

[First Reprint]

## **ASSEMBLY, No. 4840**

# **STATE OF NEW JERSEY**

## **219th LEGISLATURE**

INTRODUCED OCTOBER 19, 2020

**Sponsored by:**

**Assemblyman JOHN J. BURZICHELLI**

**District 3 (Cumberland, Gloucester and Salem)**

**Assemblyman DANIEL R. BENSON**

**District 14 (Mercer and Middlesex)**

**Assemblyman THOMAS P. GIBLIN**

**District 34 (Essex and Passaic)**

**Co-Sponsored by:**

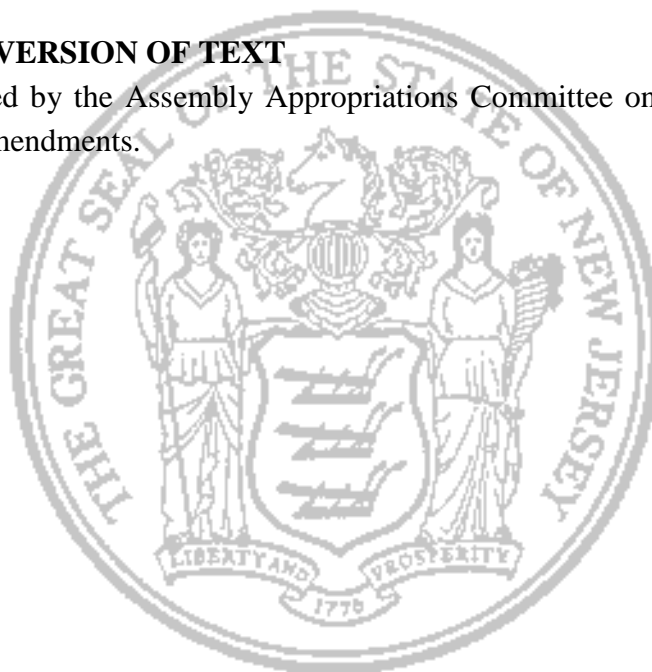
**Assemblymen Moen and Dancer**

### **SYNOPSIS**

Provides temporary corporation business tax and gross income tax credits for job creation related to manufacturing of personal protective equipment.

### **CURRENT VERSION OF TEXT**

As reported by the Assembly Appropriations Committee on December 14, 2020, with amendments.



**(Sponsorship Updated As Of: 12/14/2020)**

1 AN ACT providing temporary corporation business tax and gross  
2 income tax credits for job creation related to manufacturing of  
3 personal protective equipment, supplementing P.L.1945, c.162  
4 and Title 54A of the New Jersey Statutes.

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

8  
9 <sup>1</sup>[1. a. For privilege periods ending in 2020, 2021, and 2022, a  
10 taxpayer, upon approval of an application to the director shall be  
11 allowed a credit against the tax imposed pursuant to section 5 of  
12 P.L.1945, c.162 (C.54:10A-5) in the amount of \$10,000 for each  
13 qualifying new hire involved in the manufacture of personal  
14 protective equipment in the State during the privilege period.

15 b. The total credit allowed to a taxpayer during the privilege  
16 period shall not exceed \$500,000.

17 c. Notwithstanding the minimum tax schedule imposed  
18 pursuant to subsection (e) of section 5 of P.L.1945, c.162  
19 (C.54:10A-5), if the amount of the tax credit allowed exceeds the  
20 amount of corporation business tax otherwise due pursuant to  
21 section 5 of P.L.1945, c.162 (C.54:10A-5), the amount of excess  
22 shall be treated as a refundable overpayment except that interest  
23 shall not be paid pursuant to section 7 of P.L.1992, c.175 (C.54:49-  
24 15.1) on the amount of overpayment attributable to this credit  
25 amount. The director shall determine the order of priority of the  
26 application of the credit allowed pursuant to this section and any  
27 other credits allowed by law.

28 d. The combined value of all tax credits approved by the  
29 director pursuant to this section and pursuant to section 2 of P.L. ,  
30 c. (C. )(pending before the Legislature as this bill) shall not  
31 exceed \$10,000,000 in any State fiscal year to apply against the tax  
32 imposed pursuant to the “New Jersey Gross Income Tax Act,”  
33 N.J.S.54A:1-1 et seq., and the tax imposed pursuant to section 5 of  
34 P.L.1945, c.162 (C.54:10A-5).

