

ASSEMBLY, No. 5885

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JUNE 14, 2021

Sponsored by:

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex)

Assemblyman JOHN J. BURZICHELLI

District 3 (Cumberland, Gloucester and Salem)

SYNOPSIS

Revises various provisions of “New Jersey Economic Recovery Act of 2020” and other economic development programs; establishes "Emerging Technology Catalyst Program."

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning State economic development policy, amending
2 various sections of the statutory law, and supplementing Title 34
3 of the Revised Statutes.

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

7
8 1. Section 3 of P.L.2020, c.156 (C.34:1B-271) is amended to
9 read as follows:

10 3. As used in sections 2 through 8 of P.L.2020, c.156
11 (C.34:1B-270 through C.34:1B-276):

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

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

18 "Cost of rehabilitation" means the consideration given, valued in
19 money, whether given in money or otherwise, for the materials and
20 services which constitute the rehabilitation.

21 "Building services" means any cleaning or routine building
22 maintenance work, including, but not limited to, sweeping,
23 vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse
24 or trash, window cleaning, securing, patrolling, or other work in
25 connection with the care or securing of an existing building,
26 including services typically provided by a door-attendant or
27 concierge. "Building services" shall not include any skilled
28 maintenance work, professional services, or other public work for
29 which a contractor is required to pay the "prevailing wage" as
30 defined in section 2 of P.L.1963, c.150 (C.34:11-56.26).

31 "Director" means the Director of the Division of Taxation in the
32 Department of the Treasury.

33 "Government-restricted municipality" means a municipality in
34 this State with a municipal revitalization index distress score of at
35 least 75, that met the criteria for designation as an urban aid
36 municipality in the 2019 State fiscal year, and that, on the effective
37 date of P.L.2020, c.156 (C.34:1B-269 et al.), is subject to financial
38 restrictions imposed pursuant to the "Municipal Stabilization and
39 Recovery Act," P.L.2016, c.4 (C.52:27BBBB-1 et seq.), or is
40 restricted in its ability to levy property taxes on property in that
41 municipality as a result of the State of New Jersey owning or
42 controlling property representing at least 25 percent of the total land
43 area of the municipality or as a result of the federal government of
44 the United States owning or controlling at least 50 acres of the total

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

Matter underlined thus is new matter.

1 land area of the municipality, which is dedicated as a national
2 natural landmark.

3 "Income producing property" means a structure or site that is
4 used in a trade or business or to produce rental income.

5 "New Jersey S corporation" means the same as the term is
6 defined in section 12 of P.L.1993, c.173 (C.54A:5-10).

7 "Officer" means the State Historic Preservation Officer or the
8 official within the State designated by the Governor or by statute in
9 accordance with the provisions of chapter 3023 of Title 54, United
10 States Code (54 U.S.C. s.302301 et seq.), to act as liaison for the
11 purpose of administering historic preservation programs in the
12 State.

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

15 "Project financing gap" means the part of the total cost of
16 rehabilitation, including reasonable and appropriate return on
17 investment, that remains to be financed after all other sources of
18 capital have been accounted for, including, but not limited to,
19 developer contributed capital, which shall not be less than 20
20 percent of the total cost of rehabilitation, and investor or financial
21 entity capital or loans for which the developer, after making all
22 good faith efforts to raise additional capital, certifies that additional
23 capital cannot be raised from other sources; provided, however, that
24 for a redevelopment project located in a government-restricted
25 municipality, the developer contributed capital shall not be less than
26 10 percent of the cost of rehabilitation. Developer contributed
27 capital may consist of cash, development fees, costs for project
28 feasibility incurred within the 12 months prior to application,
29 federal tax credits, property value less any mortgages, and any other
30 investment by the developer in the project deemed acceptable by the
31 authority, as provided by regulations promulgated by the authority.
32 Property value shall be valued at the lesser of either: (i) the
33 purchase price, provided the property was purchased pursuant to an
34 arm's length transaction within 12 months of application; or (ii) the
35 value as determined by a current appraisal.

36 "Property" means a structure, including its site improvements
37 and landscape features, assessed as real property, and used for: a
38 commercial purpose; a residential rental purpose, provided the
39 structure contains at least four dwelling units; or any combination
40 thereof.

41 "Qualified incentive tract" means: a. a population census tract
42 having a poverty rate of 20 percent or more; or b. a census tract in
43 which the median family income for the census tract does not
44 exceed 80 percent of the greater of the Statewide median family
45 income or the median family income of the metropolitan statistical
46 area in which the census tract is situated.

47 "Qualified property" means a property located in the State of
48 New Jersey that is an income producing property, and that is:

1 **[(a) (i)] a. (1)** individually listed, or located in a district listed
2 on the National Register of Historic Places in accordance with the
3 provisions of chapter 3021 of Title 54, United States Code (54
4 U.S.C. s.302101 et seq.), or on the New Jersey Register of Historic
5 Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.), or
6 individually designated, or located in a district designated, by the
7 Pinelands Commission as a historic resource of significance to the
8 Pinelands in accordance with the Pinelands comprehensive
9 management plan adopted pursuant to the "Pinelands Protection
10 Act," P.L.1979, c.111 (C.13:18A-1 et seq.), and

11 **[(ii)] (2)** if located within a district, certified by either the
12 officer or the Pinelands Commission, as appropriate, as contributing
13 to the historic significance of the district; or

14 **[(b) (i)] b. (1)** individually identified or registered, or located in
15 a district composed of properties identified or registered, for
16 protection as significant historic resources in accordance with
17 criteria established by a municipality in which the property or
18 district is located if the criteria for identification or registration has
19 been approved by the officer as suitable for substantially achieving
20 the purpose of preserving and rehabilitating buildings of historic
21 significance within the jurisdiction of the municipality, and

22 **[(ii)] (2)** if located within a district, certified by the officer as
23 contributing to the historic significance of the district.

24 "Rehabilitation" means the repair or reconstruction of the
25 exterior or interior of a qualified property or transformative project
26 to make an efficient contemporary use possible while preserving the
27 portions or features of the property that have significant historical,
28 architectural, and cultural values.

29 "Rehabilitation of the interior of the qualified property or
30 transformative project" means the repair or reconstruction of the
31 structural or substrate components and electrical, plumbing, and
32 heating components within the interior of a qualified property or
33 transformative project.

34 "Selected rehabilitation period" means a period of 24 months if
35 the beginning of such period is chosen by the business entity during
36 which, or parts of which, a rehabilitation is occurring, or a period of
37 60 months if a rehabilitation is reasonably expected to be completed
38 in distinct phases set forth in written architectural plans and
39 specifications completed before or during the physical work on the
40 rehabilitation.

41 "Transformative project" means a property that is:

42 **[(a)] a.** an income producing property, not including a
43 residential property, whose rehabilitation the authority determines
44 will generate substantial increases in State revenues through the
45 creation of increased business activity within the surrounding area;

46 **[(b)] b.** individually listed on the New Jersey Register of
47 Historic Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et

1 seq.) and which, before the enactment of P.L.2020, c.156 (C.34:1B-
2 269 et al.), received a Determination of Eligibility from the Keeper
3 of the National Register of Historic Places in accordance with the
4 provisions of Part 60 of Title 36 of the Code of Federal
5 Regulations; **[(c)]** and

6 c. (1) located within a one-half mile radius of the center point of
7 a transit village, as designated by the New Jersey Department of
8 Transportation **;** and

9 **(d)]** , and located within a city of the first class, as classified
10 under N.J.S.40A:6-4; or (2) located within a government-restricted
11 municipality.

12 (cf: P.L.2020, c.156, s.3)

13
14 2. Section 4 of P.L.2020, c.156 (C.34:1B-272) is amended to
15 read as follows:

16 4. a. (1) A business entity, upon successful application to the
17 New Jersey Economic Development Authority, and commitment to
18 the authority to pay each worker employed to perform construction
19 work and building services work at the qualified property or
20 transformative project a wage not less than the prevailing wage rate
21 for the worker's craft or trade, as determined by the Commissioner
22 of Labor and Workforce Development pursuant to P.L.1963, c.150
23 (C.34:11-56.25 et seq.), shall be allowed a credit against the tax
24 otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-
25 5), **[(the tax imposed on insurers generally pursuant to P.L.1945,**
26 **c.132 (C.54:18A-1 et seq.), or the tax imposed on marine insurance**
27 **companies pursuant to R.S.54:16-1 et. seq.)]** sections 2 and 3 of
28 P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of
29 P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5, for [40 percent]
30 a portion of the cost of rehabilitation paid by the business entity for
31 the rehabilitation of a qualified property or transformative project,
32 if the cost of rehabilitation during a business entity's selected
33 rehabilitation period is not less than the greater of **[(1)]** (a) the
34 adjusted basis of the structure of the qualified property or
35 transformative project used for federal income tax purposes as of
36 the beginning of the business entity's selected rehabilitation period,
37 or **[(2)]** (b) \$5,000. The amount of the credit claimed in any
38 accounting or privilege period shall not reduce the amount of the
39 tax liability to less than the statutory minimum provided in
40 subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

41 (2) The amount of credit allowed to a business entity pursuant to
42 this section shall be as follows:

43 (a) for the rehabilitation of a qualified property located in a
44 qualified incentive tract or government-restricted municipality, 45
45 percent of the cost of rehabilitation paid by the business entity for
46 the rehabilitation of the qualified property or \$8 million, whichever
47 is less;

1 **(b) for the rehabilitation of a transformative project, 45 percent**
2 **of the cost of rehabilitation paid by the business entity for the**
3 **rehabilitation of the transformative project or \$50 million,**
4 **whichever is less; and**

5 **(c) for the rehabilitation of any other qualified property not**
6 **subject to provisions of subparagraph (a) or (b) of this paragraph,**
7 **40 percent of the cost of rehabilitation paid by the business entity**
8 **for the rehabilitation of the qualified property or \$4 million,**
9 **whichever is less.**

10 **(3) The prevailing wage [requirements] requirement for**
11 **construction work shall apply at a qualified property or**
12 **transformative project during the selected rehabilitation period, and**
13 **the prevailing wage requirement for building services work shall**
14 **apply at a qualified property or transformative project for 10 years**
15 **following completion of the rehabilitation work at the qualified**
16 **property or transformative project.** In the event a qualified property
17 or transformative project, or the aggregate of all qualified properties
18 and transformative projects approved for awards under the program,
19 constitute a lease of more than 35 percent of a facility, the
20 prevailing wage requirements shall apply to the entire facility.

21 **[(3)] (4) Prior to approval of an application by the authority, the**
22 **Department of Labor and Workforce Development, the Department**
23 **of Environmental Protection, and the Department of the Treasury**
24 **shall each report to the authority whether the business entity is in**
25 **substantial good standing with the respective department [in lieu of**
26 **submitting certificates of good standing for the business entity, the**
27 **business entity may demonstrate that it] , as determined in**
28 **accordance with the regulations adopted by the authority pursuant**
29 **to subsection a. of section 6 of P.L.2020, c.156 (C.34:1B-274), or**
30 **has entered into an agreement with the respective department that**
31 **includes a practical corrective action plan for the business entity.**
32 The authority may also contract with an independent third party to
33 perform a background check on the business entity. Following
34 approval of an application by the authority, but prior to the start of
35 any construction or rehabilitation at the qualified property or
36 transformative project, the authority shall enter into a rehabilitation
37 agreement with the business entity. The authority shall negotiate
38 the terms and conditions of the rehabilitation agreement on behalf
39 of the State.

40 **[(4)] (5) A rehabilitation project shall be eligible for a tax credit**
41 **only if the business entity demonstrates to the authority at the time**
42 **of application that:**

43 **(a) without the tax credit, the rehabilitation project is not**
44 **economically feasible; and**

45 **(b) a project financing gap exists.**

46 b. A business entity may claim a credit under this section
47 during the accounting or privilege period: (1) in which it makes the

1 final payment for the cost of the rehabilitation if the business entity
2 has chosen a selected rehabilitation period of 24 months; or (2) in
3 which a distinct project phase of the rehabilitation is completed if
4 the business entity has chosen a selected rehabilitation period of 60
5 months. The credit may be claimed against any State tax, listed in
6 paragraph (1) of subsection a. of this section, liability otherwise due
7 after any other credits permitted pursuant to law have been applied.
8 The amount of credit claimed in an accounting or privilege period
9 that cannot be applied for that accounting or privilege period due to
10 limitations in this section may be transferred pursuant to section 5
11 of P.L.2020, c.156 (C.34:1B-273) or carried over, if necessary, to
12 the nine accounting or privilege periods following the accounting or
13 privilege period for which the credit was allowed.

