ASSEMBLY, No. 4382

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JULY 2, 2020

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

SYNOPSIS

"COVID-19 Economic Recovery Act."

CURRENT VERSION OF TEXT

As introduced.

AN ACT Statutes. concerning certain State economic development incentive programs, designated as the "COVID-19 Economic Recovery Act," amending P.L.2011, c.149, P.L.2009, c.90, and supplementing Title 34 of the Revised Statutes.

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

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

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

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

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

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

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

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

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

a partnership;

an S corporation;

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 <u>thus</u> is new matter.

a limited liability company; or

a non-profit corporation.

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

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

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

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

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

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

d. any of the foregoing.

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

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

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

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

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

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

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

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

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

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

"Eligible position" or "full-time job" means a full-time position in a business in this State which the business has filled with a [full-time employee] person employed by the business for consideration for at least 35 hours per week, who is primarily located at the qualified business facility and spends at least the designated portion of the person's aggregate work hours at the qualified business facility, which portion shall be designated by the authority annually after a market determination and which portion shall not exceed 50 percent, and at least 80 percent of person's aggregate work hours in this State. The portion of aggregate work hours spent at the qualified business facility shall be initially set at 50 percent. In the event of a State emergency, the Chief Executive Officer of the Authority shall have the discretion to waive the requirement that a person's aggregate work hours are spent at the qualified business facility.

"Full-time employee" means a person:

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

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

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

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

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

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

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

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

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

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

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

b. the business provides documentation to the authority to permit the authority to verify the compensation paid to, and the time worked by, the person working as an independent contractor.

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

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

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

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

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

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

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

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

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

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

“Labor harmony agreement” means an agreement between a business that serves as the owner or operator of a property with a retail establishment and one or more labor organizations, which requires, for the duration of the agreement that:

a. any participating labor organization and its members agree to refrain from picketing, work stoppages, boycotts, or other economic interference against the business; and

b. the business agrees to maintain a neutral posture with respect to efforts of any participating labor organization to represent employees in the retail establishment, agrees to permit the labor organization to have access to the employees, and agrees to guarantee to the labor organization the right to obtain recognition as the exclusive collective bargaining representatives of the employees at the retail establishment by demonstrating to the New Jersey State Board of Mediation, Division of Private Employment Dispute Settlement, or a mutually agreed-upon, neutral, third-party, that a majority of workers in the business have shown their preference for the labor organization to be their representative by signing authorization cards indicating that preference. The labor organization or organizations shall be chosen from a list of labor organizations that have requested to be on the list and that the Commissioner of Labor and Workforce Development has determined represent substantial numbers of retail establishment employees in this State.

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

"Mega project" means:

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

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

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

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

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

(2) at which more than 1,000 full-time employees of the business are created or retained;⟧ <u>(Deleted by amendment, P.L.   , c.   ) (pending before the Legislature as this bill)</u>

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

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

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

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

(2) at which more than 1,000 full-time employees of the business are created or retained.⟧ <u>(Deleted by amendment, P.L.   , c.   ) (pending before the Legislature as this bill)</u>

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Qualified incentive area" means:

a. an aviation district;

b. a port district;

c. a distressed municipality or urban transit hub municipality;

d. an area:

(1) designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as:

(a) Planning Area 1 (Metropolitan);

(b) Planning Area 2 (Suburban); or

(c) Planning Area 3 (Fringe Planning Area);

(2) located within a smart growth area and planning area designated in a master plan adopted by the New Jersey Meadowlands Commission pursuant to subsection (i) of section 6 of P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan adopted by the New Jersey Meadowlands Commission pursuant to section 20 of P.L.1968, c.404 (C.13:17-21);

(3) located within any land owned by the New Jersey Sports and Exposition Authority, established pursuant to P.L.1971, c.137 (C.5:10-1 et seq.), within the boundaries of the Hackensack Meadowlands District as delineated in section 4 of P.L.1968, c.404 (C.13:17-4);

(4) located within a regional growth area, rural development area zoned for industrial use as of the effective date of P.L.2016, c.75, town, village, or a military and federal installation area designated in the comprehensive management plan prepared and adopted by the Pinelands Commission pursuant to the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.);

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

(6) located within a Garden State Growth Zone;

(7) located within land approved for closure under any federal Commission on Base Realignment and Closure action; or

(8) located only within the following portions of the areas designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 4A (Rural Planning Area), Planning Area 4B (Rural/Environmentally Sensitive) or Planning Area 5 (Environmentally Sensitive) if Planning Area 4A (Rural Planning Area), Planning Area 4B (Rural/Environmentally Sensitive) or Planning Area 5 (Environmentally Sensitive) is located within:

(a) a designated center under the State Development and Redevelopment Plan;

(b) a designated growth center in an endorsed plan until the State Planning Commission revises and readopts New Jersey's State Strategic Plan and adopts regulations to revise this definition as it pertains to Statewide planning areas;

(c) any area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and C.40A:12A-6) or in need of rehabilitation pursuant to section 14 of P.L.1992, c.79 (C.40A:12A-14);

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

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

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

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

"Qualified incentive tract" means a population census tract, as reported in the latest federal decennial census published by the United States Census Bureau:

a. having a poverty rate of 20 percent or more; or

b. in which the median family income for the population census tract does not exceed 80 percent of the greater of the Statewide median family income or the median family income of the metropolitan statistical area in which the population census tract is situated.

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

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

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

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

"Small business" means a business engaged in the conduct of a trade or business in this State that qualifies as a “small business concern” within the meaning of the federal "Small Business Act," Pub.L.85-536 (15 U.S.C. s.631 et seq.) for the purpose of the small business’s eligibility for performing a contract offered by the federal government or for assistance from the United States Small

Business Administration. “Small business” shall include, but not be limited to, a small business established and operating in this State that is certified, pursuant to federal law, under the United States Small Business Administration’s 8(a) Business Development program or the HUBZone program, or as a small disadvantaged business, or as a business concern by the United States Department of Housing and Urban Development pursuant to section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. s.1701u).

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

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

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

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

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

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

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

the sum of the net valuation which is taxable and that which is tax exempt.
(cf: P.L.2018, c.120, s.1)

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

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

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

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

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

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

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

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

(3) the capital investment resultant from the award of tax credits and the resultant retention and creation of full-time jobs will yield a net positive benefit to the State equaling at least ⟦110⟧ 400 percent of the requested tax credit allocation amount, or for a phased project the requested tax credit allocation amount for the initial phase, and on a cumulative basis each phase thereafter, which determination is calculated prior to taking into account the value of the requested tax credit and shall be based on the benefits generated during the ⟦first 20 years following the completion of the project⟧ period of time from approval through the end of the commitment period, or through the end of the longer period of extended commitment that the business may elect for purposes of receiving credit for benefits projected to occur after the expiration of the commitment period, except that:

(a) for a project located in a priority area, the determination shall be based on the benefits generated during the period of time from approval through the end of the commitment period, as determined by the authority, and shall equal at least 400 percent of the requested tax credit award amount;

(b) for a project located in a distressed municipality, Garden State Create Zone, or urban transit hub municipality, the determination shall be based on the benefits generated during the period of time from approval through the end of the commitment period, as determined by the authority, and shall equal at least 300 percent of the requested tax credit award amount;

(c) for a mega project or a project located in a Garden State Growth Zone, the determination shall be based on the benefits generated during [a period of up to 30 years following the completion of the project, as determined by the authority] the period of time from approval through the end of the commitment period, and shall equal at least 200 percent of the requested tax credit award amount [,];

[(b) for a project located in a Garden State Growth Zone which qualified for the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), the net positive benefit determination shall be based on the benefits generated during a period of up to 35 years following completion of the project, as determined by the authority, and shall equal at least 100 percent of the requested tax credit allocation amount and may utilize the value of those property taxes subject to the provisions of section 24 of P.L.2013 c.161 (C.52:27D-489s), or the value of those property taxes that would have been assessed on the new construction, improvements, or substantial rehabilitation of structures on real property if the structures were not exempt because they are on real property owned by a public entity, and incremental sales and excise taxes that are derived from activities within the area and which are rebated or retained by the municipality pursuant to the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) or any other law providing for such rebate or retention] (d) the net economic benefits shall be evaluated on a present value basis with the requested tax credit allocation amount discounted to present value at the same discount rate as the benefits from capital investment resultant from the award of tax credits and the resultant retention and creation of full-time jobs as provided in subparagraph (e) of this paragraph; and

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

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

(5) (a) not less than the prevailing wage rate shall be paid to workers employed in the performance of any construction contract, including contracts for millwork fabrication, undertaken in connection with authority financial assistance or on any project for which a business undertakes pursuant to the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et seq.), or undertaken to fulfill any condition of receiving authority financial assistance, including the performance of any contract to construct, renovate, or otherwise prepare a qualified business facility for operations that are necessary for the receipt of authority financial assistance, unless:

(i) the work performed under the contract is performed at a qualified business facility owned by a landlord that is not a business receiving authority assistance;

(ii) the landlord is a party to the construction contract; and

(iii) less than 35 percent of the qualified business facility is leased by the business at the time of the contract and under any agreement to subsequently lease the qualified business facility.

(b) In accordance with section 1 of P.L.1979, c.303 (C.34:1B-5.1), nothing in this paragraph shall be construed as requiring the payment of prevailing wage for construction commencing more than two years after a business has executed with the authority a commitment letter regarding authority financial assistance and the first payment or other provision of the assistance is received.

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

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

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

(2) for the new construction of an industrial, warehousing, logistics, or research and development premises for similar use by

the business in at least 51 percent of the gross leasable area of the premises, a minimum investment of $60 per square foot of gross leasable area;

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

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

The minimum capital investment required by this subsection shall be reduced by one-third for projects located in a Garden State Growth Zone or projects located within Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, or Salem counties. <u>For a small business engaged primarily in a targeted industry, no minimum capital investment shall be required, provided that the applicant demonstrates by evidence satisfactory to the authority of its intent to remain in the State for the commitment period.</u>

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

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

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

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

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

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

d. To assist the authority in determining whether a proposed capital investment will yield a net positive benefit, the business's chief executive officer, or equivalent officer, shall submit a certification to the authority indicating: (1) that any existing full-time jobs are at risk of leaving the State or being eliminated; (2) that any projected creation or retention, as applicable, of new full-time jobs would not occur but for the provision of tax credits under the program; and (3) that the business's chief executive officer, or equivalent officer, has reviewed the information submitted to the authority and that the representations contained therein are accurate

[, provided however, that in satisfaction of the provisions of paragraphs (1) and (2) of this subsection, the certification with respect to a project in a Garden State Growth Zone that qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or a project located in a Garden State Growth Zone which contains a Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority, shall indicate that the provision of tax credits under the program is a material factor in the business decision to make a capital investment and locate in a Garden State Growth Zone that qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or a Garden State Growth Zone which contains a Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority]. In the event that this certification by the business's chief executive officer, or equivalent officer, is found to be willfully false, the authority may revoke any award of tax credits in their entirety, which revocation shall be in addition to any other criminal or civil penalties that the business and the officer may be subject to. When considering an application involving intra-State job transfers, the authority shall require the business to submit the following information as part of its application: a full economic analysis of all locations under consideration by the business; all lease agreements, ownership documents, or substantially similar documentation for the business's current in-State locations; and all lease agreements, ownership documents, or substantially similar documentation for the potential out-of-State location alternatives, to the extent they exist. Based on this information, and any other information deemed relevant by the authority, the authority shall independently verify and confirm, by way of making a factual finding by separate vote of the authority's board, the business's assertion that the jobs are actually at risk of leaving the State, and as to the date or dates at which the authority expects that those jobs would actually leave the State [, or, with respect to projects located in a Garden State Growth Zone that qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or projects located in a Garden State Growth Zone which contains a Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority, the business's assertion that the provision of tax credits under the program is a material factor in the business's decision to make a capital investment and locate in a Garden State Growth Zone that qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or in a Garden State Growth Zone which contains a Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority, before a business may be awarded any tax credits under this section】.