35 e. An application for the tax credit shall be submitted to the  
36 Division of Taxation in the Department of Treasury in a form and  
37 manner prescribed by the director.

38 f. Notwithstanding any provision of the “Administrative  
39 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the  
40 contrary, the director is authorized to adopt immediately upon filing  
41 with the Office of Administrative Law such rules and regulations  
42 shall be effective for a period not to exceed 360 days following the  
43 date of filing and may thereafter be amended, adopted, or readopted  
44 by the director in accordance with the requirements of P.L.1968,

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AAP committee amendments adopted December 14, 2020.

1 c.410 (C.52:14B-1 et seq.). The director shall consult with the  
2 Commissioner of Health related to any specification requirements  
3 for what manufactured products are to qualify as personal protective  
4 equipment pursuant to this section.

5 g. As used in this section:

6 “Director” means Director of the Division of Taxation;

7 “Personal protective equipment” means coveralls, face shields,  
8 gloves, gowns, masks, respirators, and other equipment designed to  
9 protect the wearer from the spread of infection or illness.

10 “Qualifying new hire” means a full-time employee hired by the  
11 taxpayer during the privilege period for the manufacturing of  
12 personal protective equipment in this State. The person hired shall  
13 be employed for at least 35 hours a week, or render any other  
14 standard of service generally accepted by custom or practice as full-  
15 time employment, whose wages are subject to withholding as  
16 provided in the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1  
17 et seq. “Qualifying new hire” shall not include any person who  
18 works as an independent contractor or on a consulting basis for the  
19 business. “Qualifying new hire” includes only a position for which  
20 the taxpayer provides employee health benefits under a group health  
21 plan as defined under section 14 of P.L.1997, c.146 (C.17B:27-54),  
22 a health benefits plan as defined under section 1 of P.L.1992, c.162  
23 (C.17B:27A-17), or a policy or contract of health insurance  
24 covering more than one person issued pursuant to Article 2 of  
25 chapter 27 of Title 17B of the New Jersey Statutes. <sup>1</sup>

26  
27 <sup>1</sup>[2. a. For taxable years 2020, 2021, and 2022, a taxpayer,  
28 upon approval of an application to the director shall be allowed a  
29 credit against the tax imposed pursuant to the “New Jersey Gross  
30 Income Tax Act” N.J.S.54A:1-1 et seq. in the amount of \$10,000  
31 for each qualifying new hire involved in the manufacture of  
32 personal protective equipment in the State during the taxable year.

33 b. The total credit allowed to a taxpayer during the taxable year  
34 shall not exceed \$500,000.

35 c. If the amount of the credit exceeds the amount of tax  
36 otherwise due, that amount of excess shall be an overpayment for  
37 the purposes of N.J.S.54A:9-7; provided however, that subsection  
38 (f) of N.J.S.54A:9-7 shall not apply. The director shall determine  
39 the order of priority of the application of the credit allowed  
40 pursuant to this section and any other credits allowed by law.

41 d. (1) A business entity that is classified as a partnership for  
42 federal income tax purposes shall not be allowed a tax credit  
43 pursuant to this section directly, but the amount of tax credit of a  
44 taxpayer in respect to distributive share of entity income, shall be  
45 determined by allocating to the taxpayer that proportion of the tax  
46 credit acquired by the entity that is equal to the taxpayer’s share,  
47 whether or not distributed, of the total distributive income or gain

1 of the entity for its taxable year ending within or with the  
2 taxpayer's taxable year.

3 (2) A New Jersey S Corporation shall not be allowed a tax credit  
4 pursuant to this section directly, but the amount of the tax credit of  
5 a taxpayer in respect of a pro rata share of S Corporation income,  
6 shall be determined by allocating to the taxpayer that proportion of  
7 the tax credit acquired by the New Jersey S Corporation that is  
8 equal to the taxpayer's share, whether or not distributed, of the total  
9 pro rata share of S Corporation income of the New Jersey S  
10 Corporation for its privilege period ending within or with the  
11 taxpayer's taxable year.

12 e. The combined value of all tax credits approved by the  
13 director pursuant to this section and pursuant to section 1 of P.L. ,  
14 c. (C. )(pending before the Legislature as this bill) shall not  
15 exceed \$10,000,000 in any State fiscal year to apply against the tax  
16 imposed pursuant to the "New Jersey Gross Income Tax Act,"  
17 N.J.S.54A:1-1 et seq., and the tax imposed pursuant to section 5 of  
18 P.L.1945, c.162 (C.54:10A-5).