14 c. A business entity shall submit to the authority satisfactory
15 evidence of the actual cost of rehabilitation, as certified by a
16 certified public accountant, evidence of completion of the
17 rehabilitation or phase, and a certification that all information
18 provided by the business entity to the authority is true, including
19 information contained in the application, the rehabilitation
20 agreement, any amendment to the rehabilitation agreement, and any
21 other information submitted by the business entity to the authority
22 pursuant to sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270
23 through C.34:1B-276). The business entity, or an authorized agent
24 of the business entity, shall certify under the penalty of perjury that
25 the information provided pursuant to this subsection is true.
26 (cf: P.L.2020, c.156, s.4)

27
28 3. Section 5 of P.L.2020, c.156 (C.34:1B-273) is amended to
29 read as follows:

30 5. a. The authority shall, in cooperation with the director,
31 establish and administer a corporation business tax credit transfer
32 certificate program and an insurance premiums tax credit transfer
33 certificate program to enable business entities with unused,
34 otherwise allowable amounts of tax credits issued pursuant to
35 sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through
36 C.34:1B-276) to exchange these credits, in whole or in part, for
37 private financial assistance prior to the expiration of the tax credit.

38 A certificate issued by the director and the authority shall include
39 a statement waiving the rights of the business entity to which the
40 tax credit has been granted to claim any amount of remaining credit
41 against any tax liability.

42 b. A business entity holding an unused, otherwise allowable tax
43 credit issued pursuant to sections 2 through 8 of P.L.2020, c.156
44 (C.34:1B-270 through C.34:1B-276) may apply to the director and
45 the authority for a tax credit transfer certificate pursuant to
46 subsection a. of this section. Upon receipt thereof, the business
47 entity may sell or assign, in full or in part, the tax credit transfer
48 certificate to another taxpayer in exchange for private financial

1 assistance to be provided by the purchaser or assignee of the tax
2 credit transfer certificate to the seller thereof. The developer shall
3 not sell a tax credit transfer certificate allowed under this section
4 for consideration received by the developer of less than **【85】 90**
5 percent of the transferred credit amount before considering any
6 further discounting to present value which shall be permitted,
7 except a developer of a residential project consisting of newly-
8 constructed residential units that has received federal low income
9 housing tax credits under 26 U.S.C. **【s.42(b)(2)(B)(i)】**
10 s.42(b)(1)(B)(i) may assign a tax credit transfer certificate for
11 consideration of no less than 75 percent subject to the submission of
12 a plan to the authority and the New Jersey Housing and Mortgage
13 Finance Agency to use the proceeds derived from the assignment of
14 tax credits to complete the residential project. The purchaser or
15 assignee of the tax credit transfer certificate may apply the face
16 value of the tax credit transfer certificate acquired against the
17 purchaser's or assignee's applicable tax liability by claiming the tax
18 credit on the purchaser's or assignee's corporation business tax or
19 insurance premiums tax return with the corresponding tax credit
20 transfer certificate accompanying the tax return. A purchaser or
21 assignee of a tax credit transfer certificate pursuant to this section
22 shall not make any subsequent transfers, assignments, or sales of
23 the tax credit transfer certificate.

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

- 27 (1) the name of the transferor;
28 (2) the name of the transferee;
29 (3) the value of the tax credit transfer certificate;
30 (4) the State tax against which the transferee may apply the tax
31 credit; and
32 (5) the consideration received by the transferor.

33 (cf: P.L.2020, c.156, s.5)

34
35 4. Section 6 of P.L.2020, c.156 (C.34:1B-274) is amended to
36 read as follows:

37 6. a. The authority shall, in consultation with the officer and the
38 director, promulgate rules and regulations in accordance with the
39 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
40 seq.), as the officer deems necessary to administer the provisions of
41 sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through
42 C.34:1B-276), including but not limited to rules establishing
43 administrative fees to implement the provisions of sections 2
44 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276),
45 and setting of an annual application submission date, requiring
46 annual reporting by each business entity that **【receive】 receives** a
47 tax credit pursuant to sections 2 through 8 of P.L.2020, c.156
48 (C.34:1B-270 through C.34:1B-276) **【, and** requiring those reports

1 to include certifications by **】** . As part of the authority's review of
2 the annual reports required from each business entity that receives a
3 tax credit, the authority shall confirm with the Department of Labor
4 and Workforce Development, the Department of Environmental
5 Protection, and the Department of the Treasury that the business
6 entity, and any contractors or subcontractors under contract in an
7 amount exceeding \$100,000 performing work at the qualified
8 property or transformative project, are in substantial good standing,
9 as defined in the regulations adopted pursuant to this subsection,
10 with the respective department or has entered into an agreement
11 with the respective department that includes a practical corrective
12 action plan for the business entity. The rules and regulations
13 adopted pursuant to this section shall also include a provision to
14 require that business entities forfeit all tax credits awarded in any
15 year in which **【**any such report is not received**】** the Department of
16 Labor and Workforce Development, the Department of
17 Environmental Protection, or the Department of the Treasury
18 advises the authority that the business entity is not in substantial
19 good standing nor has the business entity entered into an agreement
20 with the respective department that includes a practical corrective
21 action plan, and to allow the authority to extend, in individual
22 cases, the deadline for any annual reporting or certification
23 requirement established pursuant to this section.

24 b. For every tax credit allowed pursuant to section 4 of
25 P.L.2020, c.156 (C.34:1B-272), the authority, in consultation with
26 the officer, shall certify to the director: the total cost of
27 rehabilitation; that the property meets the definition of qualified
28 property or transformative project, as applicable; and that the
29 rehabilitation has been completed in substantial compliance with
30 the requirements of the Secretary of the Interior's Standards for
31 Rehabilitation pursuant to section 67.7 of Title 36, Code of Federal
32 Regulations. The business entity shall attach the certification to the
33 tax return on which the business entity claims the credit.

34 c. (1)The total amount of credits approved by the authority
35 pursuant to sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270
36 through C.34:1B-276) shall not exceed the limitations set forth in
37 section 98 of P.L.2020, c.156 (C.34:1B-362). If the authority
38 approves less than the total amount of tax credits authorized
39 pursuant to this subsection in a fiscal year, the remaining amount,
40 plus any amounts remaining from previous fiscal years, shall be
41 added to the limit of subsequent fiscal years until that amount of tax
42 credits are claimed or allowed. Any unapproved, uncertified, or
43 recaptured portion of tax credits during any fiscal year may be
44 carried over and reallocated in succeeding years.

45 (2) Notwithstanding the provisions of paragraph (1) of this
46 subsection and section 98 of P.L.2020, c.156 (C.34:1B-362) to the
47 contrary, the authority may approve tax credits, pursuant to sections
48 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-

276), for the rehabilitation of a transformative project in an amount that causes the total amount of credits approved during the fiscal year to exceed the limitations set forth in section 98 of P.L.2020, c.156 (C.34:1B-362), provided that the amount of the excess shall be subtracted from the total amount of credits that may be approved by the authority in the subsequent fiscal year, and the amount of the excess shall not exceed 50 percent of the total tax credits otherwise authorized for the fiscal year.

The authority, in consultation with the officer, shall devise criteria for allocating tax credit amounts if the approved amounts combined exceed the total amount in each fiscal year, including rules that allocate over multiple fiscal years a single credit amount granted in excess of \$2,000,000. The criteria shall include a project's historic importance, positive impact on the surrounding neighborhood, economic sustainability, geographic diversity, and consistency with Statewide growth and development policies and plans.

(cf: P.L.2020, c.156, s.6)

5. Section 10 of P.L.2020, c.156 (C.34:1B-278) is amended to read as follows:

10. As used in sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287):

"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, established pursuant to section 4 of P.L.1974, c.80 (C.34:1B-4).

"Brownfield site" means any former or current commercial or industrial site that is currently vacant or underutilized and on which there has been, or there is suspected to have been, a discharge of a contaminant or on which there is contaminated building material.

"Building services" means any cleaning or routine building maintenance work, including, but not limited to, sweeping, vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse or trash, window cleaning, securing, patrolling, or other work in connection with the care or securing of an existing building, including services typically provided by a door-attendant or concierge. "Building services" shall not include any skilled maintenance work, professional services, or other public work for which a contractor is required to pay the "prevailing wage" as defined in section 2 of P.L.1963, c.150 (C.34:11-56.26).

"Contaminated building material" means components of a structure where abatement or removal of asbestos, or remediation of materials containing hazardous substances defined pursuant to section 3 of P.L.1976, c.141 (C.58:10-23.11b), is required by applicable federal, state, or local rules or regulations.

1 "Contamination" or "contaminant" means any discharged
2 hazardous substance as defined pursuant to section 3 of P.L.1976,
3 c.141 (C.58:10-23.11b), hazardous waste as defined pursuant to
4 section 1 of P.L.1976, c.99 (C.13:1E-38), pollutant as defined
5 pursuant to section 3 of P.L.1977, c.74 (C.58:10A-3), or
6 contaminated building material.

7 "Department" means the Department of Environmental
8 Protection.

9 "Developer" means any person that enters or proposes to enter
10 into a redevelopment agreement with the authority pursuant to the
11 provisions of section 13 of P.L.2020, c.156 (C.34:1B-281).

12 "Director" means the Director of the Division of Taxation in the
13 Department of the Treasury.

14 "Government-restricted municipality" means a municipality in
15 this State with a municipal revitalization index distress score of at
16 least 75, that met the criteria for designation as an urban aid
17 municipality in the 2019 State fiscal year, and that, on the effective
18 date of P.L.2020, c.156 (C.34:1B-269 et al.), is subject to financial
19 restrictions imposed pursuant to the "Municipal Stabilization and
20 Recovery Act," P.L.2016, c.4 (C.52:27BBBB-1 et seq.), or is
21 restricted in its ability to levy property taxes on property in that
22 municipality as a result of the State of New Jersey owning or
23 controlling property representing at least 25 percent of the total land
24 area of the municipality or as a result of the federal government of
25 the United States owning or controlling at least 50 acres of the total
26 land area of the municipality, which is dedicated as a national
27 natural landmark.

28 "Licensed site remediation professional" means an individual
29 who is licensed by the Site Remediation Professional Licensing
30 Board pursuant to section 7 of P.L.2009, c.60 (C.58:10C-7) or the
31 department pursuant to section 12 of P.L.2009, c.60 (C.58:10C-12).

32 "Program" means the Brownfields Redevelopment Incentive
33 Program established by section 11 of P.L.2020, c.156 (C.34:1B-
34 279).

35 "Project financing gap" means the part of the total remediation
36 cost, including reasonable and appropriate return on investment,
37 that remains to be financed after all other sources of capital have
38 been accounted for, including, but not limited to, developer
39 contributed capital, which shall not be less than 20 percent of the
40 total remediation cost, and investor or financial entity capital or
41 loans for which the developer, after making all good faith efforts to
42 raise additional capital, certifies that additional capital cannot be
43 raised from other sources; provided, however, that for a
44 redevelopment project located in a government-restricted
45 municipality, the developer contributed capital shall not be less than
46 10 percent of the cost of rehabilitation. Developer contributed
47 capital may consist of cash, development fees, costs for project
48 feasibility incurred within the 12 months prior to application,

1 federal tax credits, property value less any mortgages, and any other
2 investment by the developer in the project deemed acceptable by the
3 authority, as provided by regulations promulgated by the authority.
4 Property value shall be valued at the lesser of either: (i) the
5 purchase price, provided the property was purchased pursuant to an
6 arm's length transaction within 12 months of application; or (ii) the
7 value as determined by a current appraisal.

8 "Qualified incentive tract" means: a. a population census tract
9 having a poverty rate of 20 percent or more; or b. a census tract in
10 which the median family income for the census tract does not
11 exceed 80 percent of the greater of the Statewide median family
12 income or the median family income of the metropolitan statistical
13 area in which the census tract is situated.

