

- 1 a. an aviation district;
- 2 b. a port district;
- 3 c. a distressed municipality or urban transit hub municipality;
- 4 d. an area (1) designated pursuant to the "State Planning Act,"
- 5 P.L.1985, c.398 (C.52:18A-196 et seq.), as:
- 6 (a) Planning Area 1 (Metropolitan);
- 7 (b) Planning Area 2 (Suburban); or
- 8 (c) Planning Area 3 (Fringe Planning Area);
- 9 (2) located within a smart growth area and planning area
- 10 designated in a master plan adopted by the New Jersey
- 11 Meadowlands Commission pursuant to subsection (i) of section 6 of
- 12 P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan
- 13 adopted by the New Jersey Meadowlands Commission pursuant to
- 14 section 20 of P.L.1968, c.404 (C.13:17-21);
- 15 (3) located within any land owned by the New Jersey Sports and
- 16 Exposition Authority, established pursuant to P.L.1971, c.137
- 17 (C.5:10-1 et seq.), within the boundaries of the Hackensack
- 18 Meadowlands District as delineated in section 4 of P.L.1968, c.404
- 19 (C.13:17-4);
- 20 (4) located within a regional growth area, rural development
- 21 area zoned for industrial use as of the effective date of P.L.2016,
- 22 c.75, town, village, or a military and federal installation area
- 23 designated in the comprehensive management plan prepared and
- 24 adopted by the Pinelands Commission pursuant to the "Pinelands
- 25 Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.);
- 26 (5) located within the planning area of the Highlands Region as
- 27 defined in section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands
- 28 development credit receiving area or redevelopment area;
- 29 (6) located within a Garden State Growth Zone;
- 30 (7) located within land approved for closure under any federal
- 31 Commission on Base Realignment and Closure action; or
- 32 (8) located only within the following portions of the areas
- 33 designated pursuant to the "State Planning Act," P.L.1985, c.398
- 34 (C.52:18A-196 et seq.), as Planning Area 4A (Rural Planning
- 35 Area), Planning Area 4B (Rural/Environmentally Sensitive) or
- 36 Planning Area 5 (Environmentally Sensitive) if Planning Area 4A
- 37 (Rural Planning Area), Planning Area 4B (Rural/Environmentally
- 38 Sensitive) or Planning Area 5 (Environmentally Sensitive) is
- 39 located within:
- 40 (a) a designated center under the State Development and
- 41 Redevelopment Plan;
- 42 (b) a designated growth center in an endorsed plan until the
- 43 State Planning Commission revises and readopts New Jersey's State
- 44 Strategic Plan and adopts regulations to revise this definition as it
- 45 pertains to Statewide planning areas;
- 46 (c) any area determined to be in need of redevelopment pursuant
- 47 to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and

1 C.40A:12A-6) or in need of rehabilitation pursuant to section 14 of
2 P.L.1992, c.79 (C.40A:12A-14);

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

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

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

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

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

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

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

47 "SDA municipality" means a municipality in which an SDA
48 district is situate.

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

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

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

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

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

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

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

46 "Urban transit hub municipality" means a municipality: a. which
47 qualifies for State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et
48 seq.), or which has continued to be a qualified municipality

1 thereunder pursuant to P.L.2007, c.111; and b. in which 30 percent
2 or more of the value of real property was exempt from local
3 property taxation during tax year 2006. The percentage of exempt
4 property shall be calculated by dividing the total exempt value by
5 the sum of the net valuation which is taxable and that which is tax
6 exempt.