19 f. An application for the tax credit shall be submitted to the  
20 Division of Taxation in the Department of Treasury in a form and  
21 manner prescribed by the director.

22 g. Notwithstanding any provision of the "Administrative  
23 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the  
24 contrary, the director is authorized to adopt immediately upon filing  
25 with the Office of Administrative Law such rules and regulations  
26 shall be effective for a period not to exceed 360 days following the  
27 date of filing and may thereafter be amended, adopted, or readopted  
28 by the director in accordance with the requirements of P.L.1968,  
29 c.410 (C.52:14B-1 et seq.). The director shall consult with the  
30 Commissioner of Health related to any specification requirements  
31 for what manufactured products are to qualify as personal protective  
32 equipment pursuant to this section.

33 h. As used in this section:

34 "Director" means Director of the Division of Taxation;

35 "Personal protective equipment" means coveralls, face shields,  
36 gloves, gowns, masks, respirators, and other equipment designed to  
37 protect the wearer from the spread of infection or illness.

38 "Qualifying new hire" means a full-time position created by the  
39 taxpayer during the taxable year for the manufacturing of personal  
40 protective equipment in the State. The person hired shall be  
41 employed for at least 35 hours a week, or render any other standard  
42 of service generally accepted by custom or practice as full-time  
43 employment, whose wages are subject to withholding as provided in  
44 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.  
45 "Qualifying new hire" shall not include any person who works as an  
46 independent contractor or on a consulting basis for the business.  
47 "Qualifying new hire" includes only a position for which the  
48 taxpayer provides employee health benefits under a group health

1 plan as defined under section 14 of P.L.1997, c.146 (C.17B:27-54),  
2 a health benefits plan as defined under section 1 of P.L.1992, c.162  
3 (C.17B:27A-17), or a policy or contract of health insurance  
4 covering more than one person issued pursuant to Article 2 of  
5 chapter 27 of Title 17B of the New Jersey Statutes. **1'**

6  
7 1. a. For privilege periods ending in 2020, 2021, and 2022, a  
8 taxpayer, upon approval of an application to the director, shall be  
9 allowed a credit against the tax imposed pursuant to section 5 of  
10 P.L.1945, c.162 (C.54:10A-5) in the amount of \$10,000 for each  
11 qualifying new hire involved in the manufacture of personal  
12 protective equipment in a qualified facility in which the taxpayer  
13 made a capital investment during the privilege period.

14 b. The minimum capital investment in a qualified facility  
15 required to be eligible for a credit under this section shall be as  
16 follows:

17 (1) for the rehabilitation, improvement, fit-out, or retrofit of an  
18 existing premises in Atlantic County, Burlington County, Cape May  
19 County, Cumberland County, Gloucester County, Ocean County, or  
20 Salem County, a minimum investment of \$10 per square foot of  
21 gross leasable area;

22 (2) for the rehabilitation, improvement, fit-out, or retrofit of an  
23 existing premises in counties in the State not listed in paragraph (1)  
24 of this subsection, a minimum investment of \$20 per square foot of  
25 gross leasable area;

26 (3) for the new construction of a premises in Atlantic County,  
27 Burlington County, Cape May County, Cumberland County,  
28 Gloucester County, Ocean County, or Salem County, a minimum  
29 investment of \$100 per square foot of gross leasable area; or

30 (4) for the new construction of a premises in counties in the  
31 State not listed in paragraph (3) of this subsection, a minimum  
32 investment of \$120 per square foot of gross leasable area.

33 c. The minimum number of new or retained qualifying full-  
34 time jobs required to be eligible for a credit under this section shall  
35 be as follows:

36 (1) for a qualified facility in Atlantic County, Burlington  
37 County, Cape May County, Cumberland County, Gloucester  
38 County, Ocean County, or Salem County, a minimum of five new or  
39 15 retained qualifying full-time jobs; or

40 (2) for a qualified facility in counties in the State not listed in  
41 paragraph (1) of this subsection, a minimum of ten new or 25  
42 retained qualifying full-time jobs.