14 "Redevelopment agreement" means an agreement between the
15 authority and a developer under which the developer agrees to
16 perform any work or undertaking necessary for the remediation of a
17 contaminated site located at the site of the redevelopment project,
18 and for the clearance, development or redevelopment, construction,
19 reconstruction, or rehabilitation of any structure or improvement of
20 commercial, industrial, or public structures or improvements within
21 an area of land whereon a brownfield site is located.

22 "Redevelopment project" means a specific construction project
23 or improvement undertaken, pursuant to the terms of a
24 redevelopment agreement, by a developer within an area of land
25 whereon a brownfield site is located. A redevelopment project may
26 involve construction or improvement upon lands, buildings,
27 improvements, or real and personal property, or any interest therein,
28 including lands under water, riparian rights, space rights, and air
29 rights, acquired, owned, developed or redeveloped, constructed,
30 reconstructed, rehabilitated, or improved.

31 "Remediation" or "remediate" means all necessary actions to
32 investigate and clean up or respond to any known, suspected, or
33 threatened discharge of contaminants, including, as necessary, the
34 preliminary assessment, site investigation, remedial investigation,
35 and remedial action, or any portion thereof, as those terms are
36 defined in section 23 of P.L.1993, c.139 (C.58:10B-1); and
37 hazardous materials abatement; hazardous materials or waste
38 disposal; building and structural remedial activities, including, but
39 not limited to, demolition, asbestos abatement, polychlorinated
40 biphenyl removal, contaminated wood or paint removal, or other
41 infrastructure remedial activities; provided, however, "remediation"
42 or "remediate" shall not include the payment of compensation for
43 damage to, or loss of, natural resources.

44 "Remediation costs" means all reasonable costs associated with
45 the remediation of a contaminated site, except any costs incurred in
46 financing the remediation.

47 (cf: P.L.2020, c.156, s.10)

1 6. Section 12 of P.L.2020, c.156 (C.34:1B-280) is amended to
2 read as follows:

3 12. a. A developer seeking a tax credit for a redevelopment
4 project shall submit an application to the authority and the
5 department in a form and manner prescribed in regulations adopted
6 by the authority, in consultation with the department, pursuant to
7 the provisions of the "Administrative Procedure Act," P.L.1968,
8 c.410 (C.52:14B-1 et seq.).

9 b. A redevelopment project shall be eligible for a tax credit
10 only if the developer demonstrates to the authority and the
11 department at the time of application that:

12 (1) except as provided in subsection j. of this section, the
13 developer has not commenced any remediation or clean up at the
14 site of the redevelopment project, except for preliminary
15 assessments and investigations, prior to applying for a tax credit
16 pursuant to this section, but intends to remediate and redevelop the
17 site immediately upon approval of the tax credit;

18 (2) the redevelopment project is located on a brownfield site;

19 (3) without the tax credit, the redevelopment project is not
20 economically feasible;

21 (4) a project financing gap exists;

22 (5) the developer has obtained and submitted to the authority a
23 letter evidencing support for the redevelopment project from the
24 governing body of the municipality in which the redevelopment
25 project is located; and

26 (6) each worker employed to perform remediation, **[or]**
27 construction, or building services work at the redevelopment project
28 shall be paid not less than the prevailing wage rate for the worker's
29 craft or trade, as determined by the Commissioner of Labor and
30 Workforce Development pursuant to P.L.1963, c.150 (C.34:11-
31 56.25 et seq.). The prevailing wage requirements shall apply for
32 remediation or construction work through the completion of the
33 redevelopment project, and the prevailing wage requirements shall
34 apply for building services work at the site of the redevelopment
35 project for 10 years following completion of the redevelopment
36 project. In the event a redevelopment project, or the aggregate of
37 all redevelopment projects approved for an award under the
38 program, constitute a lease of more than 35 percent of a facility, the
39 prevailing wage requirements shall apply to the entire facility.

40 c. A redevelopment project that received a reimbursement
41 pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26
42 through 58:10B-31) shall not be eligible to apply for a tax credit
43 under the program. If the authority receives an application and
44 supporting documentation for approval of a reimbursement pursuant
45 to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through
46 58:10B-31) prior to the effective date of sections 9 through 19 of
47 P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287), then the
48 authority may consider the application and award a tax credit to a

1 developer, provided that the authority shall take final action on all
2 applications for approval of a reimbursement pursuant to sections
3 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through 58:10B-31)
4 no later than July 1, 2019. No applications shall be submitted
5 pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26
6 through 58:10B-31) after the effective date of sections 9 through 19
7 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287).

8 d. (1) Prior to approval of an application, the Department of
9 Labor and Workforce Development, the Department of
10 Environmental Protection, and the Department of the Treasury shall
11 each report to the chief executive officer of the authority whether
12 the developer is in substantial good standing, as defined in
13 regulation, with the respective department, or has entered into an
14 agreement with the respective department that includes a practical
15 corrective action plan for the developer. The authority may also
16 contract with an independent third party to perform a background
17 check on the developer. Provided that the developer is in
18 substantial good standing with the Department of Labor and
19 Workforce Development, the Department of Environmental
20 Protection, and the Department of the Treasury, or has entered into
21 **【such an agreement】** a practical corrective action plan for the
22 developer, and following approval of an application by the board,
23 the authority shall enter into a redevelopment agreement with the
24 developer, as provided for in section 13 of P.L.2020, c.156
25 (C.34:1B-281).

26 (2) The authority, in consultation with the department, may
27 impose additional requirements upon an applicant through rule or
28 regulation adopted pursuant to the provisions of the "Administrative
29 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), if the
30 authority or the department determines the additional requirements
31 to be necessary and appropriate to effectuate the purposes of
32 sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through
33 C.34:1B-287).

34 e. The authority, in consultation with the department, shall
35 conduct a review of the applications through a competitive
36 application process whereby the authority and the department shall
37 evaluate all applications submitted by a date certain, as if all
38 received applications were submitted on that date. In addition to
39 the eligibility criteria set forth in subsection b. of this section, the
40 authority, in consultation with the department, may consider
41 additional factors that may include, but shall not be limited to: the
42 economic feasibility of the redevelopment project; the benefit of the
43 redevelopment project to the community in which the remediation
44 project is located; the degree to which the redevelopment project
45 enhances and promotes job creation and economic development and
46 reduces environmental or public health stressors in an overburdened
47 community, as those terms are defined by section 2 of **【P.L.2020,**
48 **c.92 (C.13:1D-157)】** P.L.2020, c.92 (C.13:1D-158), and attendant

1 department regulations; and, if the developer has a board of
2 directors, the extent to which that board of directors is diverse and
3 representative of the community in which the redevelopment project
4 is located. The authority, in consultation with the department, shall
5 submit applications that comply with the eligibility criteria set forth
6 in this section, fulfill the additional factors considered by the
7 authority pursuant to this subsection, satisfy the submission
8 requirements, and provide adequate information for the subject
9 application, to the board for final approval.

10 f. The authority shall award tax credits to redevelopment
11 projects until either the available tax credits are exhausted or all
12 redevelopment projects that are eligible for a tax credit pursuant to
13 the provisions of sections 9 through 19 of P.L.2020, c.156
14 (C.34:1B-277 through C.34:1B-287) receive a tax credit, whichever
15 occurs first. If insufficient funding exists to allow a tax credit to a
16 developer in accordance with the provisions of subsection a. of
17 section 16 of P.L.2020, c.156 (C.34:1B-284), the authority may
18 offer the developer a value of the tax credit below the amount
19 provided for in subsection a. of section 16 of P.L.2020, c.156
20 (C.34:1B-284).

21 g. A developer shall pay to the authority or to the department,
22 as appropriate, the full amount of the direct costs of an analysis
23 concerning the developer's application for a tax credit, which a
24 third party retained by the authority or department performs, if the
25 authority or department deems such retention to be necessary.

26 h. If the authority determines that a developer made a material
27 misrepresentation on the developer's application, the developer
28 shall forfeit all tax credits awarded under the program.

29 i. If circumstances require a developer to amend its application
30 to the authority, then the developer, or an authorized agent of the
31 developer, shall certify to the authority that the information
32 provided in its amended application is true, under the penalty of
33 perjury.

34 j. A developer **【that】** who has commenced remediation or
35 clean up at the site and who could not reasonably have known the
36 full extent of the site contamination **【when the developer of a**
37 **redemption project prior to application】** prior to commencing
38 the remediation may still apply for a tax credit under the program, if
39 the developer certifies to the authority, under the penalty of perjury,
40 that the developer **【could not】** cannot reasonably **【have**
41 **commenced】** finish the remediation and commence the
42 redevelopment project absent the tax credit.

43 (cf: P.L.2020, c.156, s.12)

44
45 7. Section 13 of P.L.2020, c.156 (C.34:1B-281) is amended to
46 read as follows:

1 13. a. Following approval of an application by the board, but
2 prior to the start of any remediation or clean up at the site of the
3 redevelopment project, the authority shall enter into a
4 redevelopment agreement with the developer. The chief executive
5 officer of the authority shall negotiate the terms and conditions of
6 the redevelopment agreement on behalf of the State.

7 b. The redevelopment agreement shall specify the amount of
8 the tax credit to be awarded to the developer, the date on which the
9 developer shall complete the remediation, and the projected project
10 remediation cost. The redevelopment agreement shall require the
11 developer to submit progress reports to the authority and to the
12 department every six months pursuant to section 15 of P.L.2020,
13 c.156 (C.34:1B-283).

14 c. The authority shall not enter into a redevelopment agreement
15 with a developer unless:

16 (1) the redevelopment project complies with standards
17 established by the authority in accordance with the green building
18 manual prepared by the Commissioner of Community Affairs
19 pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6),
20 regarding the use of renewable energy, energy-efficient technology,
21 and non-renewable resources to reduce environmental degradation
22 and encourage long-term cost reduction;

23 (2) the redevelopment project complies with the authority's
24 affirmative action requirements, adopted pursuant to section 4 of
25 P.L.1979, c.303 (C.34:1B-5.4); and

26 (3) the developer pays each worker employed to perform
27 remediation work **【or】** , construction work, or building services
28 work at the redevelopment project not less than the prevailing wage
29 rate in accordance with the requirements of paragraph (6) of
30 subsection b. of section 12 of P.L.2020, c.156 (C.34:1B-280) for the
31 worker's craft or trade, as determined by the Commissioner of
32 Labor and Workforce Development pursuant to P.L.1963, c.150
33 (C.34:11-56.25 et seq.).

34 d. The authority shall not enter into a redevelopment agreement
35 unless the developer demonstrates, to the satisfaction of the
36 Department of Environmental Protection, that the developer did not
37 discharge a hazardous substance at the brownfield site proposed to
38 be in the redevelopment agreement, is not in any way responsible
39 for the hazardous substance, and is not a corporate successor to the
40 discharger or to any person in any way responsible for the
41 hazardous substance or to anyone liable for cleanup and removal
42 costs pursuant to section 8 of P.L.1976, c.141 (C.58:10-23.11g).

43 e. (1) Except as provided in paragraph (2) of this subsection, the
44 authority shall not enter into a redevelopment agreement for a
45 redevelopment project that includes at least one retail establishment
46 that will have more than 10 employees, or at least one distribution
47 center that will have more than 20 employees, unless the
48 redevelopment agreement includes a precondition that any business

1 that serves as the owner or operator of the retail establishment or
2 distribution center enters into a labor harmony agreement with a
3 labor organization or cooperating labor organizations which
4 represent retail or distribution center employees in the State.

5 (2) A labor harmony agreement shall be required only if the
6 State has a proprietary interest in the redevelopment project and
7 shall remain in effect for as long as the State acts as a market
8 participant in the redevelopment project. The authority may enter
9 into a redevelopment agreement with a developer without the labor
10 harmony agreement required under paragraph (1) of this subsection
11 only if the authority determines that the redevelopment project
12 would not be feasible if a labor harmony agreement is required.
13 The authority shall support the determination by a written finding,
14 which provides the specific basis for the determination.