7 (cf: P.L.2018, c.120, s.1)

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

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

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

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

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

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

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

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

39 (3) the capital investment resultant from the award of tax credits
40 and the resultant retention and creation of full-time jobs will yield a
41 net positive benefit to the State equaling at least **110** 130 percent
42 of the requested tax credit allocation amount, or for a phased project
43 the requested tax credit allocation amount for the initial phase, and
44 on a cumulative basis each phase thereafter, which determination is
45 calculated prior to taking into account the value of the requested tax
46 credit and shall be based on the benefits generated during the **first**
47 20 years following the completion of the project period of time
48 from approval through the end of the commitment period, or

1 through the end of the longer period of extended commitment that
2 the business may elect for purposes of receiving credit for benefits
3 projected to occur after the expiration of the commitment period,
4 except that:

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

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

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

22 **[(b)]** (d) for a project located in a Garden State Growth Zone
23 which qualified for the "Municipal Rehabilitation and Economic
24 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), the net
25 positive benefit determination shall be based on the benefits
26 generated during a period of up to 35 years following completion of
27 the project, as determined by the authority, and shall equal at least
28 100 percent of the requested tax credit allocation amount and may
29 utilize the value of those property taxes subject to the provisions of
30 section 24 of P.L.2013 c.161 (C.52:27D-489s), or the value of those
31 property taxes that would have been assessed on the new
32 construction, improvements, or substantial rehabilitation of
33 structures on real property if the structures were not exempt because
34 they are on real property owned by a public entity, and incremental
35 sales and excise taxes that are derived from activities within the
36 area and which are rebated or retained by the municipality pursuant
37 to the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303
38 (C.52:27H-60 et seq.) or any other law providing for such rebate or
39 retention; and

40 (e) the net economic benefits shall be discounted to reflect the
41 uncertainty of the business's location after the commitment period
42 expires, provided that a business may elect a period of extended
43 commitment for which time the economic benefits shall be
44 creditable to the determination of the net economic benefit of the
45 project, and a business electing a period of extended commitment
46 and failing to maintain the project through the expiration of that
47 extended commitment period shall be obligated to repay a
48 proportion of the incremental benefits received on account of

1 having extended the commitment period, taking into consideration
2 the number of years of extended commitment during which the
3 business maintained the project; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 d. To assist the authority in determining whether a proposed
11 capital investment will yield a net positive benefit, the business's
12 chief executive officer, or equivalent officer, shall submit a
13 certification to the authority indicating: (1) that any existing full-
14 time jobs are at risk of leaving the State or being eliminated; (2)
15 that any projected creation or retention, as applicable, of new full-
16 time jobs would not occur but for the provision of tax credits under
17 the program; and (3) that the business's chief executive officer, or
18 equivalent officer, has reviewed the information submitted to the
19 authority and that the representations contained therein are accurate,
20 provided however, that in satisfaction of the provisions of
21 paragraphs (1) and (2) of this subsection, the certification with
22 respect to a project in a Garden State Growth Zone that qualifies
23 under the "Municipal Rehabilitation and Economic Recovery Act,"
24 P.L.2002, c.43 (C.52:27BBB-1 et al.), or a project located in a
25 Garden State Growth Zone which contains a Tourism District as
26 established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and
27 regulated by the Casino Reinvestment Development Authority, shall
28 indicate that the provision of tax credits under the program is a
29 material factor in the business decision to make a capital investment
30 and locate in a Garden State Growth Zone that qualifies under the
31 "Municipal Rehabilitation and Economic Recovery Act," P.L.2002,
32 c.43 (C.52:27BBB-1 et al.), or a Garden State Growth Zone which
33 contains a Tourism District as established pursuant to section 5 of
34 P.L.2011, c.18 (C.5:12-219) and regulated by the Casino
35 Reinvestment Development Authority. In the event that this
36 certification by the business's chief executive officer, or equivalent
37 officer, is found to be willfully false, the authority may revoke any
38 award of tax credits in their entirety, which revocation shall be in
39 addition to any other criminal or civil penalties that the business
40 and the officer may be subject to. When considering an application
41 involving intra-State job transfers, the authority shall require the
42 business to submit the following information as part of its
43 application: a full economic analysis of all locations under
44 consideration by the business; all lease agreements, ownership
45 documents, or substantially similar documentation for the business's
46 current in-State locations; and all lease agreements, ownership
47 documents, or substantially similar documentation for the potential
48 out-of-State location alternatives, to the extent they exist. Based on