43 d. In addition to the amount of credit allowed pursuant to  
44 subsection a. of this section, a taxpayer shall be allowed the  
45 following tax credits for privilege periods ending in 2020, 2021,  
46 and 2022:

47 (1) \$1,000 per qualifying full-time job in the privilege period at  
48 a qualified facility that is a building vacant for not less than seven

- 1 years in need of rehabilitation with a minimum of 250,000 square  
2 feet;
- 3 (2) \$1,500 per qualifying full-time job in the privilege period at  
4 a qualified facility in which the manufacturing of personal  
5 protective equipment is part of a research collaboration between the  
6 taxpayer and a college or university located within the State; and
- 7 (3) \$1,000 per qualifying full-time job in the privilege period at  
8 a qualified facility in which the taxpayer has established an  
9 apprenticeship program or pre-apprenticeship program with a  
10 technical school or county college located within the State.
- 11 e. The total credit allowed to a taxpayer pursuant to this section  
12 during the privilege period shall not exceed \$500,000.
- 13 f. Notwithstanding the minimum tax schedule imposed  
14 pursuant to subsection (e) of section 5 of P.L.1945, c.162  
15 (C.54:10A-5), if the amount of the tax credit allowed exceeds the  
16 amount of corporation business tax otherwise due pursuant to  
17 section 5 of P.L.1945, c.162 (C.54:10A-5), the amount of excess  
18 shall be treated as a refundable overpayment except that interest  
19 shall not be paid pursuant to section 7 of P.L.1992, c.175 (C.54:49-  
20 15.1) on the amount of overpayment attributable to this credit  
21 amount. The director shall determine the order of priority of the  
22 application of the credit allowed pursuant to this section and any  
23 other credits allowed by law.
- 24 g. The combined value of all tax credits approved by the  
25 director pursuant to this section and pursuant to section 2 of P.L. ,  
26 c. (C. )(pending before the Legislature as this bill) shall not  
27 exceed \$10,000,000 in any State fiscal year to apply against the tax  
28 imposed pursuant to the “New Jersey Gross Income Tax Act,”  
29 N.J.S.54A:1-1 et seq., and the tax imposed pursuant to section 5 of  
30 P.L.1945, c.162 (C.54:10A-5).
- 31 h. An application for the tax credit shall be submitted to the  
32 Division of Taxation in the Department of Treasury in a form and  
33 manner prescribed by the director.
- 34 i. Notwithstanding any provision of the “Administrative  
35 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the  
36 contrary, the director is authorized to adopt immediately upon filing  
37 with the Office of Administrative Law such rules and regulations  
38 shall be effective for a period not to exceed 360 days following the  
39 date of filing and may thereafter be amended, adopted, or readopted  
40 by the director in accordance with the requirements of P.L.1968,  
41 c.410 (C.52:14B-1 et seq.). The director shall consult with the  
42 Commissioner of Health related to any specification requirements  
43 for what manufactured products are to qualify as personal protective  
44 equipment pursuant to this section.
- 45 j. As used in this section:
- 46 “Director” means Director of the Division of Taxation in the  
47 Department of the Treasury;

1 “Personal protective equipment” means coveralls, face shields,  
2 gloves, gowns, masks, respirators, and other equipment designed to  
3 protect the wearer from the spread of infection or illness.

4 “Qualified facility” means a facility that is:

5 (1) located in a redevelopment area or rehabilitation area as  
6 defined in section 3 of P.L.1992, c.79 (C.40A:12A-3);

7 (2) located in a Smart Growth Area as identified by the Office  
8 of Planning Advocacy;

9 (3) a facility in which the manufacturing of personal protective  
10 equipment is part of a research collaboration between the taxpayer a  
11 college or university located within the State;

12 (4) a facility in which the taxpayer has established an  
13 apprenticeship program or pre-apprenticeship program with a  
14 technical school or community located within the State; or

15 (5) a building vacant for not less than seven years in need of  
16 rehabilitation with a minimum of 250,000 square feet.