e. 【A】 <u>(1) Except as provided in paragraph (2) of this subsection, a</u> project that consists solely of point-of-final-purchase retail facilities shall not be eligible for a grant of tax credits. 【If】 <u>Except as provided in paragraph (2) of this subsection, if</u> a project consists of both point-of-final-purchase retail facilities and non-retail facilities, only the portion of the project consisting of non-retail facilities shall be eligible for a grant of tax credits. For a qualified business facility that is a mixed-use project that includes retail facilities and that is located in a Garden State Growth Zone or the Atlantic City Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority, retail facilities in an amount up to 7.5 percent of the mixed-use project may be included in the mixed-use project application for a grant of tax credits along with the non-retail facilities, and that application may include in the aggregate the pro-rata number of full-time employees employed by any number of tenants or other occupants of the included retail facilities. 【If】 <u>Except as provided in paragraph (2) of this subsection, if</u> a warehouse facility is part of a point-of-final-purchase retail facility and supplies only that facility, the warehouse facility shall not be eligible for a grant of tax credits. 【For the purposes of this section, a retail facility of at least 150,000 square feet, of which at least 50 percent is occupied by a full-service supermarket or grocery store, located in a Garden State Growth Zone which qualified under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or a tourism destination project in the Atlantic City Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219), or catalog distribution centers shall not be considered point-of-final-purchase retail facilities.】

<u>(2) The authority shall not enter into an incentive agreement for a redevelopment project that includes a retail establishment that will have more than 10 employees unless the incentive agreement includes a precondition that a business that serves as the owner or operator of the retail establishment enters into a labor harmony agreement for the retail establishment portion of the project with a labor organization or cooperating labor organization that represents retail establishment employees in the State. For the purposes of this paragraph, a business that serves as the owner or operator of a retail establishment located in an urban food desert, as defined in section 3 of P.L.2011, c.223 (C.4:10-25.5), shall not be required to enter into a labor harmony agreement.</u>

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

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

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

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

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

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

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

a. **[**A**]** <u>a</u> detailed description of the proposed project which will result in job creation or retention, and the number of new or retained full-time jobs that are approved for tax credits **[**.**]** <u>;</u>

b. <u>for a phased project, an incentive phase agreement for which each phase identifies a description of the phase, the expected capital</u>

investment and number of new full-time jobs, and the time following acceptance of the incentive agreement when each phase is to begin and be completed, with the awarding of tax credits under the incentive agreement to be predicated on the number of full-time jobs created through the fulfillment of each incentive phase agreement;

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

[c. Personnel] d. personnel information that will enable the authority to administer the program [.] ;

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

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

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

[g. A] h. a provision which permits the authority to amend the agreement [.] ; and

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

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

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

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

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

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

(1) (a) for a qualified business facility located within an urban transit hub municipality, located within a Garden State Growth Zone, or which is a mega project, 【$5,000】 <u>$4,000</u> per year;

(b) for a qualified business facility located within a Garden State Create Zone and used by an eligible business in a targeted industry to conduct a collaborative research relationship with a doctoral university within the zone, 【$5,000】 <u>$4,000</u> per year;

(2) for a qualified business facility located within a distressed municipality but not qualifying under paragraph (1) of this subsection, 【$4,000】 <u>$3,500</u> per year;

(3) for a project in a priority area, 【$3,000】 <u>$2,500</u> per year; and

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

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

(1) for a qualified business facility located in a ⟦deep poverty pocket⟧ qualified incentive tract or in an area that is the subject of a Choice Neighborhoods Transformation Plan funded by the federal Department of Housing and Urban Development, an increase of $1,500 per year;

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

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

(4) ⟦for a qualified business facility located within a transit oriented development, an increase of $2,000 per year;⟧ (Deleted by amendment, P.L.   , c.   ) (pending before the Legislature as this bill)

(5) for a qualified business facility, other than a mega project, at which the capital investment in industrial or research and development premises for industrial or research and development use by the business is in excess of the minimum capital investment required for eligibility pursuant to subsection b. of section 3 of P.L.2011, c.149 (C.34:1B-244), an increase of $1,000 per year for each additional amount of investment that exceeds the minimum amount required for eligibility by ⟦20⟧ 40 percent, with a maximum increase of $3,000 per year;

(6) for a business with new full-time jobs and retained full-time jobs at the project with an average salary in excess of the existing average salary for the county in which the project is located, or, in the case of a project in a Garden State Growth Zone, a business that employs full-time positions at the project with an average salary in excess of the average salary for the Garden State Growth Zone, an increase of $250 per year during the commitment period for each 35 percent by which the project's average salary levels exceeds the county or Garden State Growth Zone average salary, with a maximum increase of $1,500 per year;

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

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

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

(c) if the number of new full-time jobs and retained full-time jobs is between 601 and 800, $1000 per year;

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

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

(8) for a business in a targeted industry, an increase of $500 per year;

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

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

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

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

(13) ⟦for a project located within a half-mile of any light rail station constructed after the effective date of P.L.2013, c.161 (C.52:27D-489p et al.), an increase of $1,000 per year;⟧ <u>(Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)</u>

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

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

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

(17) for a qualified business facility that includes a vacant commercial building having over 1,000,000 square feet of office or

laboratory space available for occupancy for a period of over one year, an increase of $1,000 per year; ⟦and⟧

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

<u>(19) for a small business, an increase of $500 per year; and</u>

<u>(20) for a qualified business that annually funds an industry-specific training program, which has the capacity to enroll 10 percent or more of the eligible business's full-time workforce, or pays a State educational institution to provide to the public an industry-specific training program, an increase of $500 per year; or if the State educational institution is within 10 miles of the qualified business facility, an increase of $1,000 per year</u>.

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

(1) for a mega project or a project in a Garden State Growth Zone, the gross amount for each new or retained full-time job shall not exceed ⟦$15,000⟧ <u>$10,000</u> per year;

(2) for a qualified business facility located within an urban transit hub municipality or a Garden State Create Zone, the gross amount for each new or retained full-time job shall not exceed ⟦$12,000⟧ <u>$7,000</u> per year;

(3) for a qualified business facility in a distressed municipality the gross amount for each new or retained full-time job shall not exceed ⟦$11,000⟧ <u>$7,000</u> per year;

(4) for a qualified business facility in other priority areas, the gross amount for each new or retained full-time job shall not exceed ⟦$10,500⟧ <u>$4,000</u> per year;

(5) for a qualified business facility in other eligible areas, the gross amount for each new or retained full-time job shall not exceed ⟦$6,000⟧ <u>$3,000</u> per year; and

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

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

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

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

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

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

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

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

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

(2) for each retained full-time job, the business shall be allowed tax credits equaling [the lesser of] 50 percent of the gross amount of tax credits for each retained full-time job [, or one-tenth of the capital investment divided by the number of retained and new full-time jobs per year over the grant term of ten years, unless the jobs are part of a mega project which is the United States headquarters of an automobile manufacturer located within a priority area or in a Garden State Growth Zone, in which case the business shall be entitled to tax credits equaling 100 percent of the gross amount of tax credits for each retained full-time job, or unless the new qualified business facility would replace a facility that has been wholly or substantially damaged as a result of a federally-declared disaster, in which case the business shall be entitled to tax credits equaling 100 percent of the gross amount of tax credits for each retained full-time job] .

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

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

(2) [$30,000,000] $15,000,000 and provides a net benefit to the State as provided herein with respect to a mega project or a qualified business facility in a Garden State Growth Zone;

(3) [$10,000,000] $7,500,000 and provides a net benefit to the State as provided herein with respect to a qualified business facility in an urban transit hub municipality or a Garden State Create Zone;

(4) [$8,000,000] $5,000,000 and provides a net benefit to the State as provided herein with respect to a qualified business facility in a distressed municipality;

(5) [$4,000,000] $3,000,000 and provides a net benefit to the State as provided herein with respect to a qualified business facility in other priority areas [, but not more than 90 percent of the withholdings of the business from the qualified business facility]; and

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

A business may pursue separate awards for multiple projects, provided that each such project individually satisfies the requirements of the program, and provided that the limitations described in paragraphs (2) through (6) of this subsection shall apply cumulatively to each project unless the authority determines sufficient differentiability for a subsequent project to justify separate application of the limitations described in paragraphs (2) through (6) of this subsection.

Under paragraphs [(1)] (2) through (6) of this subsection, [with the exception of a project located within a Garden State Growth Zone which qualifies for the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or which contains a Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority, that divides the total capital investment of the project by the total number of full-time jobs at that project,] for each application for tax credits in excess of [$4,000,000] an annual amount of tax credits that shall be determined at the discretion of the authority and made available to the public via the authority's Internet website, but which amount shall not exceed $1,500,000 annually, the amount of tax credits available to be applied by the business annually shall be the lesser of the maximum amount under the applicable subsection or an amount determined by the authority necessary to complete the project, with such determination made by the authority's utilization of a full economic analysis of all locations under consideration by the business; all lease agreements, ownership documents, or substantially similar documentation for the business's current in-State locations, as applicable; and all lease agreements, ownership documents, or substantially similar documentation for the potential out-of-State location alternatives, to the extent they exist. Based on this information, and any other information deemed relevant by the authority, the authority shall independently verify and confirm the amount necessary to complete the project.

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

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

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

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

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

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

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

b. (1) A business shall submit an application for tax credits prior to July 1, ⟦2019⟧ <u>2026</u>. The authority shall not approve an application for tax credits unless the application was submitted prior to July 1, ⟦2019⟧ <u>2026</u>.

(2) (a) A business shall submit its documentation indicating that it has met the capital investment and employment requirements specified in the incentive agreement<u>, or for a phased project the capital investment and employment requirements specified in the initial incentive phase agreement,</u> for certification of its tax credit amount within three years following the date of approval of its application by the authority. The authority shall have the discretion to grant two six-month extensions of this deadline. Except as provided in subparagraphs (b) and (c) of this paragraph, in no event shall the incentive effective date<u>, or for a phased project the incentive phase agreement effective date,</u> occur later than four years following the date of approval of an application by the authority.

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

(c) If the Governor declares an emergency, then the chief executive officer of the authority shall have the discretion to grant an extension for the duration of the emergency and the board of the authority, upon recommendation of the chief executive officer, may grant two additional six-month extensions; provided that (i) the extensions are due to the economic disruption cause by the emergency; (ii) the project is delayed due to unforeseeable acts related to the project beyond the eligible business's control and without its fault or negligence; (iii) the eligible business is using best efforts, with all due diligence, to proceed with the completion of the project and the submission of the certification; and (iv) the eligible business has made, and continues to make, all reasonable efforts to prevent, avoid, mitigate, and overcome the delay.

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

(4) A business seeking a credit for a mega project shall apply for the credit ⟦within four years after the effective date of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.)⟧ <u>prior to July 1, 2026. The authority shall not approve an application for tax credits for a mega project unless the application was submitted prior to July 1, 2026</u>.

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

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

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

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

<u>(b) With respect to credits passed through to a person subject to tax liability due pursuant to sections 2 or 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), the person shall be allowed to apply credits against the person’s tax liability without the provision of a tax credit certificate to the Division of Taxation in the Department of the Treasury for the tax period accompanying the person’s tax return and the person shall be considered the tax certificate holder and be subject to subparagraph (c) of this paragraph.</u>

(c) The authority may recapture all or part of any tax credits claimed by a person pursuant to subparagraph (b) of this paragraph with penalties and interest from the person or the business in the event the Division of Taxation in the Department of the Treasury does not issue a tax credit certificate in an amount at least equal to the tax credit amount claimed on the person's tax return for the applicable tax period.