1 this information, and any other information deemed relevant by the
2 authority, the authority shall independently verify and confirm, by
3 way of making a factual finding by separate vote of the authority's
4 board, the business's assertion that the jobs are actually at risk of
5 leaving the State, and as to the date or dates at which the authority
6 expects that those jobs would actually leave the State, or, with
7 respect to projects located in a Garden State Growth Zone that
8 qualifies under the "Municipal Rehabilitation and Economic
9 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or projects
10 located in a Garden State Growth Zone which contains a Tourism
11 District as established pursuant to section 5 of P.L.2011, c.18
12 (C.5:12-219) and regulated by the Casino Reinvestment
13 Development Authority, the business's assertion that the provision
14 of tax credits under the program is a material factor in the business's
15 decision to make a capital investment and locate in a Garden State
16 Growth Zone that qualifies under the "Municipal Rehabilitation and
17 Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or
18 in a Garden State Growth Zone which contains a Tourism District
19 as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219)
20 and regulated by the Casino Reinvestment Development Authority,
21 before a business may be awarded any tax credits under this section.

22 e. A project that consists solely of point-of-final-purchase
23 retail facilities shall not be eligible for a grant of tax credits. If a
24 project consists of both point-of-final-purchase retail facilities and
25 non-retail facilities, only the portion of the project consisting of
26 non-retail facilities shall be eligible for a grant of tax credits. For a
27 qualified business facility that is a mixed-use project that includes
28 retail facilities and that is located in a Garden State Growth Zone or
29 the Atlantic City Tourism District as established pursuant to section
30 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino
31 Reinvestment Development Authority, retail facilities in an amount
32 up to 7.5 percent of the mixed-use project may be included in the
33 mixed-use project application for a grant of tax credits along with
34 the non-retail facilities, and that application may include in the
35 aggregate the pro-rata number of full-time employees employed by
36 any number of tenants or other occupants of the included retail
37 facilities. If a warehouse facility is part of a point-of-final-purchase
38 retail facility and supplies only that facility, the warehouse facility
39 shall not be eligible for a grant of tax credits. For the purposes of
40 this section, a retail facility of at least 150,000 square feet, of which
41 at least 50 percent is occupied by a full-service supermarket or
42 grocery store, located in a Garden State Growth Zone which
43 qualified under the "Municipal Rehabilitation and Economic
44 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or a tourism
45 destination project in the Atlantic City Tourism District as
46 established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219), or
47 catalog distribution centers shall not be considered point-of-final-
48 purchase retail facilities.

1 f. The authority may determine as eligible for tax credits under
2 the program any business that is required to respond to a request for
3 proposals and to fulfill a contract with the federal government
4 although the business's chief executive officer or equivalent officer
5 has not demonstrated to the authority that the award of tax credits
6 will be a material factor in the business's decision to retain the
7 minimum number of retained full-time jobs, as otherwise required
8 by this section. The authority may, in its discretion, consider the
9 economic benefit of the retained jobs servicing the contract in
10 conducting a net benefit analysis required by paragraph (4) of
11 subsection a. of this section. For the purposes of this subsection,
12 "retained full-time jobs" includes jobs that are at risk of being
13 eliminated. Applications to the authority for eligibility under the
14 program pursuant to the criteria set forth in this subsection shall be
15 completed by December 31, 2013. Submission of a proposal to the
16 federal government prior to authority approval shall not disqualify a
17 business from the program.

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

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

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

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

39

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

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

46 a. A detailed description of the proposed project which will
47 result in job creation or retention, and the number of new or
48 retained full-time jobs that are approved for tax credits.

1 b. for a phased project, an incentive phase agreement which for
2 each phase identifies a description of the phase, the expected capital
3 investment and number of new full-time jobs, and the time
4 following acceptance of the incentive agreement when each phase is
5 to begin and be completed, with the awarding of tax credits under
6 the incentive agreement to be predicated on the number of full-time
7 jobs created through the fulfillment of each incentive phase
8 agreement.