17 “Qualifying full-time job” means a full-time position in a  
18 business in this State which the business has filled with a full-time  
19 employee for the manufacturing of personal protective equipment in  
20 this State. The employee shall be employed for at least 35 hours a  
21 week and shall be paid employee wages at a rate of not less than  
22 \$15 per hour, or render any other standard of service generally  
23 accepted by custom or practice as full-time employment, whose  
24 wages are subject to withholding as provided in the “New Jersey  
25 Gross Income Tax Act,” N.J.S.54A:1-1 et seq. and is paid employee  
26 wages at a rate of not less than \$15 per hour. “Qualifying new hire”  
27 shall not include any person who works as an independent  
28 contractor or on a consulting basis for the business. “Qualifying  
29 new or retained job” includes only a position for which the taxpayer  
30 provides employee health benefits under a group health plan as  
31 defined under section 14 of P.L.1997, c.146 (C.17B:27-54), a health  
32 benefits plan as defined under section 1 of P.L.1992, c.162  
33 (C.17B:27A-17), or a policy or contract of health insurance  
34 covering more than one person issued pursuant to Article 2 of  
35 chapter 27 of Title 17B of the New Jersey Statutes.<sup>1</sup>

36  
37 <sup>1</sup>2. a. For taxable years 2020, 2021, and 2022, a taxpayer, upon  
38 approval of an application to the director shall be allowed a credit  
39 against the tax imposed pursuant to the “New Jersey Gross Income  
40 Tax Act” N.J.S.54A:1-1 et seq. in the amount of \$10,000 for each  
41 qualifying new hire involved in the manufacture of personal  
42 protective equipment in a qualified facility in which the taxpayer  
43 made a capital investment during the taxable year.

44 b. The minimum capital investment in a qualified facility  
45 required to be eligible for a credit under this section shall be as  
46 follows:

47 (1) for the rehabilitation, improvement, fit-out, or retrofit of an  
48 existing premises in Atlantic County, Burlington County, Cape May

- 1 County, Cumberland County, Gloucester County, Ocean County, or  
2 Salem County, a minimum investment of \$10 per square foot of  
3 gross leasable area;
- 4 (2) for the rehabilitation, improvement, fit-out, or retrofit of an  
5 existing premises in counties in the State not listed in paragraph (1)  
6 of this subsection, a minimum investment of \$20 per square foot of  
7 gross leasable area;
- 8 (3) for the new construction of a premises in Atlantic County,  
9 Burlington County, Cape May County, Cumberland County,  
10 Gloucester County, Ocean County, or Salem County, a minimum  
11 investment of \$100 per square foot of gross leasable area; or
- 12 (4) for the new construction of a premises in counties in the  
13 State not listed in paragraph (3) of this subsection, a minimum  
14 investment of \$120 per square foot of gross leasable area.
- 15 c. The minimum number of new or retained qualifying full-  
16 time jobs required to be eligible for a credit under this section shall  
17 be as follows:
- 18 (1) for a qualified facility in Atlantic County, Burlington  
19 County, Cape May County, Cumberland County, Gloucester  
20 County, Ocean County, or Salem County, a minimum of five new or  
21 15 retained qualifying full-time jobs; and
- 22 (2) for a qualified facility in counties in the State not listed in  
23 paragraph (1) of this subsection, a minimum of ten new or 25  
24 retained qualifying full-time jobs.
- 25 d. In addition to the amount of credit allowed pursuant to  
26 subsection a. of this section, a taxpayer shall be allowed the  
27 following tax credits for taxable years 2020, 2021, and 2022:
- 28 (1) \$1,000 per qualifying full-time job in a taxable year at a  
29 qualified facility that is a building vacant for not less than seven  
30 years in need of rehabilitation with a minimum of 250,000 square  
31 feet;
- 32 (2) \$1,500 per qualifying full-time job in a taxable year at a  
33 qualified facility in which the manufacturing of personal protective  
34 equipment is part of a research collaboration between the taxpayer  
35 and a college or university located within the State; and
- 36 (3) \$1,000 per qualifying full-time job in a taxable year at a  
37 qualified facility in which the taxpayer has established an  
38 apprenticeship program or pre-apprenticeship program with a  
39 technical school or county college located within the State.
- 40 e. The total credit allowed to a taxpayer pursuant to this section  
41 during the taxable year shall not exceed \$500,000.
- 42 f. If the amount of the credit exceeds the amount of tax  
43 otherwise due, that amount of excess shall be an overpayment for  
44 the purposes of N.J.S.54A:9-7; provided however, that subsection  
45 (f) of N.J.S.54A:9-7 shall not apply. The director shall determine  
46 the order of priority of the application of the credit allowed  
47 pursuant to this section and any other credits allowed by law.