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

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

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

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

percent of the number of jobs specified in the incentive agreement <u>or the incentive phase agreement</u>.

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

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

(4) (a) For a project located within a Garden State Growth Zone <u>or a qualified small business engaged primarily in a targeted industry</u>, if, in any tax period, the number of full-time employees employed by the business at the qualified business facility located within a qualified incentive area increases above the number of full-time employees specified in the incentive agreement, then the business shall be entitled to an increased base credit amount for that tax period and each subsequent tax period, for each additional full-time employee added above the number of full-time employees

specified in the incentive agreement, until the first tax period for which documentation demonstrating a reduction of the number of full-time employees employed by the business at the qualified business facility, at which time the tax credit amount will be adjusted accordingly pursuant to this section.

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

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

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

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

f. A business which has already applied for a tax credit incentive award prior to the effective date of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-

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

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

(a) if it is a small business engaged primarily in a targeted industry, provided that the business remains in this State for the duration of the commitment period;

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

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

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

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

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

(cf: P.L.2020, c.8, s.3)

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

7. (1) A business may apply to the Director of the Division of Taxation in the Department of the Treasury and the chief executive officer of the authority for a tax credit transfer certificate, covering one or more years, in lieu of the business being allowed any amount of the credit against the tax liability of the business. The tax credit transfer certificate, upon receipt thereof by the business from the director and the chief executive officer of the authority, may be sold or assigned, in full or in part, in an amount not less than $25,000, to any other person that may have a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), pursuant to section 1 of P.L.1950, c.231 (C.17:32-15), or pursuant to N.J.S.17B:23-5. The certificate provided to the business shall include a statement waiving the business's right to claim that amount of the credit against the taxes that the business has elected to sell or assign. The sale or assignment of any amount of a tax credit transfer certificate allowed under this section shall not be exchanged for consideration received by the business of less than 75 percent of the transferred credit amount before considering any further discounting to present value which shall be permitted, except that the 75 percent minimum measure of consideration shall not apply to the sale or assignment of a tax credit transfer certificate to an affiliate irrespective of whether the affiliate met the capital investment and employment requirements specified in the incentive agreement. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability shall be subject to the same limitations and conditions that apply to the use of the credit by the business that originally applied for and was allowed the credit.

(2) With respect to credits to be sold or assigned, in full or in part, pursuant to an application to the authority for a tax credit transfer certificate by a business to a person subject to tax liability due pursuant to sections 2 or 3 of P.L.1945, c.132 (C.54:18A-2 or C.54:18A-3), the person shall be allowed to apply the credits against the person's tax liability without the provision of a tax credit certificate to the Division of Taxation in the Department of

the Treasury for the tax period accompanying its tax return, and the person be considered a tax credit transferee and be subject to paragraph (3) of this subsection.

(3) The authority may recapture all or part of any tax credits claimed by a person pursuant to paragraph (2) of this subsection with penalties and interest from the person or the business in the event the authority does not issue a tax credit certificate in an amount at least equal to the tax credit amount claimed on the person's tax return for the applicable tax period.

(cf: P.L.2017, c.313, s.2)

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

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

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

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

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

8. (New section) Sections 8 through 15 of P.L. , c. (C.) (pending before the Legislature as this bill) shall be known and may be cited as the "Food Desert Elimination Act."

9. (New section) a. The Legislature finds and declares that:

(1) there are certain areas of the State, known as "food desert" communities, in which residents are unable to obtain reasonable and adequate access to nutritious foods and, in particular, to fresh fruits and vegetables;

(2) the inaccessibility of nutritious food in food desert communities has been attributed, in large part, to the absence of supermarkets and grocery stores in those communities;

(3) low-income families are more likely than others to live in food desert communities and lack the transportation or financial resources necessary to reach distant wholesome food markets; and

(4) the establishment of financial incentives to supermarkets and grocery stores is a reasonable means by which to ensure that residents of food desert communities in the State are provided with reasonable access to nutritious, fresh produce, and are afforded the opportunity thereby to make healthier eating choices for themselves and for their families.

b. The Legislature therefore determines that it is both reasonable and necessary to authorize the New Jersey Economic Development Authority to establish a program that provides incentives to supermarkets and grocery stores to establish and retain locations in food desert communities in order to provide a consistent, and easily accessible, source of fresh produce to residents in those communities.

10. (New section) As used in sections 8 through 15 of P.L. , c. (C.) (pending before the Legislature as this bill):

"Authority" means the New Jersey Economic Development Authority.

"Department" means the Department of Agriculture.

"Food desert community" means a physically contiguous area in the State in which residents have limited access to nutritious foods, such as fresh fruits and vegetables, through supermarkets and grocery stores, and which has been designated as a food desert community pursuant to subsection b. of section 11 of P.L. , c. (C.) (pending before the Legislature as this bill).

"Program" means the Food Desert Elimination Program established in paragraph (a) of subsection 1 of section 11 of P.L. , c. (C.) (pending before the Legislature as this bill).

"Supermarket or grocery store" means a retail facility of at least 18,000 square feet, of which at least 90 percent is occupied by a full-service supermarket or grocery store.

11. (New section) a. (1) There is established the Food Desert Elimination Program to be administered by the New Jersey Economic Development Authority. The program shall include tax credit components, as provided in sections 12 and 13 of P.L. , c. (C. and C.) (pending before the Legislature as this bill), in order to incentivize businesses to establish and retain new supermarkets and grocery stores in food desert communities.

(2) The total value of tax credits approved by the authority pursuant to sections 12 and 13 of P.L. , c. (C. and C.) (pending before the Legislature as this bill), shall not exceed an aggregate annual limit of $10,000,000 each calendar year. For the purpose of determining the aggregate value of tax credits approved in a calendar year, a tax credit shall be deemed to have been approved at the time the director allowed a tax credit to a taxpayer pursuant to sections 12 or 13 of P.L. , c. (C.) (pending before the Legislature as this bill) following the establishment of the supermarket or grocery store.

b. The authority, in consultation with the Department of Agriculture and the Department of Community Affairs, shall initially designate not more than 75 separate geographic areas that are most in need of a supermarket or grocery store as food desert communities in this State. The authority shall develop criteria for the designation of food desert communities, but each separate food desert community shall consist of a distinct geographic area with a single defined border. The criteria shall, at a minimum, incorporate analysis of municipal or census tract poverty statistics, food desert information from the Economic Research Service of the United States Department of Agriculture, and healthier food retail tract information from the federal Centers for Disease Control and Prevention. The authority may also consider data related to municipal or census tract population size and population density in making food desert community designations pursuant to this section. The authority may designate additional food desert communities once every three years following the effective date of sections 8 through 15 of P.L. , c. (C.) (pending before the Legislature as this bill).

12. (New section) a. For taxable years beginning on or after January 1 next following the effective date of sections 8 through 15 of P.L. , c. (C.) (pending before the Legislature as this bill), a taxpayer that establishes and opens for business to the public, the first supermarket or grocery store in a designated food desert community award pursuant to a competitive application process consisting of up to two biannual grant rounds with scoring criteria developed by the authority, shall be allowed a credit against the tax due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 in an

amount equal to the total amount the taxpayer is assessed in property taxes by the municipality in which the supermarket or grocery store is located. An assessment of property taxes by the municipality shall include payments of annual service charges made in lieu of property taxes pursuant to a financial agreement as provided under N.J.S.40A:20-1. A taxpayer that qualifies for the allowance of a tax credit under this section may claim the allowance in the taxable year in which the taxpayer establishes and opens the supermarket or grocery store for business, and for the nine taxable years next following the initial opening, provided that the supermarket or grocery store remains in business and open to the public. For a taxpayer to be allowed a tax credit pursuant to this section, the taxpayer shall meet the requirements of this section, and the rules and regulations adopted pursuant thereto.

b. (1) To qualify for the tax credit allowed pursuant to this section, a taxpayer shall apply to the authority for a certification, and the application shall include the following:

(a) from the department, a certification that the taxpayer qualifies as a supermarket or grocery store, as defined in section 10 of P.L. , c. (C.) (pending before the Legislature as this bill), is located in a food desert community designated pursuant to subsection b. of section 11 of P.L. , c. (C.) (pending before the Legislature as this bill), and is the first supermarket or grocery store to be established and opened for business in that designated food desert community after the effective date of sections 8 through 15 of P.L. , c. (C.) (pending before the Legislature as this bill); and

(b) from the municipality in which the supermarket or grocery store is located, a certification of the amount of property tax the taxpayer is assessed for the applicable taxable year pursuant to subsection a. of this section.

(2) The order of priority of the application of the credit allowed pursuant to this section and any other credits allowed against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for a taxable year shall be as prescribed by the Director of the Division of Taxation in the Department of the Treasury. The amount of the credit applied pursuant to this section against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), shall not reduce a taxpayer’s tax liability for a taxable year to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5). Any credit shall be valid in the taxable year in which the certification is approved and any unused portion thereof may be carried forward into the next 10 taxable years or until exhausted, whichever is earlier.

c. (1) A business entity that is classified as a partnership for federal income tax purposes shall not be allowed the credit directly under N.J.S.54A:1-1 et seq., but the amount of credit of the taxpayer in respect of a distributive share of partnership income shall be determined by allocating to the taxpayer that proportion of the credit acquired by the partnership that is equal to the taxpayer's share, whether or not distributed, of the total distributive income or gain of the partnership for its taxable year ending within or with the taxpayer's taxable year.

(2) A taxpayer that is a New Jersey S corporation shall not be allowed the credit directly under N.J.S.54A:1-1 et seq., but the amount of credit of a taxpayer in respect of a pro rata share of S corporation income shall be determined by allocating to the taxpayer that proportion of the credit acquired by the New Jersey S corporation that is equal to the taxpayer's share, whether or not distributed, of the total pro rata share of S corporation income of the New Jersey S corporation for its taxable year ending within or with the taxpayer's taxable year.

d. The authority shall allocate tax credits to supermarkets or grocery stores until either the available tax credits are exhausted or all projects that are eligible for a tax credit pursuant to the provisions of sections 8 through 15 of P.L. , c. (C.) (pending before the Legislature as this bill) receive a tax credit, whichever occurs first. If insufficient funding exists to allow a tax credit to a supermarket or grocery store in accordance with the provisions of subsection a. of section 11 of P.L. , c. (C.) (pending before the Legislature as this bill), the authority may offer the taxpayer a tax credit in an amount less than that provided in subsection a. of this section.

13. (New section) a. A taxpayer may apply to the director and the chief executive officer of the authority for a tax credit transfer certificate, covering one or more years, in lieu of the taxpayer being allowed any amount of the credit against the tax liability of the developer. The tax credit transfer certificate, upon receipt thereof by the taxpayer from the director and the chief executive officer of the authority, may be sold or assigned, in full or in part, to another person who may have tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The certificate provided to the taxpayer shall include a statement waiving the taxpayer's right to claim that amount of the credit against the taxes that the taxpayer has elected to sell or assign. The sale or assignment of any amount of a tax credit transfer certificate allowed under this section shall not be exchanged for consideration received by the taxpayer of less than 75 percent of the transferred credit amount before considering any further discounting to present value which shall be permitted, except that the 75 percent minimum measure of consideration shall not apply to the sale or assignment of a tax credit transfer certificate to an affiliate of the taxpayer irrespective of whether the affiliate met the capital investment and employment requirements specified

an incentive agreement the taxpayer entered into with the authority. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability shall be subject to the same limitations and conditions that apply to the use of the credit by the taxpayer that originally applied for and was allowed the credit.

b. A purchaser or assignee of a tax credit transfer certificate pursuant to this section shall not make any subsequent transfers, assignments, or sales of the tax credit transfer certificate.

c. The authority shall publish on its Internet website the following information concerning each tax credit transfer certificate approved by the authority and the Director of the Division of Taxation pursuant to this section:

(1) the name of the transferrer;

(2) the name of the transferee;

(3) the value of the tax credit transfer certificate; and

(4) the consideration received by the transferrer.