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

12 **[c.] d.** Personnel information that will enable the authority to
13 administer the program.

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

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

32 **[f.] g.** A provision permitting an audit of the payroll records of
33 the business from time to time, as the authority deems necessary.

34 **[g.] h.** A provision which permits the authority to amend the
35 agreement.

36 **[h.] i.** A provision establishing the conditions under which the
37 agreement may be terminated.

38 (cf: P.L.2013, c.161, s.9)
39

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

42 5. a. The total amount of the tax credit for an eligible business
43 for each new or retained full-time job shall be as set forth in
44 subsections b. through f. of this section. The total tax credit amount
45 shall be calculated and credited to the business annually for each
46 year of the eligibility period. Notwithstanding any other provisions
47 of the "New Jersey Economic Opportunity Act of 2013," P.L.2013,

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

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

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

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

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

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

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

43 c. In addition to the base amount of the tax credit, the amount
44 of the tax credit to be awarded for each new or retained full-time
45 job shall be increased if the qualified business facility meets any of
46 the following priority criteria or other additional or replacement
47 criteria determined by the authority from time to time in response to
48 evolving economic or market conditions:

- 1 (1) for a qualified business facility located in a deep poverty
2 pocket or in an area that is the subject of a Choice Neighborhoods
3 Transformation Plan funded by the federal Department of Housing
4 and Urban Development, an increase of \$1,500 per year;
- 5 (2) for a qualified business facility located in a qualified
6 incubator facility, an increase of \$500 per year;
- 7 (3) for a qualified business facility located in a mixed-use
8 development that incorporates sufficient moderate income housing
9 on site to accommodate a minimum of 20 percent of the full-time
10 employees of the business, an increase of \$500 per year;
- 11 (4) for a qualified business facility located within a transit
12 oriented development and located either in a Garden State Growth
13 Zone or in a municipality which is not an urban transit hub
14 municipality, an increase of \$2,000 per year;
- 15 (5) for a qualified business facility, other than a mega project, at
16 which the capital investment in industrial or research and
17 development premises for industrial or research and development
18 use by the business is in excess of the minimum capital investment
19 required for eligibility pursuant to subsection b. of section 3 of
20 P.L.2011, c.149 (C.34:1B-244), an increase of \$1,000 per year for
21 each additional amount of investment that exceeds the minimum
22 amount required for eligibility by **【20】** 40 percent, with a maximum
23 increase of \$3,000 per year;
- 24 (6) for a business with new full-time jobs and retained full-time
25 jobs at the project with an average salary in excess of the existing
26 average salary for the county in which the project is located, or, in
27 the case of a project in a Garden State Growth Zone, a business that
28 employs full-time positions at the project with an average salary in
29 excess of the average salary for the Garden State Growth Zone, an
30 increase of \$250 per year during the commitment period for each 35
31 percent by which the project's average salary levels exceeds the
32 county or Garden State Growth Zone average salary, with a
33 maximum increase of \$1,500 per year;
- 34 (7) for a business with large numbers of new full-time jobs and
35 retained full-time jobs during the commitment period, the increases
36 shall be in accordance with the following schedule:
- 37 (a) if the number of new full-time jobs and retained full-time
38 jobs is between 251 and 400, \$500 per year;
- 39 (b) if the number of new full-time jobs and retained full-time
40 jobs is between 401 and 600, \$750 per year;
- 41 (c) if the number of new full-time jobs and retained full-time
42 jobs is between 601 and 800, \$1000 per year;
- 43 (d) if the number of new full-time jobs and retained full-time
44 jobs is between 801 and 1,000, \$1,250 per year;
- 45 (e) if the number of new full-time jobs and retained full-time
46 jobs is in excess of 1,000, \$1,500 per year;
- 47 (8) for a business in a targeted industry, an increase of \$500 per
48 year;