15 (3) As used in this subsection, "labor harmony agreement"
16 means an agreement between a business that serves as the owner or
17 operator of a retail establishment or distribution center and one or
18 more labor organizations, which requires, for the duration of the
19 agreement: that any participating labor organization and its
20 members agree to refrain from picketing, work stoppages, boycotts,
21 or other economic interference against the business; and that the
22 business agrees to maintain a neutral posture with respect to efforts
23 of any participating labor organization to represent employees at an
24 establishment or other unit in the retail establishment or distribution
25 center, agrees to permit the labor organization to have access to the
26 employees, and agrees to guarantee to the labor organization the
27 right to obtain recognition as the exclusive collective bargaining
28 representatives of the employees in an establishment or unit at the
29 retail establishment or distribution center by demonstrating to the
30 New Jersey State Board of Mediation, Division of Private
31 Employment Dispute Settlement, or a mutually agreed-upon,
32 neutral, third-party, that a majority of workers in the unit have
33 shown their preference for the labor organization to be their
34 representative by signing authorization cards indicating that
35 preference. The labor organization or organizations shall be from a
36 list of labor organizations that have requested to be on the list and
37 that the Commissioner of Labor and Workforce Development has
38 determined represent substantial numbers of retail or distribution
39 center employees in the State.

40 f. The redevelopment agreement shall provide that issuance of
41 a tax credit under the program shall be conditioned upon the
42 subrogation to the department of all rights of the developer to
43 recover remediation costs from any other person who discharges a
44 hazardous substance or is in any way responsible, pursuant to
45 section 8 of P.L.1976, c.141 (C.58:10-23.11g), for a hazardous
46 substance that was discharged at the brownfield site.

47 g. A developer may seek a revision to the redevelopment
48 agreement if the developer cannot complete the remediation on or

1 before the date set forth in the redevelopment agreement. A
2 developer's ability to change the date on which the developer shall
3 complete the remediation shall be subject to the availability of tax
4 credits in the year of the revised date of completion.

5 h. A developer shall submit to the authority satisfactory
6 evidence of the actual remediation costs, as certified by a certified
7 public accountant, evidence of completion of the remediation, and a
8 certification that all information provided by the developer to the
9 authority is true, including information contained in the application,
10 the redevelopment agreement, any amendment to the redevelopment
11 agreement, and any other information submitted by the developer to
12 the authority pursuant to sections 9 through 19 of P.L.2020, c.156
13 (C.34:1B-277 through C34:1B-287). The developer, or an
14 authorized agent of the developer, shall certify under the penalty of
15 perjury that the information provided pursuant to this subsection is
16 true.

17 i. The redevelopment agreement shall include a [requirement
18 that the chief executive officer of the authority receive annual
19 reports from] provision allowing the authority to recapture the tax
20 credits for any year in which the authority is notified by the
21 Department of Environmental Protection, the Department of Labor
22 and Workforce Development, [and] or the Department of the
23 Treasury that [demonstrate] the developer, [and each contractors
24 and subcontractor] or a contractor or subcontractor under contract
25 in an amount exceeding \$100,000 performing work on the
26 redevelopment project, is not in substantial good standing with the
27 respective department, [or] and the developer has [entered] failed
28 to enter into an agreement with the respective department that
29 includes a practical corrective action plan for the developer. [The
30 redevelopment agreement shall also include a provision allowing
31 authority to recapture the tax credits for any year in which any such
32 report is not received.] The redevelopment agreement shall also
33 require a developer to engage in on-site consultations with the
34 Division of Workplace Safety and Health in the Department of
35 Health.

36 (cf: P.L.2020, c.156, s.13)

37
38 8. Section 16 of P.L.2020, c.156 (C.34:1B-284) is amended to
39 read as follows:

40 16. a. Upon completion of the redevelopment project, the
41 developer shall seek certification from the department that:

42 (1) the redevelopment project is complete;

43 (2) the developer complied with the requirements of section 15
44 of P.L.2020, c.156 (C.34:1B-283), including the requirements of
45 any memorandum of agreement or other oversight document that
46 the developer may have executed with the Commissioner of
47 Environmental Protection pursuant to that section; and

1 (3) the remediation costs were actually and reasonably incurred.

2 Upon receipt of certification, and confirmation by the authority
3 that the developer's obligations under the redevelopment agreement
4 have been met, a developer shall be awarded a credit against the tax
5 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
6 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),
7 section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 as
8 follows: (a) for project located in a qualified incentive tract or
9 government-restricted municipality, in an amount not to exceed 60
10 percent of the actual remediation costs, or 60 percent of the
11 projected remediation costs as set forth in the redevelopment
12 agreement, or \$8,000,000, whichever is least; and (b) for all other
13 projects, in an amount not to exceed [40] 50 percent of the actual
14 remediation costs, or [40] 50 percent of the projected remediation
15 costs as set forth in the redevelopment agreement, or \$4,000,000,
16 whichever is least. The developer, or an authorized agent of the
17 developer, shall certify that the information provided to the
18 department and the authority pursuant to this subsection is true
19 under the penalty of perjury.

20 b. When filing an application for certification pursuant to
21 subsection a. of this section, the developer shall submit to the
22 department the total remediation costs incurred by the developer for
23 the remediation of the subject property located at the site of the
24 redevelopment project as provided in the redevelopment agreement
25 and certified by a certified public accountant, information
26 concerning the occupancy rate of the buildings or other work areas
27 located on the property subject to the redevelopment agreement, and
28 such other information as the department deems necessary in order
29 to make the certifications and findings pursuant to this section.

30 c. A developer shall apply the credit awarded against the
31 developer's liability for the tax imposed pursuant to section 5 of
32 P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132
33 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231
34 (C.17:32-15), or N.J.S.17B:23-5 for the privilege period during
35 which the department awards the developer a tax credit pursuant to
36 subsection a. of this section. A developer shall not carry forward
37 any unused credit.

38 d. The director shall prescribe the order of priority of the
39 application of the credit awarded under this section and any other
40 credits allowed by law against the tax imposed under section 5 of
41 P.L.1945, c.162 (C.54:10A-5). The amount of the credit applied
42 under this section against the tax imposed pursuant to section 5 of
43 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with
44 any other credits allowed by law, shall not reduce the tax liability to
45 an amount less than the statutory minimum provided in subsection
46 (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).
47 (cf: P.L.2020, c.156, s.16)

1 9. Section 17 of P.L.2020, c.156 (C.34:1B-285) is amended to
2 read as follows:

3 17. a. A developer may apply to the director and the chief
4 executive officer of the authority for a tax credit transfer certificate,
5 during the privilege period in which the director awards the
6 developer a tax credit pursuant to section 16 of P.L.2020, c.156
7 (C.34:1B-284), in lieu of the developer being allowed to apply any
8 amount of the tax credit against the developer's State tax liability.
9 The tax credit transfer certificate, upon receipt thereof by the
10 developer from the director and the chief executive officer of the
11 authority, may be sold or assigned, in the privilege period during
12 which the developer receives the tax credit transfer certificate from
13 the director, to another person, who may apply the credit against a
14 tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
15 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),
16 section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The
17 tax credit transfer certificate provided to the developer shall include
18 a statement waiving the developer's right to claim the credit that the
19 developer has elected to sell or assign.

20 b. The developer shall not sell or assign a tax credit transfer
21 certificate allowed under this section for consideration received by
22 the developer of less than **85** 90 percent of the transferred credit
23 amount before considering any further discounting to present value
24 which shall be permitted, except a developer of a residential project
25 consisting of newly-constructed residential units that has received
26 federal low income housing tax credits under 26 U.S.C.
27 **[s.42(b)(2)(B)(i)]** s.42(b)(1)(B)(i) may assign a tax credit transfer
28 certificate for consideration of no less than 75 percent subject to the
29 submission of a plan to the authority and the New Jersey Housing
30 and Mortgage Finance Agency to use the proceeds derived from the
31 assignment of tax credits to complete the residential project. The
32 tax credit transfer certificate issued to a developer by the director
33 shall be subject to any limitations and conditions imposed on the
34 application of State tax credits pursuant to section 16 of P.L.2020,
35 c.156 (C.34:1B-284) and any other terms and conditions that the
36 director may prescribe.

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

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

- 43 (1) the name of the transferor;
44 (2) the name of the transferee;
45 (3) the value of the tax credit transfer certificate;
46 (4) the State tax against which the transferee may apply the tax
47 credit; and

1 (5) the consideration received by the transferor.
2 (cf: P.L.2020, c.156, s.17)

3
4 10. Section 19 of P.L.2020, c.156 (C.34:1B-287) is amended to
5 read as follows:

6 19. Notwithstanding the provisions of the "Administrative
7 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the
8 contrary, the chief executive officer of the authority, in consultation
9 with the Commissioner of Environmental Protection, may adopt,
10 immediately upon filing with the Office of Administrative Law,
11 regulations that the chief executive officer and commissioner deem
12 necessary to implement the provisions of sections 9 through 19 of
13 P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287), which
14 regulations shall be effective for a period not to exceed **【180】** 360
15 days from the date of the filing. The chief executive officer, in
16 consultation with the Commissioner of Environmental Protection,
17 shall thereafter amend, adopt, or readopt the regulations in
18 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
19 et seq.). The rules shall require annual reporting by developers that
20 receive tax credits pursuant to the program, in addition to the
21 regular progress updates. **【Developers】** The authority shall 【obtain
22 certifications by】 request the Department of Labor and Workforce
23 Development, the Department of Environmental Protection, and the
24 Department of the Treasury **【stating】 to confirm** that the developer
25 is in substantial good standing, as defined in regulations adopted
26 pursuant to this section, with the respective department, or has
27 entered into an agreement with the respective department that
28 includes a practical corrective action plan. The rules and
29 regulations adopted pursuant to this section shall also include a
30 provision to require that **【developers】** , in any year in which the
31 developer is not in substantial good standing with the Department
32 of Labor and Workforce Development, the Department of
33 Environmental Protection, or the Department of the Treasury, the
34 developer may forfeit all tax credits awarded in **【any】** that year **【in**
35 **which any such report is not received】**, and to allow the authority to
36 extend, in individual cases, the deadline for any annual reporting
37 **【or certification】** requirement established pursuant to this section.
38 (cf: P.L.2020, c.156, s.19)

39
40 11. Section 24 of P.L.2020, c.156 (C.34:1B-292) is amended to
41 read as follows:

42 24. a. The authority shall sell the tax credits authorized
43 pursuant to section 22 of P.L.2020, c.156 (C.34:1B-290) to
44 purchasers through a competitive auction process.

45 b. The authority shall determine the form and manner in which
46 potential purchasers may bid for tax credits available under the

1 program. To be awarded a tax credit under the program, a potential
2 purchaser shall:

3 (1) specify the requested amount of tax credits, which shall not
4 be less than ~~【\$1,000,000】~~ \$500,000;

5 (2) specify the amount the potential purchaser will pay in
6 exchange for the requested amount of tax credits, which shall not be
7 less than ~~【85】~~ 90 percent of the requested dollar amount of tax
8 credits;

9 (3) commit to serve on the New Jersey Innovation Evergreen
10 Advisory Board, established pursuant to section 32 of P.L.2020,
11 c.156 (C.34:1B-300), and to otherwise provide mentorship,
12 networking, and collaboration opportunities to qualified businesses
13 that receive funding under the program; and

14 (4) provide any other information that the chief executive
15 officer of the authority determines is necessary.

16 c. Prior to an auction, the authority shall establish and disclose
17 to bidders the weighted criteria the authority will utilize, which the
18 authority shall base on the price offered to purchase the tax credits
19 and the quality of the mentorship and networking opportunities and
20 other support of the State's innovation ecosystem offered by a
21 purchaser in its bid. The authority may pro rate the amount of tax
22 credits allocated to each purchaser. A potential purchaser that
23 submits a bid for tax credits under this section shall receive a
24 written notice from the authority indicating whether the authority
25 has approved it as a purchaser of tax credits and, if so, the amount
26 of tax credits approved.

27 d. Except as provided in section 22 of P.L.2020, c.156
28 (C.34:1B-290), the authority shall hold one competitive auction per
29 calendar year.

30 e. The authority may contract with an independent third party
31 to conduct the competitive bidding process through which State tax
32 credits issued by the authority may be sold.

33 (cf: P.L.2020, c.156, s.24)

34

35 12. Section 27 of P.L.2020, c.156 (C.34:1B-295) is amended to
36 read as follows:

37 27. a. A purchaser may apply to the authority and the director
38 for a tax credit transfer certificate, in the privilege period during
39 which the director allows the purchaser a tax credit pursuant to
40 sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through
41 C.34:1B-302), in lieu of the purchaser being allowed to apply any
42 amount of the tax credit against the purchaser's State tax liability.
43 A tax credit may be sold or assigned, in full or in part, to another
44 person that may have a tax liability pursuant to section 5 of
45 P.L.1945, c.162 (C.54:10A-5). The tax credit transfer certificate
46 provided to the purchaser shall include a statement waiving the
47 purchaser's right to claim the credit that the purchaser has elected to
48 sell or assign.