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

14. (New section) The authority, in consultation with the department and the Director of the Division of Taxation in the Department of the Treasury, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to carry out the provisions of sections 8 through 15 of P.L. , c. (C.) (pending before the Legislature as this bill).

15. (New section) Within one year of the effective date of sections 8 through 15 of P.L. , c. (C.) (pending before the Legislature as this bill) and for the three years thereafter, the authority shall annually submit a report to the Governor, the State Treasurer, and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), the Legislature, on the effectiveness of the tax credit in establishing supermarkets and grocery stores in food desert communities.

16. (New section) a. The New Jersey Economic Development Authority shall employ a Chief Compliance Officer, who shall be appointed by the Chief Executive Officer of the authority to manage the Division of Portfolio Management and Compliance in the authority.

b. The Chief Compliance Officer shall:

(1) create, maintain, monitor, and coordinate procedures to ensure that all economic development incentive programs, authority employees, and economic development incentive program applicants and recipients comply fully with the requirements of the corresponding economic development incentive program;

(2) conduct, on a periodic basis as determined by the authority, which period shall not exceed two years, systematic audits of economic development incentive programs for compliance with the laws, regulations, codes, orders, procedures, advisory opinions, and rulings concerning those programs;

(3) maintain a central database of information concerning the management of all economic development incentive programs and information on economic development incentive program applicants and recipients to provide for the regular and ongoing reporting, verification, and monitoring of the State's economic development incentive programs; and

(4) prior to the adoption of any rule or regulation by the authority or the board related to the general administration of the programs administered by the authority or to any regulation specifically related to the recapture of economic development incentive award values, review and certify that the provisions of program rules or regulations provide the authority with adequate procedures to pursue the recapture of the value of an economic development incentive in the case of substantial noncompliance, fraud, or abuse by the economic development incentive recipient, and that program rules and regulations are sufficient to ensure against economic development incentive fraud, waste, and abuse.

17. (New section) Sections 17 through 25 of P.L. , c. (C.) (pending before the Legislature as this bill) shall be known and may be cited as the "Transformative Project Incentive Act."

18. (New section) As used in sections 17 through 25 of P.L. , c. (C.) (pending before the Legislature as this bill):

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

"Board" means the board of the New Jersey Economic Development Authority.

"Cash flow" means the profit or loss that an investment property earns from rent, deposits, and other fees after financial obligations, such as debt, maintenance, and other expenses, have been paid.

"Developer" means a person who enters or proposes to enter into a tax credit agreement pursuant to section 20 of P.L. , c. (C.) (pending before the Legislature as this bill), including, but not limited to, a lender that completes a redevelopment project, operates a redevelopment project, or completes and operates a redevelopment project.

“Director" means the Director of the Division of Taxation in the Department of the Treasury.

"Distressed municipality" means a municipality that is qualified to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a municipality under the supervision of the Local Finance Board pursuant to the provisions of the "Local Government Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality identified by the Director of the Division of Local Government Services in the Department of Community Affairs to be facing serious fiscal distress, a SDA municipality, or a municipality that is determined to be distressed by the board, following an annual evaluation process that considers metrics and criteria established by the authority.

"Economic development incentive" means a financial incentive, awarded by the authority, or agreed to between the authority and a business or person, for the purpose of stimulating economic development or redevelopment in New Jersey, including, but not limited to, a bond, grant, loan, loan guarantee, matching fund, tax credit, or other tax expenditure.

"Program” means the Transformative Project Incentive Program established pursuant to section 19 of P.L. , c. (C.) (pending before the Legislature as this bill).

"Project cost" means the costs incurred in connection with a redevelopment project by a developer until the issuance of a permanent certificate of occupancy, or until such other time specified by the authority, for a specific investment or improvement, including the costs relating to lands, buildings, improvements, real property, or any interest therein, including leases discounted to present value, including lands under water, riparian rights, space rights, and air rights acquired, owned, developed or redeveloped, constructed, reconstructed, rehabilitated, or improved, any environmental remediation costs, plus costs not directly related to construction, of an amount not to exceed 20 percent of the total costs, capitalized interest paid to third parties, and the cost of infrastructure improvements, including ancillary infrastructure projects. The cost of acquisition of land or fees associated with the application or administration of a tax credit under sections 17 through 25 of P.L. , c. (C.) (pending before the Legislature as this bill) shall not constitute a project cost.

"Project financing gap" means the part of the total project cost, including reasonable and appropriate return on investment, that remains to be financed after all other sources of capital have been accounted for, including, but not limited to, developer-contributed capital, which shall not be less than 20 percent of the total project cost, and investor or financial entity capital or loans for which the developer, after making all good faith efforts to raise additional capital, certifies that additional capital cannot be raised from other sources on a non-recourse basis.

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

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

"Tax credit" means an award of tax credit to assist a developer with all or a portion of the project financing gap of a transformative project pursuant to the provisions of sections 17 through 25 of P.L. , c. (C.) (pending before the Legislature as this bill).

"Tax credit agreement" means the agreement executed between a developer of a transformative project and the authority pursuant to section 20 of P.L. , c. (C.) (pending before the Legislature as this bill), which sets forth the terms and conditions under which the developer may receive the tax credit authorized pursuant to the provisions of sections 17 through 25 of P.L. , c. (C.) (pending before the Legislature as this bill).

"Total project cost" means the project cost and the cost of acquisition of land for the transformative project.

"Transformative project" means a mixed-use redevelopment project with a project financing gap that includes 500,000 or more square feet of new or substantially renovated or commercial or residential space, and which is of special economic importance as measured by the level of new jobs, new capital investment, and opportunities to leverage leadership in a high-priority targeted industry, as determined by the authority pursuant to rules and regulations promulgated to implement sections 17 through 25 of P.L. , c. (C.) (pending before the Legislature as this bill), and which is located in a distressed municipality.

19. (New section) a. The Transformative Project Incentive Program of 2020 is established as a program under the jurisdiction of the New Jersey Economic Development Authority. The authority shall administer the program to encourage transformative projects in distressed municipalities through the provision of tax credits to reimburse developers for certain project financing gap costs for mixed-use transformative projects that would not be economically feasible without assistance under the program. The board may approve the award of a tax credit to a developer upon review and approval of an application submitted to the authority pursuant to section 20 of P.L. , c. (C.) (pending before the Legislature as this bill).

b. The aggregate of all tax credits issued by the authority under the sections 17 through 25 of P.L. , c. (C.) (pending before the Legislature as this bill) shall not exceed $500,000,000.

20. (New section) a. Prior to January 1, 2026, a developer seeking a tax credit shall submit a transformative project application to the authority for review through an annual competitive application process in which applications will be evaluated based on criteria to be specified in a form and manner prescribed in regulations adopted by the authority pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The authority shall provide notice to the public of the opening and closing dates for submission of applications on its Internet website.

b. To determine priority for approval of a transformative project application, all applications shall be evaluated and ranked on the basis of criteria to be developed by the authority through regulations adopted by the authority pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The criteria developed by the authority shall include, but shall not be limited to:

(1) the extent to which the proposed projects would create modern facilities that enhance the State's competitiveness in attracting targeted industries;

(2) the extent to which the proposed project would attract and retain a skilled employment base that is important to the State's competitive position generally or to capture economic development opportunities within targeted industries, and

(3) the extent to which the proposed project would leverage the competitive economic development advantages of the State's mass transit assets, higher education assets, and other economic development assets in attracting and retaining both employers and skilled workers generally or in targeted industries.

c. The authority shall not consider an application for a transformative project unless the developer submits, with its application, a letter evidencing support for the transformative project from the governing body of the municipality in which the transformative project is located.

d. Prior to approving a transformative project application, the authority shall review the project costs, evaluate, and validate the project financing gap estimated by the developer, and conduct a fiscal impact analysis, which demonstrates that the overall public assistance provided to the redevelopment project will result in net benefits to government, including the State and municipality. The authority shall assess the cost of these reviews to the applicant. A developer shall pay to the authority the full amount of the direct costs of an analysis, performed by a third party retained by the authority, concerning the developer's application for a tax credit, if the authority deems such retention to be necessary.

e. The authority shall, in determining net benefits for any business or person locating in a transformative project and applying to receive from the authority any other economic development incentive subsequent to the award of transformative project tax credits, not credit the business or person with any benefits that were previously credited to the transformative project pursuant to sections 17 through 25 of P.L. , c. (C. through C.) (pending before the Legislature as this bill).

21. (New section) a. The authority may award tax credits to the developer of a transformative project an amount not to exceed 30 percent of the total project cost or the total value of the project financing gap, whichever is less, and in accordance with the provisions of sections 17 through 25 of P.L. , c. (C. through C.) (pending before the Legislature as this bill).

b. The authority shall require a developer to enter into a tax credit agreement prior to the award of tax credits. The tax credit agreement shall include, but shall not be limited to, the following:

(1) a detailed description of the proposed transformative project which will result in a net benefit to the State;

(2) the schedule for the award of the tax credits, including the first year for which the tax credits may be claimed;

(3) information that will enable the authority to administer the program;

(4) a method for the developer to certify that the developer has met the program requirements; and

(5) a provision permitting an audit of the records of the developer from time to time, as the authority deems necessary.

c. For a taxpayer to be allowed a tax credit pursuant to this section, the taxpayer shall meet the requirements of this section, and the rules and regulations adopted pursuant to section 25 of P.L. , c. (C.) (pending before the Legislature as this bill).

22. (New section) a. A developer that is awarded a tax credit pursuant to sections 17 through 25 of P.L. , c. (C. through C.) (pending before the Legislature as this bill) shall submit annually, commencing in the year in which the tax credit is issued and for the remainder of the scheduled period for the award of tax credits, a report indicating whether the developer is aware of any condition, event, or act that would cause the developer not to be in compliance with tax credit agreement entered into pursuant to section 21 of P.L. , c. (C.) (pending before the Legislature as this bill), or any reporting requirements contained in the tax credit agreement or tax credit certificate.

b. (1) Upon receipt and review of each report submitted by a developer, the authority shall provide, to the developer and the director, a certificate of compliance indicating the amount of tax credits that the developer may apply against the developer's tax liability.

(2) Upon receipt by the director of the certificate of compliance, the director shall allow the developer a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). A developer shall not carry forward an unused tax credit. Credits granted to a partnership shall be passed through to the partners, members, or owners, respectively, pro rata, or pursuant to an executed agreement among the partners, members, or owners documenting an alternate distribution method, which agreement shall be provided to the director, accompanied by any additional information as the director may prescribe.