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

5 (10) for a mega project or a project located within a Garden State
6 Growth Zone at which the capital investment in industrial or
7 research and development premises for industrial or research and
8 development use by the business exceeds the minimum capital
9 investment required for eligibility pursuant to subsection b. of
10 section 3 of P.L.2011, c.149 (C.34:1B-244), an increase of \$1,000
11 per year for each additional amount of investment that exceeds the
12 minimum amount by **[20]** 40 percent, with a maximum increase of
13 \$5,000 per year;

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

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

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

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

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

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

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

43 (18) for an eligible business in a targeted industry at a qualified
44 business facility on the campus of a college or university other than
45 a doctoral university, or at a qualified business facility within a
46 three-mile radius of the outermost boundary of the campus of a
47 college or university other than a doctoral university, which facility
48 is used by the business to conduct a collaborative research

1 relationship with the college or university, an increase of \$1,000 per
2 year. The boundary of the campus of a college or university shall
3 be based upon a map appearing in the college's or university's
4 official catalog or other official publication on the effective date of
5 P.L.2017, c.221; and

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

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

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

16 (2) for a qualified business facility located within an urban
17 transit hub municipality or a Garden State Create Zone, the gross
18 amount for each new or retained full-time job shall not exceed
19 ~~[\$12,000]~~ \$10,000 per year;

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

23 (4) for a qualified business facility in other priority areas, the
24 gross amount for each new or retained full-time job shall not exceed
25 ~~[\$10,500]~~ \$7,500 per year;

26 (5) for a qualified business facility in other eligible areas, the
27 gross amount for each new or retained full-time job shall not exceed
28 ~~[\$6,000]~~ \$5,500 per year; and

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

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

39 (a) for a project which creates 35 or more full-time jobs new to
40 the municipality and makes a capital investment of at least
41 \$5,000,000, the total tax credit amount per full-time job shall be the
42 greater of: (i) the total tax credit amount for a qualifying project in
43 a Garden State Growth Zone as calculated pursuant to subsections
44 a. through f. of this section; or (ii) the total capital investment of the
45 project divided by the total number of full-time jobs at that project
46 but not greater than \$2,000,000 per year over the grant term of ten
47 years;

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

10 (c) for a project which creates 100 or more full-time jobs new to
11 the municipality and makes a capital investment of at least
12 \$15,000,000, the total tax credit amount per full-time job shall be
13 the greater of: (i) the total tax credit amount for a qualifying project
14 in a Garden State Growth Zone as calculated pursuant to
15 subsections a. through f. of this section; or (ii) the total capital
16 investment of the project divided by the total number of full-time
17 jobs at that project but not greater than \$4,000,000 per year over the
18 grant term of ten years;

19 (d) for a project which creates 150 or more full-time jobs new to
20 the municipality and makes a capital investment of at least
21 \$20,000,000, the total tax credit amount per full-time job shall be
22 the greater of: (i) the total tax credit amount for a qualifying project
23 in a Garden State Growth Zone as calculated pursuant to
24 subsections a. through f. of this section; or (ii) the total capital
25 investment of the project divided by the total number of full-time
26 jobs at that project but not greater than \$5,000,000 per year over the
27 grant term of ten years; or

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

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

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

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

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

1 (ii) 50 percent of the gross amount of tax credits for each
2 retained full-time job **【,】** for a project located in a distressed
3 municipality;

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

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

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

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

24 (1) \$35,000,000 and provides a net benefit to the State as provided
25 herein with respect to a qualified business facility in a Garden State
26 Growth Zone which qualifies under the "Municipal Rehabilitation and
27 Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or
28 which contains a Tourism District as established pursuant to section 5
29 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino
30 Reinvestment Development Authority but, unless the business is in a
31 targeted industry and at least 25 percent of the employees of the
32 business at the qualified business facility on a monthly average basis
33 reside in a distressed municipality, not more than 100 percent of the
34 withholdings of the business from the qualified business facility;