1 b. The purchaser shall not sell or assign a tax credit transfer
2 certificate allowed under this section for consideration received by
3 the purchaser of less than **【85】 90** percent of the transferred credit
4 amount before considering any further discounting to present value
5 which shall be permitted. The tax credit transfer certificate issued
6 to a purchaser by the director shall be subject to any limitations and
7 conditions imposed on the application of State tax credits pursuant
8 to section 26 of P.L.2020, c.156 (C.34:1B-294) and any other terms
9 and conditions that the director may prescribe.

10 c. A buyer or assignee of a tax credit transfer certificate
11 pursuant to this section shall not make any subsequent transfers,
12 assignments, or sales of the tax credit transfer certificate.

13 d. Ten percent of the consideration received by a purchaser
14 from the sale or assignment of a tax credit transfer certificate
15 pursuant to this section shall be remitted to the director and
16 deposited in the General Fund of the State.

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

20 (1) the name of the transferor;

21 (2) the name of the transferee;

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

23 (4) the State tax against which the transferee may apply the tax
24 credit; and

25 (5) the consideration received by the transferor.

26 (cf: P.L.2020, c.156, s.27)

27
28 13. Section 37 of P.L.2020, c.156 (C.34:1B-305) is amended to
29 read as follows:

30 37. As used in sections 35 through 42 of P.L.2020, c.156
31 (C.34:1B-303 through C.34:1B-310):

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

35 "Department" means the Department of Agriculture.

36 "Eligible equipment costs" means expenditures for the
37 procurement of such equipment as is needed to allow a
38 supermarket, grocery store, mid-sized food retailer, **【or】** small food
39 retailer, or other eligible entity to store, refrigerate, transport, or
40 otherwise maintain nutritious foods, including fresh fruits and
41 vegetables, for retail purposes, but within a standard range based
42 upon industry standards, as determined by the authority.

43 "Eligible technology costs" means expenditures for the
44 procurement or upgrade of technology systems to support online
45 ordering and e-commerce, including but not limited to computer
46 hardware, software, internet connectivity, and database systems.

47 "Food desert community" means a physically contiguous area in
48 the State in which residents have limited access to nutritious foods,

1 such as fresh fruits and vegetables, [through supermarkets and
2 grocery stores,] and which has been designated as a food desert
3 community pursuant to subsection b. of section 38 of P.L.2020,
4 c.156 (C.34:1B-306).

5 "Initial operating costs" means expenditures for the operation of
6 a supermarket or grocery store within the first three years after
7 opening to the public, but within a standard range based upon
8 industry standards, as determined by the authority.

9 "Mid-sized food retailer" means a medium-sized retail outlet
10 with at least 2,500 but less than 16,000 square feet, of which at least
11 75 percent is occupied by food and related products.

12 "Program" means the Food Desert Relief Program established in
13 section 38 of P.L.2020, c.156 (C.34:1B-306).

14 "Project cost" means the costs incurred in connection with the
15 establishment of a supermarket or grocery store within a food desert
16 community by the developer until the opening of the supermarket or
17 grocery store to the public, including the costs relating to lands,
18 buildings, improvements, real or personal property, or any interest
19 therein, including leases discounted to present value, including
20 lands under water, riparian rights, space rights and air rights
21 acquired, owned, developed or redeveloped, constructed,
22 reconstructed, rehabilitated or improved, any environmental
23 remediation costs, plus costs not directly related to construction, of
24 an amount not to exceed 20 percent of the total costs, capitalized
25 interest paid to third parties, and the cost of infrastructure
26 improvements, including ancillary infrastructure projects.

27 "Project financing gap" means the part of the total project cost,
28 including return on investment, that remains to be financed after all
29 other sources of capital have been accounted for, including, but not
30 limited to, developer-contributed capital, which shall not be less
31 than 20 percent of the total project cost, which may include the
32 value of any existing land and improvements in the project area
33 owned or controlled by the developer, and the cost of infrastructure
34 improvements in the public right-of-way, and investor or financial
35 entity capital or loans for which the developer, after making all
36 good faith efforts to raise additional capital, certifies that additional
37 capital cannot be raised from other sources on a non-recourse basis.

38 "Small food retailer" means a small retail outlet, with less than
39 2,500 square feet, that sells a limited selection of foods and other
40 products, such as a bodega, convenience store, corner store,
41 neighborhood store, small grocery, mobile food vendor, farmers'
42 market, food co-op, or small-scale store.

43 "Supermarket or grocery store" means a retail outlet with at least
44 16,000 square feet, of which at least 90 percent is occupied by food
45 and related products.

46 (cf: P.L.2020, c.156, s.37)

1 14. Section 38 of P.L.2020, c.156 (C.34:1B-306) is amended to
2 read as follows:

3 38. a. (1) There is established the Food Desert Relief Program
4 to be administered by the New Jersey Economic Development
5 Authority. The program shall include tax credit components, as
6 provided in sections 39 and 40 of P.L.2020, c.156 (C.34:1B-307
7 and C.34:1B-308), in order to incentivize businesses to establish
8 and retain new supermarkets and grocery stores in food desert
9 communities.

10 (2) The total value of tax credits approved by the authority
11 pursuant to sections 39 and 40 of P.L.2020, c.156 (C.34:1B-307 and
12 C.34:1B-308) shall not exceed the limitations set forth in section 98
13 of P.L.2020, c.156 (C.34:1B-362).

14 b. The authority, in consultation with the Department of
15 Agriculture and the Department of Community Affairs, shall
16 initially designate not more than 50 separate geographic areas that
17 **【are most in need of a supermarket or grocery store】** have limited
18 access to nutritious foods as food desert communities in this State.
19 The authority, in consultation with the Department of Agriculture
20 and the Department of Community Affairs, shall develop criteria for
21 the designation of food desert communities, but each separate food
22 desert community shall consist of a distinct geographic area with a
23 single defined border. The criteria shall, at a minimum, incorporate
24 analysis of municipal or census tract poverty statistics, food desert
25 information from the Economic Research Service of the United
26 States Department of Agriculture, **【and】** healthier food retail tract
27 information from the federal Centers for Disease Control and
28 Prevention, and residents' access to nutritious foods, such as fresh
29 fruits and vegetables, through supermarkets and grocery stores. The
30 authority, in consultation with the departments, may also consider
31 in making food desert community designations pursuant to this
32 subsection, data related to municipal or census tract population size
33 and population density **【in making food desert community**
34 **designations pursuant to this subsection】**, the number of residents
35 who receive Supplemental Nutrition Assistance Program (SNAP)
36 benefits within a municipality, the extent to which a municipality's
37 residents have access to a person vehicle, and a municipality's
38 Municipal Revitalization Index distress score, obesity rate, and
39 unemployment rate. The authority, in consultation with the
40 departments, shall continuously evaluate areas previously
41 designated as food desert communities and assess whether they still
42 meet the criteria for designation as a food desert community and
43 may designate additional food desert communities once every three
44 years following the effective date of sections 35 through 42 of
45 P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310).

46 c. To receive a tax credit under section 39 or 40 of P.L.2020,
47 c.156 (C.34:1B-307 or C.34:1B-308), a taxpayer shall submit an
48 application to the authority in the form and manner prescribed by

1 the authority and in accordance with criteria established by the
2 authority, which at minimum will include a commitment to accept
3 benefits from federal nutrition assistance programs, such as the
4 Supplemental Nutrition Assistance Program (SNAP) and the
5 Special Supplemental Nutrition Program for Women, Infants, and
6 Children (WIC). Following the approval of an application, the
7 authority may, pursuant to an award agreement, award tax credits to
8 an eligible taxpayer that:

9 (1) develops and opens for business to the public the first or
10 second supermarket or grocery store in a designated food desert
11 community; or

12 (2) owns and operates the first or second supermarket or grocery
13 store in a designated food desert community.

14 d. (1) The authority may sell all or a portion of the tax credits
15 made available in a fiscal year pursuant to subsection a. of this
16 section and dedicate the proceeds from such sale to provide grants
17 and loans to qualifying supermarkets, grocery stores, mid-sized
18 food retailers, **[and]** small food retailers, and any other eligible
19 entity. The amount of any grant or loan provided pursuant to this
20 subsection shall be in accordance with the need of the supermarket,
21 grocery store, mid-sized food retailer, **[or]** small food retailer, or
22 any other eligible entity, as determined by the authority. The
23 authority shall sell tax credits pursuant to this section in the manner
24 determined by the authority; provided, however, the authority shall
25 not sell tax credits for less than **[85]** 90 percent of the tax credit
26 amount. Grants and loans made available pursuant to this
27 subsection shall be awarded to entities that:

28 (a) are eligible for tax credits under subsection c. of this section
29 in lieu of tax credits; **[or]**

30 (b) own and operate a mid-sized food retailer or small food
31 retailer that commits to selling nutritious foods, including fresh
32 fruits and vegetables, in a designated food desert community; or

33 (c) at the discretion of the authority, support initiatives to
34 strengthen food security of residents in food desert communities.

35 (2) A supermarket, grocery store, mid-sized food retailer, **[or]**
36 small food retailer, or other eligible entity shall submit an
37 application to the authority to receive a grant or loan pursuant to
38 this subsection. The application shall be submitted in the form and
39 manner prescribed by the authority and in accordance with criteria
40 established by the authority. An entity eligible for a grant or loan
41 under subparagraph (a) of paragraph (1) of this subsection shall not
42 be required to submit a separate application to the authority for the
43 grant or loan, provided that the entity has submitted an application
44 to the authority pursuant to subsection c. of this section.

45 (3) Prior to awarding a grant or loan to an applicant
46 supermarket, grocery store, mid-sized food retailer, **[or]** small food
47 retailer pursuant to this subsection, the Department of Labor and

1 Workforce Development, the Department of Environmental
2 Protection, and the Department of the Treasury shall each report to
3 the chief executive officer of the authority whether the applicant is
4 in substantial good standing, as defined in the regulations adopted
5 pursuant to section 41 of P.L.2020, c.156 (C.34:1B-309), with the
6 respective department, or has entered into an agreement with the
7 respective department that includes a practical corrective action
8 plan for the applicant. The authority may also contract with an
9 independent third party to perform a background check on the
10 entity.

11 (4) An applicant supermarket, grocery store, mid-sized food
12 retailer, **【or】** small food retailer, or other eligible entity shall, as
13 required at the discretion of the authority, submit to the authority
14 satisfactory information pertaining to the eligible equipment costs
15 and eligible technology costs, as certified by a certified public
16 accountant, certifications that all information provided by the
17 applicant to the authority is true, including information contained in
18 the application, any agreement pertaining to the award of grants or
19 loans under the program, any amendment to such an agreement, and
20 any other information submitted by the applicant to the authority
21 pursuant to sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303
22 through C.34:1B-310), and evidence of the eligible equipment costs
23 and eligible technology costs of the applicant. The applicant, or an
24 authorized agent of the applicant, shall certify under the penalty of
25 perjury that the information provided pursuant to this subsection is
26 true.

27 e. The authority may establish a technical assistance fund to
28 assist any entity that is eligible for a tax credit, grant, or loan under
29 this section. The authority, through the technical assistance fund,
30 may make grants to entities to assist qualifying supermarkets,
31 grocery stores, mid-sized food retailers, **【or】** small food retailers, or
32 other eligible entities in implementation of best practices for
33 increasing the accessibility of nutritious foods in food desert
34 communities. Technical assistance shall be provided either directly
35 by the authority or through a not-for-profit or for-profit entity and
36 made available in English as well as the two most commonly
37 spoken languages in New Jersey other than English. At the
38 discretion of the authority, funds to support technical assistance
39 may be provided in addition to, or in lieu of, any tax credit, grant,
40 or loan awarded under sections 35 through 42 of P.L.2020, c.156
41 (C.34:1B-303 through C.34:1B-310).