23. (New section) a. A developer may apply to the director and the chief executive officer of the authority for a tax credit transfer certificate, covering one or more years, in lieu of claiming the credit against the tax liability of the developer. The tax credit transfer certificate may be sold or assigned, in full or in part, in the privilege period during which the developer receives the tax credit transfer certificate from the director, to another person, who may apply the credit only against a tax liability imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). The certificate provided to the developer shall include a waiver of the developer's right to claim the amount of the credit that the developer has elected to sell or assign against the developer's tax liability.

b. The developer shall not sell or assign, or pledge as collateral assignment, a tax credit transfer certificate allowed under this section for consideration received by the developer of less than 75 percent of the transferred credit amount before considering any further discounting to present value, which shall be permitted. The tax credit transfer certificate issued to a developer by the director shall be subject to any limitations and conditions imposed on the application of State tax credits pursuant to sections 17 through 25 of P.L. , c. (C. through C.) (pending before the Legislature as this bill) and any other terms and conditions that the director may prescribe.

24. (New section) The award of a transformative project tax credit to a developer shall not preclude the developer or a business or person that locates within a transformative project from receiving an award of other economic development incentives offered by the authority subject to section 20 of P.L. , c. (C.) (pending before the Legislature as this bill).

25. (New section) The authority, in consultation with the department and the Director of the Division of Taxation in the Department of the Treasury, shall adopt, pursuant to the

"Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to carry out the provisions of sections 17 through 25 of P.L.   , c.   (C.   ) (pending before the Legislature as this bill).

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

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

b. The decision of whether to enter into a redevelopment incentive grant agreement is solely within the discretion of the authority and the State Treasurer, provided that they both agree to enter into an agreement.

c. The Chief Executive Officer of the authority, in consultation with the State Treasurer shall negotiate the terms and conditions of any redevelopment incentive grant agreement on behalf of the State.

d. (1) The redevelopment incentive grant agreement shall specify the maximum amount of project costs, the amount of the incentive grant to be awarded the developer, the frequency of payments, and the eligibility period, which shall not exceed 20 years, during which reimbursement will be granted **[**, and for a project receiving an incentive grant in excess of $50 million, the amount of the negotiated repayment amount to the State, which may include, but not be limited to, cash, equity, and warrants**]**. <u>For projects receiving aggregate incentive grants equal to or greater than $25 million, the redevelopment incentive grant agreement shall also specify the amount of redeveloper payments to recover a portion of excess return on equity, if any, due to the State, including, but not be limited to, cash, equity, and warrants. For redevelopment projects receiving aggregate incentive grants equal to or greater than $25 million that achieve an actual return on equity greater than the anticipated return as approved by the authority plus twenty-five percent of the anticipated return as approved by the authority, the authority may require the redevelopment project to make annual payments to the State in amounts determined by the authority of a portion of the excess return on equity.</u> Except for redevelopment incentive grant agreements with a municipal redeveloper, or with the developer of a redevelopment project solely with respect to the cost of infrastructure improvements in the public right-of-way including any ancillary infrastructure project in the public right-of-way, in no event shall the base amount of the combined reimbursements under redevelopment incentive grant agreements with the State or municipality exceed 20 percent of the total project cost, except in a Garden State Growth Zone, which shall not exceed 30 percent.

(2) The authority shall be permitted to increase the amount of the reimbursement under the redevelopment incentive grant agreement with the State by up to 10 percent of the total project cost if the project is:

(a) located in a distressed municipality which lacks adequate access to nutritious food in the judgment of the Chief Executive Officer of the authority and will include either a supermarket or grocery store with a minimum of 15,000 square feet of selling space devoted to the sale of consumable products or a prepared food establishment selling only nutritious ready to serve meals;

(b) located in a distressed municipality which lacks adequate access to health care and health services in the judgment of the Chief Executive Officer of the authority and will include a health care and health services center with a minimum of 10,000 square feet of space devoted to the provision of health care and health services;

(c) located in a distressed municipality which has a business located therein that is required to respond to a request for proposal to fulfill a contract with the federal government as set forth in subsection f. of section 3 of P.L.2011, c.149 (C.34:1B-244);

(d) a transit project;

(e) a qualified residential project in which at least 10 percent of the residential units are constructed as and reserved for moderate income housing;

(f) located in a highlands development credit receiving area or redevelopment area;

(g) located in a Garden State Growth Zone;

(h) a disaster recovery project;

(i) an aviation project;

(j) a tourism destination project; or

(k) substantial rehabilitation or renovation of an existing structure or structures.

(3) The maximum amount of any redevelopment incentive grant shall be equal to up to 30 percent of the total project costs, except for projects located in a Garden State Growth Zone, in which case the maximum amount of any redevelopment incentive grant shall be equal to up to 40 percent of the total project costs. Notwithstanding anything to the contrary contained within this section, the maximum amount of any redevelopment incentive grant with respect to a mixed use parking project shall be up to 100 percent of the total project costs allocable to the parking component of the project, and shall be up to 40 percent of the total project costs allocable to the non-parking component of the project. ⟦In addition, notwithstanding anything to the contrary contained in this section, the maximum amount of any redevelopment incentive grant for a qualified residential project described in (i) below shall be up to 80 percent of the total project costs, and for a mixed use parking project described in (i) through (iv) below shall be up to 100

percent of the total project costs allocable to the parking component and up to 80 percent of the total project costs allocable to the non-parking component, provided that if the amount of the redevelopment incentive grant exceeds 40 percent of the total project costs for projects developed by non-public, for-profit entities, the authority shall consider the effect of the increased grant amount in determining the project financing gap, which shall include utilizing a rate of return on a developer's contributed capital, when used to determine the project financing gap, reflective of the reduced financial risk of the project, as set by the authority: (i) with respect to a mixed use parking project or qualified residential project constructed upon all or a portion of a project site which project site was previously the subject of an award of tax credits pursuant to the "Urban Transit Hub Tax Credit Act," P.L.2007, c.346 (C.34:1B-207 et seq.), as amended by P.L.2009, c.90 (C.52:27D-489a et al.), but those tax credits were not issued, (ii) for entertainment venues with seating capacity in excess of 5,000, (iii) a visitor center within or adjacent to a national historic park, or (iv) a youth center in or adjacent to a national historic park.]

e. Except in the case of a qualified residential project, a mixed use parking project, or a project involving university infrastructure, the authority and the State Treasurer may enter into a redevelopment incentive grant agreement only if they make a finding that the State revenues to be realized from the redevelopment project will be in excess of the amount necessary to reimburse the developer for its project financing gap. This finding may be made by an estimation based upon the professional judgment of the Chief Executive Officer of the authority and the State Treasurer.

f. In deciding whether to recommend entering into a redevelopment incentive grant agreement and in negotiating a redevelopment agreement with a developer, the Chief Executive Officer of the authority shall consider the following factors:

(1) the economic feasibility of the redevelopment project;

(2) the extent of economic and related social distress in the municipality and the area to be affected by the redevelopment project or the level of site specific distress to include dilapidated conditions, brownfields designation, environmental contamination, pattern of vacancy, abandonment, or under-utilization of the property, rate of foreclosures, or other site conditions as determined by the authority;

(3) the degree to which the redevelopment project will advance State, regional, and local development and planning strategies;

(4) the likelihood that the redevelopment project shall, upon completion, be capable of generating new tax revenue in an amount in excess of the amount necessary to reimburse the developer for project costs incurred as provided in the redevelopment incentive

grant agreement, provided, however, that any tax revenue generated by a redevelopment project that is a disaster recovery project shall be considered new tax revenue even if the same or more tax revenue was generated at or on the site prior to the disaster;

(5) the relationship of the redevelopment project to a comprehensive local development strategy, including other major projects undertaken within the municipality;

(6) the need of the redevelopment incentive grant agreement to the viability of the redevelopment project or the promotion of the use of public transportation; and

(7) the degree to which the redevelopment project enhances and promotes job creation and economic development or the promotion of the use of public transportation.

g. (1) A developer who has entered into a redevelopment incentive grant agreement with the authority and the State Treasurer pursuant to this section may, upon notice to and consent of the authority and the State Treasurer, pledge, assign, transfer, or sell any or all of its right, title and interest in and to the agreements and in the incentive grants payable thereunder, and the right to receive same, along with the rights and remedies provided to the developer under the agreement. Any such assignment shall be an absolute assignment for all purposes, including the federal bankruptcy code.

(2) Any pledge of incentive grants made by the developer shall be valid and binding from the time the pledge is made and filed in the records of the authority. The incentive grants pledged and thereafter received by the developer shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of any pledge shall be valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the developer irrespective of whether the parties have notice thereof. Neither the redevelopment incentive grant agreement nor any other instrument by which a pledge under this section is created need be filed or recorded except with the authority.

(cf: P.L.2018, c.44, s.3)

27. (New section) Sections 27 through 37 of P.L.   , c.   (C.   ) (pending before the Legislature as this bill) shall be known and may be cited as the “New Jersey Community-Anchored Development Act.”

28. (New section) The purpose of the New Jersey Community-Anchored Development Act is for the New Jersey Economic Development Authority to facilitate, in partnership with the State’s key not-for-profit and governmental anchor institutions, large-scale development projects with desirable employment and geographical characteristics that are to impact a broader community. The Legislature finds that where a broad commonality of goals exists

between anchor institutions and the State, the authority can effectively utilize anchor institutions as investors in, and additional overseers of, projects that the authority seeks to incentivize. Under the legislation, anchor institutions in the areas of education, health care, culture, community development, and economic development are provided with the opportunity to act as investors in targeted development, utilizing proceeds from the sale of State tax credits. This approach harnesses the deep experience of the numerous anchor institutions in the State, institutions that enjoy decades-long relationships with communities around the State, making them ideal partners for companies wanting to come to or expand in New Jersey.

The legislation seeks to overcome cost-of-occupancy differences between New Jersey and less expensive options in other jurisdictions for specific properties by reducing the cost of occupancy being offered to a targeted company. The legislation represents a shift in State economic development policy from a grant model to an investment model, differing significantly from past award models in that the legislation does not provide a certain dollar amount to private employers based on the number and types of jobs being created or preserved in the State.

The legislation affords an opportunity for an anchor institution and the authority to become partners in a project, with the authority receiving a negotiated current or deferred economic return on the tax credit investment made by the anchor institution and ultimately the return of the amount initially invested. Through a competitive application process to the authority, a real estate partnership between an anchor institution and a partner business will make its case for an amount of tax credits necessary for that project to be able to establish occupancy costs at a competitive level.

By its inclusion of designated federal opportunity zones and areas eligible to be designated as federal opportunity zones as a separate basis for projects to receive tax credits, the legislation seeks to incentivize anchor institutions to look beyond the borders of their host communities, permitting them to invest in other locales that lack strong anchor institutions, thus expanding their influence and impact by doing so. Simultaneously, such investments will further the objectives of the State in attracting high-value employers and in providing economic stimulus to areas of the State that prior investment cycles have overlooked. The legislation is also expansive enough to permit the addition of other beneficial uses to a qualifying project; including housing, public amenities, parking, mixed uses, and facilities of an anchor institution itself.

The tax credits issued by the authority to an applicant anchor institution are to be issued pursuant to a tax credit agreement that sets forth negotiated terms on which the authority has agreed to issue the credits. The tax credit agreement is to include standards relating to the anticipated economic results of the community-anchored project and address accountability in the event that the community-anchored project fails to meet the requirements specified in the tax credit agreement.

The Legislature declares that two principal objectives underscore the policy approach of this legislation: first, an incentive program cannot succeed as a one-size-fits-all structure, and therefore an award of tax credits is to be thoroughly underwritten by the authority and specifically designed for scenarios in which the authority finds that the award will be effective; and second, the State is better served where the State's financial support is characterized and treated as an investment rather than an explicit grant.