35 (2) \$30,000,000 and provides a net benefit to the State as provided
36 herein with respect to a mega project or a qualified business facility in
37 a Garden State Growth Zone but, unless the business is in a targeted
38 industry and at least 25 percent of the employees of the business at the
39 qualified business facility on a monthly average basis reside in a
40 distressed municipality, not more than 100 percent of the withholdings
41 of the business from the qualified business facility;

42 (3) \$10,000,000 and provides a net benefit to the State as provided
43 herein with respect to a qualified business facility in an urban transit
44 hub municipality or a Garden State Create Zone but, unless the
45 business is in a targeted industry and at least 25 percent of the
46 employees of the business at the qualified business facility on a
47 monthly average basis reside in a distressed municipality, not more

1 than 100 percent of the withholdings of the business from the qualified
2 business facility;

3 (4) \$8,000,000 and provides a net benefit to the State as
4 provided herein with respect to a qualified business facility in a
5 distressed municipality but, unless the business is in a targeted
6 industry and at least 25 percent of the employees of the business at
7 the qualified business facility on a monthly average basis reside in a
8 distressed municipality, not more than 100 percent of the
9 withholdings of the business from the qualified business facility;

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

14 (6) \$2,500,000 and provides a net benefit to the State as
15 provided herein with respect to a qualified business facility in other
16 eligible areas, but not more than 90 percent of the withholdings of
17 the business from the qualified business facility.

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

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

1 amount necessary to complete the project.
2 (cf: P.L.2017, c.221, s.2)

3

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

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

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

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

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

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

21 b. (1) A business shall submit an application for tax credits prior
22 to July 1, **【2019】 2023**. The authority shall not approve an
23 application for tax credits unless the application was submitted
24 prior to July 1, **【2019】 2023**.

25 (2) (a) A business shall submit its documentation indicating that
26 it has met the capital investment and employment requirements
27 specified in the incentive agreement, or for a phased project the
28 capital investment and employment requirements specified in the
29 initial incentive phase agreement, for certification of its tax credit
30 amount within three years following the date of approval of its
31 application by the authority. The authority shall have the discretion
32 to grant two six-month extensions of this deadline. Except as
33 provided in subparagraph (b) of this paragraph, in no event shall the
34 incentive effective date, or for a phased project the incentive phase
35 agreement effective date, occur later than four years following the
36 date of approval of an application by the authority.

37 (b) As of the effective date of P.L.2017, c.314, a business which
38 applied for the tax credit prior to July 1, 2014 under P.L.2011,
39 c.149 (C.34:1B-242 et al.), shall submit its documentation to the
40 authority no later than July 28, 2019, indicating that it has met the
41 capital investment and employment requirements specified in the
42 incentive agreement for certification of its tax credit amount.

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

46 (4) A business seeking a credit for a mega project shall apply for
47 the credit **【within four years after the effective date of the "New**
48 **Jersey Economic Opportunity Act of 2013," P.L.2013, c.161**

1 (C.52:27D-489p et al.)】 prior to July 1, 2023. The authority shall
2 not approve an application for tax credits for a mega project unless
3 the application was submitted prior to July 1, 2023.

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

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

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

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

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

35 (4) In lieu of applying any credit certificate or credit transfer
36 certificate against tax liability otherwise due pursuant to section 5
37 of P.L.1945, c.162 (C.54:10A-5), pursuant to sections 2 and 3 of
38 P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), pursuant to section
39 1 of P.L.1950, c.231 (C.17:32-15), or pursuant to N.J.S.17B:23-5,
40 the credit certificate or credit transfer certificate may be surrendered
41 to the Division of Taxation in the Department of the Treasury for a
42 cash payment equal to 90 percent of the amount of tax credits
43 evidenced by the certificate, provided that the issuance date of the
44 credit certificate or credit transfer certificate occurred at least two
45 years prior to the date of surrender and provided further that the
46 taxpayer surrendering the certificate or credit transfer certificate is
47 the taxpayer to which the certificate or credit transfer certificate
48 was initially issued.