1       g. (1) A business entity that is classified as a partnership for  
2 federal income tax purposes shall not be allowed a tax credit  
3 pursuant to this section directly, but the amount of tax credit of a  
4 taxpayer in respect to distributive share of entity income, shall be  
5 determined by allocating to the taxpayer that proportion of the tax  
6 credit acquired by the entity that is equal to the taxpayer's share,  
7 whether or not distributed, of the total distributive income or gain  
8 of the entity for its taxable year ending within or with the  
9 taxpayer's taxable year.

10       (2) A New Jersey S Corporation shall not be allowed a tax credit  
11 pursuant to this section directly, but the amount of the tax credit of  
12 a taxpayer in respect of a pro rata share of S Corporation income,  
13 shall be determined by allocating to the taxpayer that proportion of  
14 the tax credit acquired by the New Jersey S Corporation that is  
15 equal to the taxpayer's share, whether or not distributed, of the total  
16 pro rata share of S Corporation income of the New Jersey S  
17 Corporation for its privilege period ending within or with the  
18 taxpayer's taxable year.

19       h. The combined value of all tax credits approved by the  
20 director pursuant to this section and pursuant to section 1 of P.L. ,  
21 c. (C. )(pending before the Legislature as this bill) shall not  
22 exceed \$10,000,000 in any State fiscal year to apply against the tax  
23 imposed pursuant to the "New Jersey Gross Income Tax Act,"  
24 N.J.S.54A:1-1 et seq., and the tax imposed pursuant to section 5 of  
25 P.L.1945, c.162 (C.54:10A-5).

26       i. An application for the tax credit shall be submitted to the  
27 Division of Taxation in the Department of Treasury in a form and  
28 manner prescribed by the director.

29       j. Notwithstanding any provision of the "Administrative  
30 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the  
31 contrary, the director is authorized to adopt immediately upon filing  
32 with the Office of Administrative Law such rules and regulations  
33 shall be effective for a period not to exceed 360 days following the  
34 date of filing and may thereafter be amended, adopted, or readopted  
35 by the director in accordance with the requirements of P.L.1968,  
36 c.410 (C.52:14B-1 et seq.). The director shall consult with the  
37 Commissioner of Health related to any specification requirements  
38 for what manufactured products are to qualify as personal protective  
39 equipment pursuant to this section.

40       k. As used in this section:  
41 "Director" means Director of the Division of Taxation in the  
42 Department of the Treasury;

43 "Personal protective equipment" means coveralls, face shields,  
44 gloves, gowns, masks, respirators, and other equipment designed to  
45 protect the wearer from the spread of infection or illness.

46 "Qualified facility" means a facility that is:

47 (1) located in a redevelopment area or rehabilitation area as  
48 defined in section 3 of P.L.1992, c.79 (C.40A:12A-3);

1       (2) located in a Smart Growth Area as identified by the Office  
2 of Planning Advocacy;

3       (3) a facility in which the manufacturing of personal protective  
4 equipment is part of a research collaboration between the taxpayer a  
5 college or university located within the State;

6       (4) a facility in which the taxpayer has established an  
7 apprenticeship program or pre-apprenticeship program with a  
8 technical school or community located within the State; or

9       (5) a building vacant for not less than seven years in need of  
10 rehabilitation with a minimum of 250,000 square feet.

11       “Qualifying full-time job” means a full-time employee hired by  
12 the taxpayer during the privilege period for the manufacturing of  
13 personal protective equipment in this State. The person hired shall  
14 be employed for at least 35 hours a week and shall be paid  
15 employee wages at a rate of not less than \$15 per hour, or render  
16 any other standard of service generally accepted by custom or  
17 practice as full-time employment, whose wages are subject to  
18 withholding as provided in the “New Jersey Gross Income Tax  
19 Act,” N.J.S.54A:1-1 et seq. and is paid employee wages at a rate of  
20 not less than \$15 per hour. “Qualifying new hire” shall not include  
21 any person who works as an independent contractor or on a  
22 consulting basis for the business. “Qualifying new or retained job”  
23 includes only a position for which the taxpayer provides employee  
24 health benefits under a group health plan as defined under section  
25 14 of P.L.1997, c.146 (C.17B:27-54), a health benefits plan as  
26 defined under section 1 of P.L.1992, c.162 (C.17B:27A-17), or a  
27 policy or contract of health insurance covering more than one  
28 person issued pursuant to Article 2 of chapter 27 of Title 17B of the  
29 New Jersey Statutes.<sup>1</sup>

30  
31       3. This act shall take effect immediately.