29. (New section) As used in sections 27 through 37 of P.L. , c. (C.) (pending before the Legislature as this bill):

"Affiliate" means an entity that directly or indirectly controls, is under common control with, or is controlled by an anchor institution or a partner business. Control exists in all cases in which the entity is a member of a controlled group of corporations as defined pursuant to section 1563 of the federal Internal Revenue Code (26 U.S.C. s.1563) or the entity is an organization in a group of organizations under common control that is subject to the regulations applicable to organizations pursuant to subsection (b) or (c) of section 414 of the federal Internal Revenue Code (26 U.S.C. s.414). A taxpayer may establish by clear and convincing evidence, as determined by the Director of the Division of Taxation in the Department of the Treasury, that control exists in situations involving lesser percentages of ownership than required by the above referenced federal statutes.

"Anchor institution" means a governmental or nonprofit entity, incorporated pursuant to Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes, having a primary mission and specific policy goals that align with those of the authority under the program and that is a comprehensive health care system, a public research university, a private research university, a major cultural institution, or an experienced nonprofit or governmental economic or community development entity, certified as an anchor institution by the board pursuant to section 32 of P.L. , c. (C.) (pending before the Legislature as this bill).

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

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

"Commitment period" means the period of time, which shall be no greater than twice the eligibility period, that is granted to an anchor institution to distribute to the authority the agreed returns on investment for the award of tax credits pursuant to the program, but the commitment period shall be not less than 10 years.

"Community-anchored project" means any capital project that is located in an area that is designated as a New Jersey State opportunity zone or is designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan), or Planning Area 2 (Suburban) for which an anchor institution is to be awarded tax credits by the authority pursuant to a tax credit agreement which establishes the award of tax credits as an investment by the authority in the project, provided that the project will result in a capital investment of at least $10,000,000 in a New Jersey State opportunity zone or in any other area of the State, but a project that is not located in a New Jersey State opportunity zone is to be primarily designed to result in the economic expansion of a targeted industry in this State.

"Comprehensive health care system" means an entity in this State that offers comprehensive health care services.

"Comprehensive health care services" means the basic benefits provided under a health benefits plan, including medical and surgical services provided by licensed health care providers who may include, but are not limited to, family physicians, internists, cardiologists, psychiatrists, rheumatologists, dermatologists, orthopedists, obstetricians, gynecologists, neurologists, endocrinologists, radiologists, nephrologists, emergency services physicians, ophthalmologists, pediatricians, pathologists, general surgeons, osteopathic physicians, physical therapists and chiropractors. Basic benefits may also include inpatient or outpatient services rendered at a licensed hospital, covered services performed at an ambulatory surgical facility, and ambulance services.

“Director” means the Director of the Division of Taxation in the Department of the Treasury.

"Eligibility period" means the period in which an anchor institution may claim, sell, transfer, or otherwise use a tax credit under the New Jersey Community-Anchored Development Program, beginning with the tax period in which the authority accepts certification of the business that it has met the capital investment requirements of the program and extending thereafter for a term of not more than 10 years.

"Experienced nonprofit or governmental economic or community development entity" means a nonprofit entity incorporated pursuant to Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes that has a core mission and a community track record of advancing economic or community development in at least one area of the State and that has appropriate prior experience in successfully developing mixed-use projects and utilizing complex financing arrangements in developing similar types of projects, as determined by the board.

"Major cultural institution" means a public or nonsectarian nonprofit institution within this State that engages in the cultural, intellectual, scientific, environmental, educational, or artistic enrichment of the people of this State, and which is designated by the board as a major cultural institution.

"New full-time job" means an eligible position created by an anchor institution or a partner business at the community-anchored project that did not previously exist in this State. For the purposes of determining a number of new full-time jobs, the eligible positions of an affiliate shall be considered eligible positions of the business.

"New Jersey State opportunity zone" means a federal population census tract in this State that was eligible to be designated as a qualified opportunity zone pursuant to 26 U.S.C. s.1400Z-1.

"Partner business" means any corporation, partnership, firm, enterprise, franchise, association, trust, sole proprietorship, or other legal entity, but shall not include a public entity that enters into an agreement with an anchor institution to rent and occupy commercial space within a community-anchored project. Under the program a partner business, subject to agreement with the anchor institution, may lease one or more portions of the partner business's space in the community-anchored project to one or more other persons or entities.

"Private research university" means Princeton University and any other institution of higher education in this State designated by the board as a private research university.

"Program" means the New Jersey Community-Anchored Development Program established pursuant to section 30 of P.L. , c. (C.) (pending before the Legislature as this bill).

"Public research university" means Rutgers, The State University of New Jersey, Rowan University, the New Jersey Institute of Technology, and Montclair State University.

"Qualified business accelerator or incubator facility" means a commercial space that contains office, laboratory, or industrial space and which is located near, and presents opportunities for collaboration with a public research university, a private research university, teaching hospital, college, or university, and within which at least 50 percent of the gross leasable area is restricted for use by one or more targeted industry start-up companies during the commitment period.

"Targeted industry" means any industry identified from time to time by the authority including initially, biotechnology, life sciences, pharmaceuticals, aeronautics, clean energy, advanced manufacturing, large-scale food and beverage production, advanced transportation and logistics, finance, financial technology, insurance, media, information technology, machine learning, and artificial intelligence.

"Tax credit agreement" means a tax credit agreement entered into pursuant to section 34 of P.L. , c. (C.) (pending before the Legislature as this bill) between the authority and an anchor institution.

"Workforce housing" means housing that is affordable according to federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs, and occupied or reserved for occupancy by households with a gross household income of more than 80 percent, but less than 120 percent, of the median gross household income for households of the same size within the housing region in which the housing is located.

30. (New section) a. The New Jersey Community-Anchored Development Program is established as a program under the jurisdiction of the New Jersey Economic Development Authority. The purpose of the New Jersey Community-Anchored Development Act is for the New Jersey Economic Development Authority to facilitate, in partnership with the State's key governmental and nonprofit anchor institutions, large-scale development projects with desirable employment and geographical characteristics that are to impact a broader community. The authority shall administer the program to invest in and incentivize the expansion of targeted industries in the State and the continued development of certain areas of the State through the provision of tax credits to anchor institutions. The board shall certify qualified anchor institutions based on the requirements of section 31 of P.L. , c. (C.) (pending before the Legislature as this bill), and may approve the award of a tax credit to an anchor institution pursuant to sections 32 and 33 of P.L. , c. (C.) (pending before the Legislature as this bill).

b. (1) The authority shall administer the program to invest in, and incentivize the establishment of, community-anchored projects by anchor institutions, independently or in collaboration with one or more partner businesses or governmental entities. The authority's investment in community-anchored projects shall be in the form of the award of tax credits to anchor institutions.

(2) The authority may award a tax credit to an anchor institution under the program, which the anchor institution shall convert into an investment by the authority in a community-anchored project, subject to the condition that the anchor institution either sell and transfer the tax credit, or adopt a plan to use the tax credit in order to finance the completion of the community-anchored project, which condition shall be included in the tax credit agreement entered into pursuant to section 34 of P.L. , c. (C.) (pending before the Legislature as this bill). An anchor institution receiving tax credits under the program shall use the proceeds derived from the sale or financing of the tax credits to make an

equity investment in or to provide a loan or other financial support for the community-anchored project that will permit the anchor institution, and, if applicable, a partner business, to develop the community-anchored project and to attract tenants, owners, investors, lenders, partners, collaborators, and other beneficial parties to the community-anchored project. A tax credit agreement, entered into pursuant to section 34 of P.L. , c. (C.) (pending before the Legislature as this bill) shall detail the terms by which an anchor institution will convert the award of tax credits into an investment by the authority into the community-anchored project, subject to potential returns on the investment to the authority based on an agreed-upon formula for the distribution of returns upon the sale of a community-anchored project or at the end of the commitment period. The tax credit agreement shall, however, specify that the authority's interest in the community-anchored project shall be subordinate to the investments made by an anchor institution and partner businesses. References to investments and returns in sections 31 through 36 of P.L. , c. (C.) (pending before the Legislature as this bill) shall also include loans and other financial support and their corresponding returns.

(3) The authority shall develop protocols for assumptions testing relating to projected and actual returns on investment under the program and regularly analyze the returns on investment received by the authority under the program, and shall evaluate future applications and projections considering the results of the assumptions testing and analysis.

c. There shall be no annual or overall program limitation on the value of tax credits approved by the authority to be awarded pursuant to sections 32 and 33 of P.L. , c. (C.) (pending before the Legislature as this bill), but the authority shall engage in rigorous program evaluation and assumptions testing to ensure that the authority at least recaptures the value of the tax credits awarded to all anchor institutions and realizes additional returns on investment under the program.

d. Any funds distributed to the authority as a return on investment pursuant to the program shall be deposited into the General Fund.

31. (New section) a. An anchor institution shall be eligible to receive a tax credit under the program only if the anchor institution submits a program application to the authority that results in completion of a community-anchored project through a capital investment in a New Jersey State opportunity zone or, if the community-anchored project is primarily designed to result in the economic expansion of a targeted industry in this State, in an area of the State designated pursuant to the "State Planning Act,"

P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan), or Planning Area 2 (Suburban).

b. At the time of application, an anchor institution seeking tax credits pursuant to the program shall demonstrate to the authority:

(1) that the proposed community-anchored project will result in a capital investment in a New Jersey State opportunity zone or, if the project is primarily designed to result in the economic expansion of a targeted industry in this State, in an area of the State designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan), or Planning Area 2 (Suburban);

(2) the structure and terms of the financial, corporate, and real estate instruments to be utilized to successfully complete and then operate the community-anchored project, including, but not limited to, the proposed economic and business relationship between the anchor institution and any partner business;

(3) that the anchor institution, along with any partner business participating in a community-anchored project, has not commenced any construction at the site of the community-anchored project prior to submitting an application, unless the authority determines that the community-anchored project would not be completed otherwise or, in the event the community-anchored project is to be undertaken in phases, the requested tax credit covers only phases for which construction has not yet commenced;

(4) the value of the tax credit that is necessary in each year of the eligibility period, in order for the anchor institution to finance the establishment of the community-anchored project;

(5) the total aggregate value of the tax credit for the entire eligibility period that is necessary in order for the anchor institution to finance the establishment of the community-anchored project;

(6) that the award of tax credits under the program will be converted into an investment by the authority into the community-anchored project and demonstrate to the authority the anticipated current and deferred returns, as applicable, on that investment;

(7) that the community-anchored project shall comply with the standards established by the authority through regulation based on the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L.2007, c. 132 (C.52:27D-130.6), regarding the use of renewable energy, energy-efficient technology, and non-renewable resources in order to reduce environmental degradation and encourage long-term cost reduction;

(8) that the community-anchored project shall comply with the authority's affirmative action requirements, adopted pursuant to section 4 of P.L.1979, c.303 (C.34:1B-5.4);

(9) a description of the significant economic, social, planning, employment, environmental, fiscal and other benefits that would

accrue to the State, county or municipality from the community-anchored project;

(10) that each worker and subcontractor working on construction of the community-anchored project prior to the start of the eligibility period shall be paid not less than $15 per hour or 120 percent of the minimum wage fixed under subsection a. of section 5 of P.L.1966, c.113 (C.34:11-56a4), whichever is higher;

(11) that during the eligibility period, each worker employed to perform construction work and building services work at the community-anchored project shall be paid not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.). In the event the community-anchored project constitutes a lease of more than 55 percent of a single facility, these requirements shall apply to the entire facility;

(12) the extent to which the community-anchored development will result in the expansion of a targeted industry in this State;

(13) that the timing of the award and investment of tax credits under the program shall allow for the successful completion and operation of the community-anchored project; and

(14) that the community-anchored project is viable and that the anchor institution is a credible partner for completing the community-anchored project and providing the agreed-upon returns to the authority, as detailed in the tax credit agreement entered into pursuant to section 36 of P.L. , c. (C.) (pending before the Legislature as this bill).

c. In order to facilitate the creation of new partnerships with anchor institutions, the authority shall publish on the authority's website a list of names and contact information for each anchor institution that has submitted an application pursuant to this section.