1 d. (1) If, in any tax period, the business reduces the total
2 number of full-time employees in its Statewide workforce by more
3 than 20 percent from the number of full-time employees in its
4 Statewide workforce in the last tax period prior to the credit amount
5 approval under section 3 of P.L.2011, c.149 (C.34:1B-244), then the
6 business shall forfeit its credit amount for that tax period and each
7 subsequent tax period, until the first tax period for which
8 documentation demonstrating the restoration of the business's
9 Statewide workforce to the threshold levels required by the
10 incentive agreement has been reviewed and approved by the
11 authority, for which tax period and each subsequent tax period the
12 full amount of the credit shall be allowed.

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

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

38 (b) In connection with a regional distribution facility of
39 foodstuffs, the business entity or entities which own or lease the
40 facility shall qualify as a business regardless of: (i) the type of the
41 business entity or entities which own or lease the facility; (ii) the
42 ownership or leasing of the facility by more than one business
43 entity; or (iii) the ownership of the business entity or entities which
44 own or lease the facility. The ownership or leasing, whether by
45 members, shareholders, partners, or other owners of the business
46 entity or entities, shall be treated as ownership or leasing by
47 affiliates. The members, shareholders, partners, or other ownership
48 or leasing participants and others that are tenants in the facility shall

1 be treated as affiliates for the purpose of counting the full-time
2 employees and capital investments in the facility. The business
3 entity or entities may distribute credits to members, shareholders,
4 partners, or other ownership or leasing participants in accordance
5 with their respective interests. If the business entity or entities or
6 their members, shareholders, partners, or other ownership or leasing
7 participants lease space in the facility to members, shareholders,
8 partners, or other ownership or leasing participants or others as
9 tenants in the facility, the leases shall be treated as a lease to an
10 affiliate, and the business entity or entities shall not be subject to
11 forfeiture of the credits. For the purposes of this section, leasing
12 shall include subleasing and tenants shall include subtenants.

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

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

1 business at the qualified business facility, at which time the tax
2 credit amount shall be adjusted accordingly pursuant to this section.

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

9 (1) the business has satisfied all of its obligations underlying the
10 previous award of incentives or is compliant with section 4 of
11 P.L.2011, c.149 (C.34:1B-245); or

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

16 f. A business which has already applied for a tax credit
17 incentive award prior to the effective date of the "New Jersey
18 Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-
19 489p et al.), but who has not yet been approved for the tax credits,
20 or has not executed an agreement with the authority, may proceed
21 under that application or seek to amend the application or reapply
22 for a tax credit incentive award for the same project or any part
23 thereof for the purpose of availing itself of any more favorable
24 provisions of the program.

25 g. (1) A business may change the location of the qualified
26 business facility to another facility:

27 (a) meeting all applicable location qualifying criteria and having
28 a gross leasable area not less than the gross leasable area of the
29 qualified business facility initially approved by the authority if the
30 alternate qualified business facility meets the minimum capital
31 investment and sustainability requirements of the program; or

32 (b) which does not meet all applicable location qualifying
33 criteria or which has less gross leasable area than the gross leasable
34 area of the qualified business facility initially approved by the
35 authority, if the alternate qualified business facility meets the
36 minimum capital investment and sustainability requirements of the
37 program, provided that the authority shall require a new cost benefit
38 analysis illustrating the economics of the project which reflect
39 occupancy at the alternate proposed qualified business facility
40 location for the remaining duration of the commitment period and
41 shall re-calculate the net economic benefit of the project to reflect
42 the economics of occupancy at the alternate proposed location for
43 the remaining duration of the net benefit test period in lieu of the
44 economics of continuing occupancy at the qualified business
45 facility proposed to be vacated, and provided further that the award
46 of tax credits shall be reduced consistent with the variations in
47 qualifying criteria for the alternate qualified business facility

1 location as well as in a manner consistent with the revised net
2 economic benefit calculation.