42 f. (1) The authority shall require that any tax credits, grants, or
43 loans awarded by the authority under the program be utilized by the
44 recipient for one or more of the following purposes, which shall be
45 set forth in the award agreement:

46 (a) to mitigate a project financing gap;

47 (b) to mitigate the initial operating costs of the supermarket or
48 grocery store; or

1 (c) to mitigate the eligible equipment costs or eligible
2 technology costs of the supermarket, grocery store, mid-sized food
3 retailer, **[or]** small food retailer, or other eligible entity in order to
4 make nutritious foods more accessible and affordable to residents
5 within food deserts; or

6 (d) to support initiatives to ensure food security of residents in
7 food desert communities.

8 (2) The value of tax credits or grants awarded to individual
9 entities under the program shall not exceed:

10 (a) in the case of an entity eligible under paragraph (1) of
11 subsection c. of this section, 40 percent of the total project cost for
12 the first supermarket or grocery store in a designated food desert
13 community, and 20 percent of the total project cost for the second
14 supermarket or grocery store in the food desert community; and

15 (b) in the case of an entity eligible under paragraph (2) of
16 subsection c. of this section, the initial operating costs of the first
17 supermarket or grocery store in a designated food desert
18 community, and one-half of the initial operating costs of the second
19 supermarket or grocery store in the food desert community; and

20 (c) in the case of an entity eligible for a grant or loan under
21 subparagraph (b) of paragraph (1) of subsection d. of this section,
22 the eligible equipment costs and eligible technology costs of the
23 supermarket, grocery store, mid-sized food retailer, **[or]** small food
24 retailer, or other eligible entity.

25 g. An entity that develops and opens a new supermarket or
26 grocery store in a designated food desert community shall be
27 eligible for a tax credit only if the entity demonstrates to the
28 authority at the time of application that each worker employed to
29 perform construction at the project shall be paid not less than the
30 prevailing wage rate for the worker's craft or trade, as determined
31 by the Commissioner of Labor and Workforce Development
32 pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005,
33 c.379 (C.34:11-56.58 et seq.).

34 h. (1) Except as provided in paragraph (2) of this subsection, a
35 labor harmony agreement shall be required if the State has a
36 proprietary interest in a supermarket or grocery store and the
37 agreement shall remain in effect for as long as the State acts as a
38 market participant in the project. The provisions of this paragraph
39 shall apply to a supermarket or grocery store that will have more
40 than 10 employees.

41 (2) A labor harmony agreement under paragraph (1) of this
42 subsection shall not be required if the authority determines that the
43 supermarket or grocery store would not be feasible if a labor
44 harmony agreement is required. The authority shall support the
45 determination by a written finding, which provides the specific
46 basis for the determination.

47 (3) As used in this subsection, "labor harmony agreement"
48 means an agreement between a business that serves as the owner or

1 operator of a supermarket or grocery store and one or more labor
2 organizations, which requires, for the duration of the agreement:
3 that any participating labor organization and its members agree to
4 refrain from picketing, work stoppages, boycotts, or other economic
5 interference against the business; and that the business agrees to
6 maintain a neutral posture with respect to efforts of any
7 participating labor organization to represent employees at a
8 supermarket or grocery store, agrees to permit the labor
9 organization to have access to the employees, and agrees to
10 guarantee to the labor organization the right to obtain recognition as
11 the exclusive collective bargaining representatives of the employees
12 at a supermarket or grocery store by demonstrating to the New
13 Jersey State Board of Mediation, Division of Private Employment
14 Dispute Settlement, or a mutually agreed-upon, neutral, third-party,
15 that a majority of workers in the unit have shown their preference
16 for the labor organization to be their representative by signing
17 authorization cards indicating that preference. The labor
18 organization or organizations shall be from a list of labor
19 organizations that have requested to be on the list and that the
20 Commissioner of Labor and Workforce Development has
21 determined represent substantial numbers of supermarket or grocery
22 store employees in the State.

23 i. A recipient shall certify that all factual representations made
24 by the recipient in the application or award agreement are true
25 under the penalty of perjury. A material misrepresentation of fact
26 in either the application or award agreement may result in recession
27 and recapture of any grants or tax credits awarded, or acceleration
28 of any loans made, under sections 35 through 42 of P.L.2020, c.156
29 (C.34:1B-303 through C.34:1B-310).
30 (cf: P.L.2020, c.156, s.38)

31

32 15. Section 39 of P.L.2020, c.156 (C.34:1B-307) is amended to
33 read as follows:

34 39. a. For privilege periods beginning on or after January 1 next
35 following the effective date of sections 35 through 42 of P.L.2020,
36 c.156 (C.34:1B-303 through C.34:1B-310), a taxpayer eligible
37 under subsection c. of section 38 of P.L.2020, c.156 (C.34:1B-306)
38 shall be awarded a credit against the tax due pursuant to section 5 of
39 P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132
40 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231
41 (C.17:32-15), or N.J.S.17B:23-5. A taxpayer that qualifies for the
42 award of a tax credit under this section may claim 25 percent of the
43 total amount awarded in the privilege period in which the taxpayer
44 establishes and opens the supermarket or grocery store for business,
45 and an additional 25 percent of the total amount awarded in each of
46 the three privilege periods next following the initial opening,
47 provided that the supermarket or grocery store remains in business
48 and open to the public. For a taxpayer to be allowed a tax credit

1 pursuant to this section, the taxpayer shall meet the requirements of
2 this section, and the rules and regulations adopted pursuant to
3 section 41 of P.L.2020, c.156 (C.34:1B-309).

4 b. The order of priority of the application of the credit allowed
5 pursuant to this section and any other credits allowed against the tax
6 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for
7 a privilege period shall be as prescribed by the Director of the
8 Division of Taxation in the Department of the Treasury. The
9 amount of the credit applied pursuant to this section against the tax
10 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
11 shall not reduce a taxpayer's tax liability for a privilege period to an
12 amount less than the statutory minimum provided in subsection (e)
13 of section 5 of P.L.1945, c.162 (C.54:10A-5). Any credit shall be
14 valid in the privilege period in which the certification is approved
15 and any unused portion thereof may be carried forward into the next
16 10 privilege periods or until exhausted, whichever is earlier.

17 c. The authority shall award tax credits to taxpayers until either
18 the available tax credits are exhausted or all projects that are
19 eligible for a tax credit pursuant to the provisions of sections 35
20 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310)
21 receive a tax credit, whichever occurs first. If insufficient funding
22 exists to allow a tax credit to a taxpayer in accordance with the
23 provisions of subsection a. of section 38 of P.L.2020, c.156
24 (C.34:1B-306), the authority may offer the taxpayer a tax credit in
25 an amount less than that provided in subsection a. of this section.

26 d. Prior to awarding a tax credit to a supermarket or grocery
27 store, the Department of Labor and Workforce Development, the
28 Department of Environmental Protection, and the Department of the
29 Treasury shall each report to the chief executive officer of the
30 authority whether a qualifying supermarket or grocery store is in
31 substantial good standing, as defined in the regulations adopted
32 pursuant to section 41 of P.L.2020, c.156 (C.34:1B-309), with the
33 respective department, or has entered into an agreement with the
34 respective department that includes a practical corrective action
35 plan for the supermarket or grocery store. The authority may also
36 contract with an independent third party to perform a background
37 check on the developer.

38 e. A supermarket or grocery store shall, as required at the
39 discretion of the authority, submit to the authority satisfactory
40 information pertaining to the project cost, project financing gap,
41 and the initial operating costs, as certified by a certified public
42 accountant, certifications that all information provided by the
43 supermarket or grocery store to the authority is true, including
44 information contained in the application, any agreement pertaining
45 to the award of tax credits under the program, any amendment to
46 such an agreement, and any other information submitted by the
47 supermarket or grocery store to the authority pursuant to sections 35
48 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310),

1 and evidence of the initial opening and continued operation of the
2 supermarket or grocery store. The supermarket or grocery store, or
3 an authorized agent of the supermarket or grocery store, shall
4 certify under the penalty of perjury that the information provided
5 pursuant to this subsection is true.

6 (cf: P.L.2020, c.156, s.39)
7

8 16. Section 40 of P.L.2020, c.156 (C.34:1B-308) is amended to
9 read as follows:

10 40. a. For taxable years beginning on or after January 1 next
11 following the effective date of sections 35 through 42 of P.L.2020,
12 c.156 (C.34:1B-303 through C.34:1B-310), a taxpayer eligible
13 under subsection c. of section 38 of P.L.2020, c.156 (C.34:1B-306)
14 shall be awarded a credit against the tax due pursuant to
15 N.J.S.54A:1-1 et seq. A taxpayer that qualifies for the award of a
16 tax credit under this section may claim 25 percent of the total
17 amount awarded in the taxable year in which the taxpayer
18 establishes and opens the supermarket or grocery store for business,
19 and may claim 25 percent of the total amount awarded in each of
20 the three taxable years next following the initial opening, provided
21 that the supermarket or grocery store remains in business and open
22 to the public. For a taxpayer to be awarded a tax credit pursuant to
23 this section, the taxpayer shall meet the requirements of this
24 section, and the rules and regulations adopted pursuant to section 41
25 of P.L.2020, c.156 (C.34:1B-309).

26 b. The order of priority of the application of the credit allowed
27 pursuant to this section and any other credits allowed against the tax
28 imposed pursuant to N.J.S.54A:1-1 et seq. for a taxable year shall
29 be as prescribed by the Director of the Division of Taxation in the
30 Department of the Treasury, in consultation with the chief executive
31 officer of the authority. The amount of the credit applied pursuant
32 to this section against the tax imposed pursuant to N.J.S.54A:1-1 et
33 seq. shall not reduce a taxpayer's tax liability for a taxable year to
34 an amount less than zero. Any credit shall be valid in the taxable
35 year in which the certification is approved and any unused portion
36 thereof may be carried forward into the next 10 taxable years or
37 until depleted, whichever is earlier.

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

47 A taxpayer that is a New Jersey S corporation shall not be
48 allowed the credit directly under N.J.S.54A:1-1 et seq., but the

1 amount of credit of a taxpayer in respect of a pro rata share of S
2 corporation income shall be determined by allocating to the
3 taxpayer that proportion of the credit acquired by the New Jersey S
4 corporation that is equal to the taxpayer's share, whether or not
5 distributed, of the total pro rata share of S corporation income of the
6 New Jersey S corporation for its taxable year ending within or with
7 the taxpayer's taxable year.

8 d. The authority shall award tax credits to taxpayers until either
9 the available tax credits are exhausted or all projects that are
10 eligible for a tax credit pursuant to the provisions of sections 35
11 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310)
12 receive a tax credit, whichever occurs first. If insufficient funding
13 exists to allow a tax credit to a taxpayer in accordance with the
14 provisions of subsection a. of section 38 of P.L.2020, c.156
15 (C.34:1B-306), the authority may offer the taxpayer a tax credit in
16 an amount less than that provided in subsection a. of this section
17 **[40]**.

18 e. Prior to awarding a tax credit to a supermarket or grocery
19 store, the Department of Labor and Workforce Development, the
20 Department of Environmental Protection, and the Department of the
21 Treasury shall each report to the chief executive officer of the
22 authority whether a qualifying supermarket or grocery store, and
23 each contractor and subcontractor under contract in an amount
24 exceeding \$100,000 performing construction work at the qualifying
25 supermarket or grocery store, is in substantial good standing, as
26 defined in the regulations adopted pursuant to section 41 of
27 P.L.2020, c.156 (C.34:1B-309), with the respective department, or
28 has entered into an agreement with the respective department that
29 includes a practical corrective action plan. The authority may also
30 contract with an independent third party to perform a background
31 check on the **[developer]** qualifying supermarket or grocery store.

32 f. A supermarket or grocery store shall, as required at the
33 discretion of the authority, submit to the authority satisfactory
34 information pertaining to the project cost, project financing gap,
35 and the initial operating costs, as certified by a certified public
36 accountant, certifications that all information provided by the
37 supermarket or grocery store to the authority is true, including
38 information contained in the application, any agreement pertaining
39 to the award of tax credits under the program, any amendment to
40 such an agreement, and any other information submitted by the
41 supermarket or grocery store to the authority pursuant to sections 35
42 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310),
43 and evidence of the initial opening and continued operation of the
44 supermarket or grocery store. The supermarket or grocery store, or
45 an authorized agent of the supermarket or grocery store, shall
46 certify under the penalty of perjury that the information provided
47 pursuant to this subsection is true.