32. (New section) a. Prior to January 1, 2026, an anchor institution seeking a tax credit pursuant to the program shall submit an application to the authority in a form and manner prescribed in regulations adopted by the authority pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The authority shall accept and certify applications for tax credits during the award rounds established pursuant to section 35 of P.L. , c. (C.) (pending before the Legislature as this bill).

b. The authority shall not consider an application for a community-anchored project unless the anchor institution submits, with the application, a letter evidencing support for the community-anchored project from the governing body of the municipality in which the community-anchored project is located.

c. The authority shall review the project costs for a proposed community-anchored project and evaluate and validate the underlying financial structure proposed by the anchor institution. The authority shall conduct a State fiscal impact analysis to ensure that the overall value of tax credits provided to the community-anchored project is projected to result in net benefits to the State, taking into account the current and deferred returns to the authority. The authority shall assess the cost of these reviews to the applicant. An anchor institution shall pay to the authority the full amount of the direct costs of an analysis concerning the anchor institution's application for tax credits that a third party retained by the authority performs, if the authority deems such retention to be necessary.

d. If at any time during the eligibility period the authority determines that an anchor institution made a material misrepresentation on the program application, the anchor institution shall forfeit or repay to the authority the value of tax credits associated with that application.

33. (New section) a. The authority shall award tax credits under the program through a competitive application process consisting of up to two award rounds each year. The authority shall provide notice to the public of the opening and closing dates for submission of program applications on the authority's Internet website.

b. (1) The authority shall review applications for tax credits submitted to the authority by the deadline date of the award round and shall evaluate each application as if it were received on the deadline date, without providing any preference for early submissions. To determine priority for an award of a tax credit, all applications for community-anchored projects that satisfy the criteria set forth in sections 31 and 34 of P.L. , c. (C.) (pending before the Legislature as this bill) in a given award round shall be ranked on the basis of a scoring system developed by the authority through regulations adopted pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Prior to the commencement of an award round, the authority shall determine the minimum score for the award round that an anchor institution must attain to be eligible for a tax credit.

(2) The authority may establish different criteria for community-anchored projects that are located in a New Jersey State opportunity zone and community-anchored projects that are primarily designed to result in the economic expansion of a targeted industry in this State.

c. The scoring system developed by the authority pursuant to subsection b. of this section shall assess applications for tax credits based on the following competitive criteria, which shall include, but shall not be limited to:

(1) the amount of tax credit requested by the anchor institution compared to the overall investments required for the completion of the community-anchored project, along with the amount of the

potential return on the authority's investment of tax credits to the State by the end of the commitment period, the amount of the tax credit, if any, that is unlikely to be realized as a return on investment paid back to the State, and the proposed terms and structure for the authority's investment in the project, including applicable current and deferred returns;

(2) the financial benefit of the community-anchored project to the community in which the community-anchored project will be located;

(3) apprenticeships or workforce programs to be offered because of the community-anchored project;

(4) the ability of the community-anchored project to absorb and adapt to changing environmental conditions and deliver its objectives;

(5) how the community-anchored project will advance State, regional, and local development and planning strategies;

(6) the relationship of the community-anchored project to a comprehensive local development strategy, including its relation to other development and redevelopment projects in the municipality;

(7) the degree to which the community-anchored project enhances and promotes job creation and economic development;

(8) the extent of economic and related social distress in the municipality and the immediate area surrounding the community-anchored project;

(9) the extent to which the community-anchored project provides for the development of workforce housing;

(10) the extent to which the community-anchored project constitutes the expansion of the anchor institution to different areas of the State;

(11) the extent to which the community-anchored project provides for infrastructure, parking, retail, green space, or other public amenities creating a mixed-use community-anchored project;

(12) the inclusion of a qualified business accelerator or incubator facility as a part of the community-anchored project;

(13) the length of the commitment period for the community-anchored project;

(14) the quality and number of new full-time jobs that will be created by the anchor institution or any partner business at the community-anchored project; and

(15) the quality and number of existing full-time jobs that will be retained by the anchor institution or a partner business in the State as a result of completing the community-anchored project, with the criteria specifying, in scoring the application, that the retention of an existing full-time job shall be given not more than one-third the weight of a new full-time job of a similar quality.

d. Notwithstanding the provisions of subsection c. of this section, the authority may adopt, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations adjusting competitive criteria required under the program when necessary to respond to the prevailing economic conditions in the State.

e. Prior to the award of a tax credit to an anchor institution to be converted into an authority investment in a community-anchored project, the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury shall each report to the chief executive officer of the authority as to whether the anchor institution, along with any partner business identified in a program application, is in good standing with the respective department. Provided that all parties included under the application are in good standing, the authority shall allocate tax credits to community-anchored projects according to the community-anchored project's score and until either the available tax credits are exhausted or all community-anchored projects obtaining the minimum score receive a tax credit, whichever occurs first. If insufficient funding exists to fully fund all eligible community-anchored projects, a community-anchored project may be offered partial funding.

f. Applications that do not receive the minimum score established by the authority for that award round shall not receive further consideration for a tax credit by the authority in that award round; however, an anchor institution may revise or complete a new application to be submitted in a subsequent award round.

g. If an anchor institution declines a tax credit offered by the authority, the authority shall offer the tax credit to the applicant with the application having the next highest score, and having obtained at least the minimum score in that award round.

34. (New section) a. Following approval and selection of an application pursuant to sections 32 and 33 of P.L. , c. (C.) (pending before the Legislature as this bill), the authority shall enter into a tax credit agreement with the anchor institution. The chief executive officer of the authority shall negotiate the terms and conditions of the tax credit agreement on behalf of the State.

b. (1) A tax credit agreement shall specify the amount of the tax credit that the authority shall award to the anchor institution for conversion into an authority investment and specify the duration of the eligibility period, which shall not exceed 10 years. The tax credit agreement shall provide an estimated date of completion for the community-anchored project and include a requirement for periodic progress reports through completion, including the submittal of executed financing commitments and documents or agreements that evidence site control.

(2) If, as a result of a default under the tax credit agreement, the authority rescinds a tax credit in the same calendar year in which the authority approved the tax credit, then the authority may assign the tax credit to another applicant that attained the minimum score

determined pursuant to section 33 of P.L. , c. (C.) (pending before the Legislature as this bill).

c. The terms of the tax credit agreement shall:

(1) provide for a verification of project financing at the time the anchor institution and any partner business provides executed financing commitments to the authority and a verification of the anchor institution's projected cash flow at the time of certification that the project is completed;

(2) specify the length of the commitment period for the community-anchored project and the terms by which the anchor institution shall provide current or deferred returns to the authority and commit to a structure for returns on investment;

(3) allow the anchor institution to distribute returns on investment to the authority for the tax credits in the amount specified in the tax credit agreement at any time within the commitment period, but require such distribution to occur if the community-anchored project is sold before the end of the commitment period;

(4) specify amounts of returns to be retained by the anchor institution for capital reserves, programming, or other purposes;

(5) identify the value of any monetary or financial benefit offered or provided by the anchor institution to any partner business that works with the anchor institution to complete and operate the community-anchored project;

(6) identify any benefits created by the anchor institution for a partner business through equity investment in or debt-financing of a community-anchored project and specify the formula by which such benefits are passed through to a partner business;

(7) specify that the authority or the State may purchase tax credits offered for sale by an anchor institution for 90 percent of the stated value of the tax credit before considering any further discounting to present value which shall be permitted;

(8) at a minimum, require an anchor institution to provide oversight of the community-anchored project through ongoing reporting by a partner business to the anchor institution, and subsequent ongoing reporting by the anchor institution to the authority;

(9) specify other measures through which the authority shall ensure rigorous oversight of outstanding tax credit investments, and, in the event that an anchor institution fails to meet its obligations under the tax credit agreement or any program requirement, establish the right of the authority to assume direct oversight of any or all projects for which the anchor institution has entered into investment agreements and require the anchor institution to pursue any remedies it may have against a partner business; and

(10) at a minimum, require that the anchor institution, and any partner businesses, adopt specific nondiscrimination policies for the operation of a community-anchored project.

d. The tax credit agreement shall include a requirement that the chief executive officer of the authority receive annual reports from the Department of Environmental Protection, the Department of Labor and Workforce Development, and the Department of the Treasury demonstrating that the anchor institution and any partner business are in good standing with that department and the tax credit agreement shall include a provision that the anchor institution shall forfeit the tax credit in any year in which an uncured default exists under the tax credit agreement.

e. An anchor institution shall, as required at the discretion of the authority, submit to the authority satisfactory evidence of actual project costs, as certified by a certified public accountant, evidence of a temporary certificate of occupancy, or other event evidencing project completion. The anchor institution, or an authorized agent of the anchor institution, shall certify under the penalty of perjury that the information provided pursuant to this subsection is true.

35. (New section) a. Up to the limits established in subsection b. of this section and in accordance with a tax credit agreement, beginning upon the receipt of occupancy permits for any portion of the community-anchored project, or upon any other event evidencing project completion as set forth in the tax credit agreement, an anchor institution of an approved community-anchored project shall be awarded a base tax credit of $5,000,000 for conversion into an authority investment in the community-anchored project.

b. An anchor institution may be allowed a tax credit in excess of the base amount, if approved by the authority, provided, however, the total tax credit allowed per community-anchored project shall not exceed $100,000,000.

36. (New section) a. An anchor institution that is awarded a tax credit under sections 32 and 33 of P.L. , c. (C.) (pending before the Legislature as this bill) shall, commencing in the year in which the tax credit is awarded, and each year thereafter for the remainder of the eligibility period, submit a report indicating whether the anchor institution is aware of any condition, event, or act that would cause the anchor institution not to be in compliance with the tax credit agreement or the provisions of sections 27 through 37 of P.L. , c. (C.) (pending before the Legislature as this bill) and any additional reporting requirements contained in the tax credit agreement or tax credit certificate. The anchor institution, or an authorized agent of the anchor institution, shall certify under the penalty of perjury that the information provided pursuant to this subsection is true.

b. (1) Upon receipt and review of each report submitted during the eligibility period, the authority shall provide to the anchor institution and the Director of the Division of Taxation in the Department of the Treasury a certificate of compliance indicating the amount of tax credits awarded to the anchor institution for conversion into an authority investment in the community-anchored project, that the anchor institution may:

(a) offer for sale through the provision of a tax credit transfer certificate pursuant to section 37 of P.L. , c. (C.) (pending before the Legislature as this bill); or

(b) use as collateral or to secure any financial instrument approved by the authority to provide financing for the community-anchored project, if that use is in accordance with rules and regulations adopted by the authority, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to govern the use of program tax credits.

(2) Upon receipt by the director of the certificate of compliance, the director shall coordinate with the anchor institution and the authority to provide the anchor institution with a tax credit transfer certificate, as described in section 37 of P.L. , c. (C.) (pending before the Legislature as this bill), or a tax credit certificate for the value awarded by the authority for that year that the anchor institution may use as provided in paragraph (1) of this subsection b. and in accordance with the rules adopted pursuant to subparagraph (b) of paragraph (1) of this subsection.