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

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

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

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

26
27 6. Section 8 of P.L.2011, c.149 (C.34:1B-249) is amended to read
28 as follows:

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

1 the total award until the first annual tax credit certificate is issued to
2 the business.

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

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

13 (cf: P.L.2017, c.221, s.3)

14
15 7. This act shall take effect on July 1, 2019, except that the
16 New Jersey Economic Development Authority may take
17 anticipatory action in advance thereof as shall be necessary to
18 implement the provisions of P.L. , c. (C.) (pending before
19 the Legislature as this bill).

20 21 22 STATEMENT

23
24 This bill provides certain reductions, expansions, and
25 simplifications to the ability of a business to qualify for tax credits
26 awarded under the Grow New Jersey Assistance (Grow) Program.

27 The bill makes certain reductions to the program as follows:

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

30 (1) 80 percent for projects in a Garden State Growth Zone
31 (GSGZ), Garden State Create Zone (GSCZ), and Urban Transit Hub
32 (UTH) municipality;

33 (2) 50 percent for projects in a “distressed municipality”;

34 (3) 40 percent for projects in a “priority area”; and

35 (4) 30 percent for projects in “other eligible areas.”

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

38 (1) 110 percent for projects in GSGZs and distressed
39 municipalities;

40 (2) 120 percent for projects in priority areas; and

41 (3) 130 percent for projects in other eligible areas.

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

43 (1) \$12,000 for projects in a GSGZ;

44 (2) \$10,000 for projects in a UTH municipality;

45 (3) \$8,000 for projects in a distressed municipality;

46 (4) \$7,500 for projects in a priority area; and

47 (5) \$5,500 for projects in other eligible areas.

1 The bill applies a tax withholdings limitation to awards, tiered by
2 location type as follows:

3 (1) 100 percent for projects in GSGZs, GSCZs, UTH
4 municipalities, and distressed municipalities;

5 (2) 90 percent for projects in priority areas; and

6 (3) 80 percent for projects in other eligible areas.

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

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

12 The bill makes certain expansions to the program by:

13 (1) extending the deadline for authority acceptance of
14 applications to the program to June 30, 2023;

15 (2) redefining the term “mega project” and extending the
16 application deadline for a mega project;

17 (3) creating a project designation for small businesses that
18 provides for a bonus award of up to \$500 per year and a 50 percent
19 reduction of any authority fee for that type of project;

20 (4) expanding the definition of full-time job to include
21 contractors under certain circumstances and permitting their jobs at
22 a project to be counted as 80 percent of the business’s Statewide
23 workforce if the contractors work at least 35 hours per week at the
24 project;

25 (5) permitting an add-on project, even if the add-on component
26 is substantively similarly to project initially approved, so long as
27 the add-on component stands on its own merit as to inducement;

28 (6) allowing the authority the discretion to permit a business a
29 one-time election to pause the project performance for up to five
30 years, provided that project lease is extended for the remaining term
31 of commitment upon its resumption;

32 (7) including a mechanism for authority approval of phased
33 projects;

34 (8) permitting a business to change its facility to another “like-
35 kind” location, or to not-like-kind location provided the award is
36 adjusted downward based only on differing conditions; and

37 (9) permitting subleasing of a project provided that the capital
38 investment and jobs are maintained in the remaining project
39 premises and the minimum amount of capital investment is met for
40 the subleased portion of the project.

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

43 (1) requiring the Division of Taxation in the Department of the
44 Treasury to allow an award to be claimed as a cash payment at 90
45 percent of the award amount once two years have passed from when
46 the award was issued;

47 (2) simplifying the process for adding affiliates of the business
48 assuming the business provides to the authority a clear tax account,

- 1 clean legal questionnaire response, and clear evidence of affiliate
- 2 relationship; and
- 3 (3) simplifying the process for a name change of a business.