48 (cf: P.L.2020, c.156, s.40)

1 17. Section 41 of P.L.2020, c.156 (C.34:1B-309) is amended to
2 read as follows:

3 41. **【The】** Notwithstanding the provisions of the
4 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
5 seq.), to the contrary, the chief executive officer of the authority, in
6 consultation with the department and the Director of the Division of
7 Taxation in the Department of the Treasury, **【shall】** may adopt,
8 **【pursuant to the "Administrative Procedure Act," P.L.1968, c.410**
9 **(C.52:14B-1 et seq.)】** immediately upon filing with the Office of
10 Administrative Law, rules and regulations necessary to carry out the
11 provisions of sections 35 through 42 of P.L.2020, c.156 (C.34:1B-
12 303 through C.34:1B-310)), which rules and regulations shall be
13 effective for a period not to exceed 360 days from the date of the
14 filing. The chief executive officer shall thereafter amend, adopt, or
15 readopt the rules and regulations in accordance with the
16 requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).
17 (cf: P.L.2020, c.156, s.41)
18

19 18. Section 45 of P.L.2020, c.156 (C.34:1B-313) is amended to
20 read as follows:

21 45. As used in sections 43 through 53 of P.L.2020, c.156
22 (C.34:1B-311 through C.34:1B-321):

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

37 "Anchor institution" means a governmental entity or nonprofit
38 entity incorporated pursuant to Title 15 of the Revised Statutes or
39 Title 15A of the New Jersey Statutes having a primary mission and
40 specific policy goals that align with those of the authority under the
41 program and that is a comprehensive health care system, a public
42 research university, a private research university, a major cultural
43 scientific, research, or philanthropic institution, or a public college
44 which is separate from public research universities, or an
45 experienced nonprofit or governmental economic or community
46 development entity certified as an anchor institution by the board
47 pursuant to subsection a. of section 46 of P.L.2020, c.156 (C.34:1B-
48 314).

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

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

6 "Commitment period" means the period of time, which shall be
7 not less than 10 years and no greater than twice the eligibility
8 period that is granted to an anchor institution or, if applicable, a
9 partner anchor institution, to distribute to the authority the agreed
10 upon returns on investment for the award of tax credits pursuant to
11 the program; provided, however, at the election of the authority or
12 upon the request of an anchor institution or, if applicable, a partner
13 anchor institution in order to benefit the community-anchored
14 project, and as determined in the sole discretion of the authority, the
15 authority may grant up to two consecutive five-year extensions of
16 the commitment period.

17 "Community-anchored project" means a capital project that is
18 located in an area that is designated as a New Jersey State
19 opportunity zone, an area of the State designated pursuant to the
20 "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as
21 Planning Area 1 (Metropolitan), or a municipality with a Municipal
22 Revitalization Index distress score of at least 50 and for which an
23 anchor institution and, if applicable, any partner anchor institution
24 is to be awarded tax credits by the authority pursuant to a tax credit
25 agreement which establishes the award of tax credits as an
26 investment by the authority in the project, provided that the project
27 will result in a capital investment of at least \$10,000,000 in a New
28 Jersey State opportunity zone or in any other area of the State, but a
29 project that is not located in a New Jersey State opportunity zone is
30 to be primarily designed to result in the economic expansion of a
31 targeted industry in this State.

32 "Comprehensive health care system" means an entity in this State
33 with the primary purpose of offering comprehensive health care
34 services.

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

1 "Director" means the Director of the Division of Taxation in the
2 Department of the Treasury.

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

11 "Eligible position" means a full-time position in a business in
12 this State which the business has filled with a full-time employee.
13 An eligible position shall not include an independent contractor or a
14 consultant.

15 "Experienced nonprofit or governmental economic or community
16 development entity" means a nonprofit entity incorporated pursuant
17 to Title 15 of the Revised Statutes or Title 15A of the New Jersey
18 Statutes with a substantial number of years of experience that has a
19 core mission and a community track record of advancing economic
20 or community development in at least one area of the State, that the
21 senior management has undertaken multiple successful partnerships
22 with government entities, educational institutions, and the private
23 sector in carrying out development projects, that has successfully
24 developed multiple types of mixed-use projects, [that owns or
25 controls significant real estate assets,] and that has appropriate
26 prior experience in successfully developing mixed-use projects of
27 comparable or greater size, value and complexity to that being
28 proposed, structuring, securing, and utilizing complex financing in
29 the development of projects of comparable or greater size, value,
30 and complexity to that being proposed, as determined by the board.
31 An experienced nonprofit or governmental economic or community
32 development entity shall not be eligible to participate in the
33 program in connection with a project that is primarily residential or
34 retail.

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

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

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

1 "Partner anchor institution" means an anchor institution that
2 partners with one or more anchor institutions to make an equity
3 investment in or to provide a loan or other financial support for a
4 community-anchored project.

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

15 "Private research university" means Princeton University and any
16 other institution of higher education in this State designated by the
17 board as a private research university, based on criteria and metrics
18 established by the board.

19 "Program" means the New Jersey Community-Anchored
20 Development Program established pursuant to section 46 of
21 P.L.2020, c.156 (C.34:1B-314).

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

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

33 "Targeted industry" means any industry identified from time to
34 time by the authority which shall initially include advanced
35 transportation and logistics, advanced manufacturing, aviation,
36 autonomous vehicle and zero-emission vehicle research or
37 development, clean energy, life sciences, hemp processing,
38 information and high technology, finance and insurance,
39 professional services, film and digital media, non-retail food and
40 beverage businesses including food innovation, and other
41 innovative industries that disrupt current technologies or business
42 models.

43 "Tax credit agreement" means a tax credit agreement entered into
44 pursuant to section 50 of P.L.2020, c.156 (C.34:1B-318) between
45 the authority and an anchor institution or, if applicable, a partner
46 anchor institution.

1 "Work First New Jersey program" means the Work First New
2 Jersey program established pursuant to P.L.1997, c. 38 (C.44:10-55
3 et seq.).

4 (cf: P.L.2020, c.156, s.45)

5
6 19. Section 47 of P.L.2020, c.156 (C.34:1B-315) is amended to
7 read as follows:

8 47. a. An anchor institution and, if applicable, each partner
9 anchor institution shall be eligible to receive a tax credit under the
10 program only if the anchor institution and, if applicable, each
11 partner anchor institution submits a program application to the
12 authority that results in completion of a community-anchored
13 project through a capital investment in a New Jersey State
14 opportunity zone or, if the community-anchored project is primarily
15 designed to result in the economic expansion of a targeted industry
16 in this State, in an area of the State designated pursuant to the "State
17 Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning
18 Area 1 (Metropolitan) or in a municipality with a Municipal
19 Revitalization Index distress score of at least 50.

20 b. At the time of application, an anchor institution and, if
21 applicable, each partner anchor institution seeking tax credits
22 pursuant to the program shall demonstrate to the authority:

23 (1) that the proposed community-anchored project will result in
24 a capital investment in a New Jersey State opportunity zone or, if
25 the project is primarily designed to result in the economic
26 expansion of a targeted industry in this State, in an area of the State
27 designated pursuant to the "State Planning Act," P.L.1985, c.398
28 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan) or in a
29 municipality with a Municipal Revitalization Index distress score of
30 at least 50;

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

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

46 (4) the value of the tax credit that is necessary in each year of
47 the eligibility period, in order for the anchor institution and, if

1 applicable, each partner anchor institution to finance the
2 establishment of the community-anchored project;

3 (5) the total aggregate value of the tax credit for the entire
4 eligibility period that is necessary in order for the anchor institution
5 and, if applicable, each partner anchor institution to finance the
6 establishment of the community-anchored project;

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

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

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

22 (9) a description of the significant economic, social, planning,
23 employment, environmental, fiscal, and other benefits that would
24 accrue to the State, county, or municipality from the community-
25 anchored project;

26 (10)that during the eligibility period, each worker employed to
27 perform construction work and building services work at the
28 community-anchored project shall be paid not less than the
29 prevailing wage rate for the worker's craft or trade, as determined
30 by the Commissioner of Labor and Workforce Development
31 pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005,
32 c.379 (C.34:11-56.58 et seq.). In the event the community-
33 anchored project constitutes a lease of more than 55 percent of a
34 single facility, these requirements shall apply to construction work
35 and building services work at the entire facility. In the event the
36 community-anchored project constitutes a lease of more than 35
37 percent of a single facility, these requirements shall apply to
38 construction work at the entire facility;

39 (11)that during the eligibility period, the anchor institution and,
40 if applicable, each partner anchor institution shall partner with one
41 or more local community organizations that provide support and
42 services to Work First New Jersey program recipients, in order to
43 provide work activity opportunities and other appropriate services
44 to Work First New Jersey program recipients, which activities and
45 services may include, but shall not be limited to: work-study
46 programs, internships, sector-based contextualized literacy training,
47 skills-based training in growth industries in the State, and job
48 retention and advancement services;

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

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

6 (14)that the community-anchored project is viable and that the
7 anchor institution and, if applicable, each partner anchor institution
8 is a credible partner for completing the community-anchored project
9 and providing the agreed-upon potential returns to the authority, as
10 detailed in the tax credit agreement entered into pursuant to section
11 50 of P.L.2020, c.156 (C.34:1B-318).

12 c. Prior to the board considering an application submitted by an
13 anchor institution and, if applicable, each partner anchor institution,
14 the Department of Labor and Workforce Development, the
15 Department of Environmental Protection, and the Department of the
16 Treasury shall each report to the chief executive officer of the
17 authority whether the anchor institution and, if applicable, each
18 partner anchor institution and any partner business is in substantial
19 good standing, as defined in regulation adopted by the authority,
20 with the respective department, or has entered into an agreement
21 with the respective department that includes a practical corrective
22 action plan. The authority may also contract with an independent
23 third party to perform a background check on an anchor institution
24 and, if applicable, each partner anchor institution and any partner
25 business.

26 d. In order to facilitate the creation of new partnerships with
27 anchor institutions and, if applicable, partner anchor institutions, the
28 authority shall publish on the authority's website a list of names and
29 contact information for each anchor institution that has submitted
30 an application pursuant to this section.

31 (cf: P.L.2020, c.156, s.47)

32
33 20. Section 49 of P.L.2020, c.156 (C.34:1B-317) is amended to
34 read as follows:

35 49. a. The authority shall award tax credits under the program
36 through a competitive application process consisting of up to two
37 award rounds each year. The authority shall provide notice to the
38 public of the opening and closing dates for submission of program
39 applications on the authority's Internet website.

40 b. (1) The authority shall review applications for tax credits
41 submitted to the authority by the deadline date of the award round
42 and shall evaluate each application as if it were received on the
43 deadline date, without providing any preference for early
44 submissions. To determine priority for an award of a tax credit, all
45 applications for community-anchored projects that satisfy the
46 criteria set forth in sections 47 and 48 of P.L.2020, c.156 (C.34:1B-
47 315 and C.34:1B-316) in a given award round shall be ranked on
48 the basis of a scoring system developed by the authority through

1 regulations adopted pursuant to the provisions of the
2 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
3 seq.). Prior to the commencement of an award round, the authority
4 shall determine the minimum score for the award round that an
5 anchor institution or, if applicable, each partner anchor institution is
6 required to attain to be eligible for a tax credit.

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

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

16 (1) the amount of tax credit requested by the anchor institution
17 and, if applicable, each partner anchor institution compared to the
18 overall investments required for the completion of the community-
19 anchored project, along with the amount of the potential return on
20 the authority's investment of tax credits to the State by the end of
21 the commitment period, the amount of the tax credit, if any, that is
22 unlikely to be realized as a return on investment to the State, and
23 the proposed terms and structure for the authority's investment in
24 the project, including applicable current and deferred returns;

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

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

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

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

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

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

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

43 (9) the extent to which the community-anchored project
44 provides for the development of workforce housing and housing for
45 individuals with special needs;

46 (10) the extent to which the community-anchored project
47 constitutes the expansion of the anchor institution and, if applicable,
48 each partner anchor institution to different areas of the State;

1 (11) the extent to which the community-anchored project
2 provides for infrastructure, parking, retail, green space, or other
3 public amenities creating a mixed-use community-anchored project;
4 (12) the inclusion of a qualified business accelerator or incubator
5 facility as a part of the community-anchored project;
6 (13) the length of the commitment period for the community-
7 anchored project;
8 (14) the quality and number of new full-time jobs that will be
9 created by the anchor institution, partner anchor institution or a
10 partner business at the community-anchored project;
11 (15) the quality and number of existing full-time jobs that will be
12 retained by the anchor institution, partner anchor institution or a
13 partner business in the State as a result of completing the
14 community-anchored project, with the criteria specifying, in scoring
15 the application, that the retention of an existing full-time job shall
16 be given not more than one-third the weight of a new full-time job
17 of a similar quality; and
18 (16) if the anchor institution has a board of directors, the extent
19 to which that board of directors is diverse and representative of the
20 community in which the community-anchored project is located.