37. (New section) a. An anchor institution may apply to the director and the chief executive officer of the authority for a tax credit transfer certificate, covering one or more years. The tax credit transfer certificate, upon receipt thereof by the anchor institution from the director and the chief executive officer of the authority, may be sold or assigned, in full or in part, in the privilege period during which the anchor institution receives the tax credit transfer certificate from the director, to another person, who may apply the credit against a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5.

b. The anchor institution shall not sell or assign, including a collateral assignment, a tax credit transfer certificate allowed under this section for consideration received by the anchor institution of less than 75 percent of the transferred credit amount before considering any further discounting to present value which shall be permitted. The tax credit transfer certificate issued to an anchor institution by the director shall be subject to any limitations and conditions imposed on the application of State tax credits pursuant to sections 34 and 35 of P.L. , c. (C.) (pending before the

Legislature as this bill) and any other terms and conditions that the director may prescribe.

c. A purchaser or assignee of a tax credit transfer certificate pursuant to this section may make any subsequent transfers, assignments, or sales of a tax credit transfer certificate for an amount to be negotiated with a subsequent purchaser or assignee.

d. The authority shall publish on its Internet website the following information concerning each tax credit transfer certificate approved by the authority and the director pursuant to this section:

(1) the name of the transferor;

(2) the name of the transferee;

(3) the value of the tax credit transfer certificate; and

(4) the consideration received by the transferor.

38. a. Sections 1 through 7, and sections 16 through 25 of this act shall take effect on July 1, 2020, except that the New Jersey Economic Development Authority may take any anticipatory administrative action in advance thereof as shall be necessary for the implementation of sections 1 through 7 and sections 16 through 25 of P.L. , c. (C.) (pending before the Legislature as this bill).

b. Sections 8 through 15 of this act shall take effect on the first day of the seventh month next following enactment, except that the New Jersey Economic Development Authority and the Division of Alcoholic Beverage Control in the Department of Law and Public Safety may take any anticipatory administrative action in advance thereof as shall be necessary for the implementation of sections 8 through 15 of P.L. , c. (C.) (pending before the Legislature as this bill).

c. Sections 27 through 37 of this act shall take effect on the first day of the seventh month next following enactment, except that the New Jersey Economic Development Authority may take any anticipatory administrative action in advance thereof as shall be necessary for the implementation of sections 27 through 37 of P.L. , c. (C.) (pending before the Legislature as this bill).

STATEMENT

<u>Grow New Jersey Assistance Program</u>

Sections 1 through 7 of the bill provides certain reductions, expansions, and simplifications to the ability of a business to qualify for tax credits awarded under the Grow New Jersey Assistance (Grow) Program administered by the New Jersey Economic Development Authority (authority).

The bill makes certain reductions to GROW as follows:

The bill lowers the per-job annual award base amount to:

(1) $4,000 for projects in a Garden State Growth Zone (GSGZ), Garden State Create Zone (GSCZ), Urban Transit Hub (UTH) municipality, or for a mega project;

(2) $3,500 for projects in a distressed municipality; and

(3) $2,500 for projects in a priority area.

The bill reduces the maximum annual base plus bonus award per job amounts to:

(1) $10,000 for a mega project and projects in a GSGZ;

(2) $7,000 for projects in an UTH municipality, a distressed municipality, and a GSCZ;

(3) $4,000 for projects in a priority area; and

(4) $3,000 for other eligible areas.

The bill reduces the maximum annual award per project to:

(1) $15,000,000 for projects in a GSGZ;

(2) $7,500,000 for projects in a UTH municipality or GSCZ;

(3) $5,000,000 for projects in a distressed municipality;

(4) $3,000,000 for projects in a priority area; and

(5) $2,000,000 for projects in other eligible areas.

The bill makes certain expansions to GROW by:

(1) extending the deadline for authority acceptance of applications to the program to June 30, 2026;

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

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

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

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

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

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

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

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

The bill provides for procedural simplifications for businesses qualified under GROW by:

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

(2) simplifying the process for adding affiliates of the business assuming the business provides to the authority a clear tax account, clean legal questionnaire response, and clear evidence of affiliate relationship; and

(3) simplifying the process for a name change of a business.

The bill provides for a tiered net benefits test an amount ranging from 200 to 400 percent of the requested award amount by project location type.

The bill adds a definition of "labor harmony agreement" and has the agreement apply to retail and distribution businesses, and adds definitions for "qualified incentive tract" and "small business."

The bill requires prevailing wage requirement for construction whenever a tenant fit-out is less than 35 percent of capital investment in a qualified business facility.

The bill removes a capital investment minimum for a small business in targeted industry and allows a small business in a targeted industry to move its qualified business facility location to another location within the State.

The bill removes all exceptions of award ineligibility related to a grocery store or supermarket of at least 150,000 square feet in a GSGZ. The bill removes the provision of a bonus award for projects located within a transit oriented development.

The bill changes from 20 to seven the number of successive tax periods the award amount may be carried forward for use by the tax certificate holder.

<u>Food Desert Elimination Program</u>

Sections 8 through 15 of the bill, designated as the "Food Desert Elimination Act," establishes the Food Desert Elimination Program (FDE program) and requires the authority to administer the FDE program. The bill further requires the authority, in consultation with the Department of Agriculture, to initially designate no more than 75 physical boundaries of food desert communities in the State.

The FDE program provides tax credits to certain supermarkets and grocery stores that newly open in food desert communities. Under the FDE program, a taxpayer that opens the first supermarket or grocery store in each designated food desert community after the bill's effective date will be allowed a credit against certain taxes due, in an amount equal to the total amount the taxpayer is assessed in property taxes by the municipality in which the supermarket or grocery store is located, during the first full tax year for the property where the supermarket or grocery store is open for business to the public, and for the three subsequent tax years after opening.

<u>New Jersey Economic Development Authority Chief Compliance Officer</u>

Section 16 of the bill requires the authority to employ a Chief Compliance Officer, who is to be appointed by the Chief Executive Officer of the authority to manage the Division of Portfolio Management and Compliance in the authority. The Chief Compliance Officer, in addition to other responsibilities provided in the bill, is to create, maintain, monitor, and coordinate procedures to ensure that all economic development incentive programs, authority employees, and economic development incentive program applicants and recipients comply fully with the requirements of the corresponding economic development incentive program.

<u>Transformative Project Incentive Program</u>

Sections 17 through 25 of the bill, designated as the "Transformative Project Incentive Act" establishes the Transformative Project Incentive Program (TPI program) and requires the authority to administer the TPI program. The TPI program is designed to address the special financial challenges and economic development importance of large-scale multi-phased mixed use redevelopment projects consisting of at least 500,000 or more square feet; comprised of a mix of new or substantially-renovated commercial and residential space; and which is determined by the authority to be of special economic importance as measured by the level of new jobs, new capital investment, and opportunities to leverage leadership in a high-priority targeted industry. To be eligible, projects must document that the project is not feasible without the "gap-closer" assistance requested under the TPI program and that the implementation of the proposed project will result in a "net benefit" to the state.

The calculation of net benefits for such projects would be limited to that based on the capital investment in the development, but excluding any potential future economic benefits that would result from the occupancy and employment generated by future business tenants that may independently seek job-creation tax credits, thus avoiding the potential for double counting of benefits and assuring the State a positive overall return on the overall investment.

The maximum tax credit amount would be limited to the minimum amount that the applicant can document as needed to close project financial feasibility gap, up to a maximum of 30 percent of total project cost. The total amount of tax credits that can be award under this program is capped at $500 million. Applications are subject to an annual competitive application process, for which applications must be submitted prior to January 1, 2026.

<u>Economic Redevelopment and Growth Grant Program</u>

Section 26 amends the commercial provisions of the Economic Redevelopment and Growth Grant (ERGG) Program such that for projects receiving aggregate incentive grants equal to or greater than $25 million that achieve an actual return on equity greater than the anticipated return approved by the authority, the authority may specify, in the redevelopment incentive grant, the amount of redeveloper payments, if any, due to the State including, at authority discretion, a portion of the incremental return of up to 25 percent of the actual incremental return.

<u>Community-Anchored Development Program</u>

Sections 27 through 37 of the bill establish the New Jersey Community-Anchored Development Program (CAD program) as a program under the jurisdiction of the authority to incentivize the expansion of targeted industries in certain areas of the State and the development in New Jersey opportunity zones through the provision of tax credits to anchor institutions to be converted into authority investments in community-anchored projects in the State.

Under the bill, an anchor institution is required to be a governmental or nonprofit entity that is a comprehensive health care system, a public research university, a private research university, a major cultural institution, or an experienced nonprofit economic or community development entity. For a project to qualify for the receipt of tax credits under the CAD program, the community-anchored project is required to be a capital project developed by an anchor institution or a partner business in a New Jersey State opportunity zone or in other specified areas of the State, but if the project is not located in a New Jersey State opportunity zone, the project is to be primarily designed to result in the economic expansion of a targeted industry in this State.

For the purposes of the bill, a New Jersey opportunity zone is any census tract in the State that was eligible to be nominated as a qualified opportunity zone, under the federal "Tax Cuts and Jobs Act of 2017," Pub.L.115-97, and targeted industry includes any industry identified from time to time by the authority including initially, biotechnology, life sciences, pharmaceuticals, hemp processing, aeronautics, clean energy, advanced manufacturing, large-scale food and beverage production, advanced transportation and logistics, finance, financial technology, insurance, media, information technology, machine learning, and artificial intelligence.

The bill provides that anchor institutions may apply for tax credits under the CAD program, and details the necessary components and demonstrations required pursuant to an application. Under the program, an anchor institution is permitted, as detailed in the bill, to sell tax credits received pursuant to the CAD program or use the tax credits as collateral or as a financial instrument to provide for the financing of a community-anchored project. Under the bill, an anchor institution is required to submit an application prior to July 1, 2027 in order to receive a tax credit under the CAD program. The bill also requires that an applicant demonstrate that construction and building services workers at a community-anchored project be paid in accordance with prevailing wage standards.

The bill provides that there are no overall limits on the award of tax credits under the CAD program, but requires that the authority engage in rigorous program evaluation and assumptions testing to ensure that the authority at least recaptures the value of the tax credits awarded to all anchor institutions and realizes additional returns on investment under the CAD program. The bill specifies that community-anchored projects financed solely by governmental or nonprofit entity investments are to be considered differently from other projects and are not required to provide authority with additional returns on investment. The tax credits are to be awarded through a competitive application and scoring process with two award rounds to be scheduled by the authority each year. The bill requires that each community-anchored development under the CAD program involve a capital investment of at least $10 million. The bill also requires the authority to establish criteria for scoring program applications and to establish, for each award round, a minimum score required for the authority to approve an application for the award of tax credits. The bill requires that tax credit awards under the CAD program equal at least $5 million and limits the award of tax credits for any one community-anchored development to $100 million. Under the bill, and subject to the provisions of the underlying tax credit agreement, an anchor institution is required to distribute returns on the tax credit investment to the authority by the end of a commitment period specified in the tax credit agreement or at the time of sale of the community-anchored project. The authority is required to deposit into the General Fund of the State, the moneys received pursuant to the CAD program.

The bill requires that tax credits awarded to an anchor institution be provided pursuant to a tax credit agreement. A tax credit agreement is required to include certain provisions and commitments, as detailed in the bill. Prior to awarding a tax credit for community-anchored project, the Department of Labor and Workforce Development, the Department of Environmental

Protection, and the Department of the Treasury shall each report to the Chief Executive Officer of the authority whether the anchor institution, along with any partner business included in an application, is in good standing with the respective department. The bill establishes a method for awarding tax credits under the CAD program, based on the relative scores of individual applications.

An anchor institution is required to submit to the authority satisfactory evidence of actual project costs, evidence of a temporary certificate of occupancy, or other event evidencing project completion. The bill also requires an anchor institution to submit certain other information at regular intervals, as described in the bill.