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

27 e. Prior to the award of a tax credit to an anchor institution or,
28 if applicable, each partner anchor institution, to be converted into
29 an authority investment in a community-anchored project, the
30 Department of Labor and Workforce Development, the Department
31 of Environmental Protection, and the Department of the Treasury
32 shall each report to the chief executive officer of the authority as to
33 whether the anchor institution and, if applicable, each partner
34 anchor institution, along with any partner business identified in a
35 program application, and each contractor and subcontractor under
36 contract in an amount exceeding \$100,000 performing work at the
37 community-anchored project, is in substantial good standing, as
38 defined in regulations adopted by the authority, with the respective
39 department, or has entered into an agreement with the respective
40 department that includes a practical corrective action plan for the
41 anchor institution and, if applicable, each partner anchor institution
42 and any partner business. Provided that all parties are in substantial
43 good standing, or have entered into such an agreement, the
44 authority shall allocate tax credits to community-anchored projects
45 according to the community-anchored project's score and until
46 either the available tax credits are exhausted or all community-
47 anchored projects obtaining the minimum score receive a tax credit,
48 whichever occurs first. If insufficient funding exists to fully fund

1 all eligible community-anchored projects, a community-anchored
2 project may be offered partial funding.

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

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

14 (cf: P.L.2020, c.156, s.49)

15

16 21. Section 50 of P.L.2020, c.156 (C.34:1B-318) is amended to
17 read as follows:

18 50. a. Following approval and selection of an application
19 pursuant to sections 48 and 49 of P.L.2020, c.156 (C.34:1B-316 and
20 C.34:1B-317), the authority shall enter into a tax credit agreement
21 with the anchor institution and, if applicable, each partner anchor
22 institution. The chief executive officer of the authority shall
23 negotiate the terms and conditions of the tax credit agreement on
24 behalf of the State.

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

35 (2) If, as a result of a default under the tax credit agreement, the
36 authority rescinds a tax credit in the same calendar year in which
37 the authority approved the tax credit, then the authority may assign
38 the tax credit to another applicant that attained the minimum score
39 determined pursuant to section 49 of P.L.2020, c.156 (C.34:1B-
40 317). c. The terms of the tax credit agreement shall:

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

47 (2) specify the length of the commitment period for the
48 community-anchored project and the terms by which the anchor

1 institution and, if applicable, each partner anchor institution shall
2 provide to the authority current or deferred returns on investment
3 generated by the community-anchored project and commit to a
4 structure for returns on investment;

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

11 (4) specify amounts of returns to be retained by the anchor
12 institution and, if applicable, each partner anchor institution for
13 capital reserves, programming, or other purposes;

14 (5) identify the value of any monetary or financial benefit
15 offered or provided by the anchor institution and, if applicable, each
16 partner anchor institution to any partner business that works with
17 the anchor institution and, if applicable, each partner anchor
18 institution to complete and operate the community-anchored
19 project;

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

25 (7) specify that the authority or the State may purchase tax
26 credits offered for sale by an anchor institution and, if applicable,
27 each partner anchor institution for 90 percent of the stated value of
28 the tax credit before considering any further discounting to present
29 value which shall be permitted;

30 (8) at a minimum, require an anchor institution and, if
31 applicable, each partner anchor institution to provide oversight of
32 the community-anchored project through ongoing reporting by a
33 partner business to the anchor institution and, if applicable, each
34 partner anchor institution, and subsequent ongoing reporting by the
35 anchor institution and, if applicable, each partner anchor institution
36 to the authority;

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

46 (10) at a minimum, require that the anchor institution, each
47 partner anchor institution, and any partner businesses, adopt

1 specific nondiscrimination policies for the operation of a
2 community-anchored project.

3 d. The tax credit agreement shall include a requirement that the
4 chief executive officer of the authority receive annual reports from
5 the anchor institution and, if applicable, each partner institution
6 **【that are to include separate certifications by】** and any partner
7 business. As part of the authority's review of the annual reports
8 required from each anchor institution and, if applicable, each
9 partner institution, the authority shall confirm with the Department
10 of Environmental Protection, the Department of Labor and
11 Workforce Development, and the Department of the Treasury
12 **【demonstrating】** that the anchor institution and, if applicable, each
13 partner institution and any partner business, and each contractor and
14 subcontractor under contract in an amount exceeding \$100,000
15 performing work at the community-anchored project is in
16 substantial good standing, as defined in regulations adopted by the
17 authority, with 【that】 the department, or 【have】 the anchor
18 institution and, if applicable, each partner institution and any
19 partner business not in good standing with a department has entered
20 into an agreement with 【that】 such department that includes a
21 practical corrective action plan 【, and the】 for the anchor
22 institution and, if applicable, each partner anchor institution and any
23 partner business. The tax credit agreement shall include a provision
24 that the anchor institution and, if applicable, each partner institution
25 shall forfeit the tax credit in any year in which an uncured default
26 exists under the tax credit agreement or the anchor institution and,
27 if applicable, each partner institution is neither in substantial good
28 standing with the Department of Environmental Protection, the
29 Department of Labor and Workforce Development, or the
30 Department of the Treasury nor has entered into a practical
31 corrective action plan. The tax credit agreement shall, however,
32 allow the authority to extend, in individual cases, the deadline for
33 any annual reporting **【or certification】** requirement.

34 e. An anchor institution and, if applicable, each partner
35 institution shall, as required at the discretion of the authority,
36 submit to the authority satisfactory evidence of actual project costs,
37 as certified by a certified public accountant, evidence of a
38 temporary certificate of occupancy, or other event evidencing
39 project completion. The anchor institution and, if applicable, each
40 partner institution, or an authorized agent of the anchor institution
41 or partner institution, shall certify under the penalty of perjury that
42 the information provided pursuant to this subsection is true.

43 (cf: P.L.2020, c.156, s.50)

44

45 22. Section 53 of P.L.2020, c.156 (C.34:1B-321) is amended to
46 read as follows:

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

14 b. The anchor institution or partner institution shall not sell or
15 assign, including a collateral assignment, a tax credit transfer
16 certificate allowed under this section for consideration received by
17 the anchor institution or partner institution of less than **[85]** 90
18 percent of the transferred credit amount before considering any
19 further discounting to present value which shall be permitted. The
20 tax credit transfer certificate issued to an anchor institution or
21 partner institution by the director shall be subject to any limitations
22 and conditions imposed on the application of State tax credits
23 pursuant to sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311
24 through C.34:1B-321) and any other terms and conditions that the
25 director may prescribe.

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

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

- 33 (1) the name of the transferor;
34 (2) the name of the transferee;
35 (3) the value of the tax credit transfer certificate;
36 (4) the State tax against which the transferee may apply the tax
37 credit; and
38 (5) the consideration received by the transferor.
39 (cf: P.L.2020, c.156, s.53)

40
41 23. Section 55 of P.L.2020, c.156 (C.34:1B-323) is amended to
42 read as follows:

43 55. As used in sections 54 through 67 of P.L.2020, c.156
44 (C.34:1B-322 through C.34:1B-335):

45 "Agency" means the New Jersey Housing and Mortgage Finance
46 Agency established pursuant to P.L.1983, c.530 (C.55:14K-1 et
47 seq.).

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

3 "Aviation district" means all areas within the boundaries of the
4 Atlantic City International Airport, established pursuant to section
5 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation
6 Administration William J. Hughes Technical Center and the area
7 within a one-mile radius of the outermost boundary of the Atlantic
8 City International Airport and the Federal Aviation Administration
9 William J. Hughes Technical Center.

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

13 "Building services" means any cleaning or routine building
14 maintenance work, including but not limited to sweeping,
15 vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse
16 or trash, window cleaning, securing, patrolling, or other work in
17 connection with the care or securing of an existing building,
18 including services typically provided by a door-attendant or
19 concierge. "Building services" shall not include any skilled
20 maintenance work, professional services, or other public work for
21 which a contractor is required to pay the "prevailing wage" as
22 defined in section 2 of P.L.1963, c.150 (C.34:11-56.26).

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

27 "Collaborative workspace" means coworking, accelerator,
28 incubator, or other shared working environments that promote
29 collaboration, interaction, socialization, and coordination among
30 tenants through the clustering of multiple businesses or individuals.
31 For this purpose, the collaborative workspace shall be the greater
32 of: 2,500 of dedicated square feet or 10 percent of the total property
33 on which the redevelopment project is situated. The collaborative
34 workspace shall include a community manager, be focused on
35 collaboration among the community members, and include
36 regularly scheduled education events for the community members.
37 The collaborative workspace shall also include a physical open
38 space that supports the engagement of its community members.

39 "Commercial project" means a **【building】** redevelopment
40 project, which is predominantly commercial and contains 100,000
41 or more square feet of office and retail space, industrial space, or
42 film studios, professional stages, television studios, recording
43 studios, screening rooms, or other infrastructure for film
44 production, for purchase or lease and may include a parking
45 component.

46 "Developer" means a person who enters or proposes to enter into
47 an incentive award agreement pursuant to the provisions of section
48 60 of P.L.2020, c.156 (C.34:1B-328), including, but not limited, to

1 a lender that completes a redevelopment project, operates a
2 redevelopment project, or completes and operates a redevelopment
3 project.

4 "Director" means the Director of the Division of Taxation in the
5 Department of the Treasury.

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

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

21 "Eligibility period" means the period not to exceed 15 years for a
22 commercial or mixed-use project or phase, or the period not to
23 exceed 10 years for a residential project or phase specified in an
24 incentive award agreement during which a developer may claim a
25 tax credit under the program.

26 "Enhanced area" means (1) a municipality that contains an urban
27 transit hub, as defined in section 2 of P.L.2007, c.346 (C.34:1B-
28 208); (2) the five municipalities with the highest poverty rates
29 according to the 2017 Municipal Revitalization Index; and (3) the
30 three municipalities with the highest percentage of SNAP recipients
31 according to the 2017 Municipal Revitalization Index.

32 "Food delivery source" means access to nutritious foods, such as
33 fresh fruits and vegetables, through grocery operators, including,
34 but not limited to a full-service supermarket or grocery store, and
35 other healthy food retailers of at least 18,000 square feet, including,
36 but not limited to, a prepared food establishment selling primarily
37 nutritious ready-to-serve meals.

38 "Food desert community" means a physically contiguous area in
39 the State in which residents have limited access to nutritious foods,
40 such as fresh fruits and vegetables, through supermarkets and
41 grocery stores.

42 "Government-restricted municipality" means a municipality in
43 this State with a municipal revitalization index distress score of at
44 least **[7]** 75, that met the criteria for designation as an urban aid
45 municipality in the 2019 State fiscal year, and that, on the effective
46 date of P.L.2020, c.156 (C.34:1B-269 et al.), is subject to financial
47 restrictions imposed pursuant to the "Municipal Stabilization and
48 Recovery Act," P.L.2016, c.4 (C.52:27BBBB-1 et seq.), or is

1 restricted in its ability to levy property taxes on property in that
2 municipality as a result of the State of New Jersey owning or
3 controlling property representing at least 25 percent of the total land
4 area of the municipality or as a result of the federal government of
5 the United States owning or controlling at least 50 acres of the total
6 land area of the municipality, which is dedicated as a national
7 natural landmark.

8 "Health care or health services center" means an establishment
9 where patients are admitted for examination and treatment by one or
10 more physicians, dentists, psychologists, or other medical
11 practitioners.

12 "Incentive area" means an aviation district, a port district, or an
13 area designated pursuant to the "State Planning Act," P.L.1985,
14 c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan),
15 Planning Area 2 (Suburban), or a Designated Center, provided an
16 area designated as Planning Area 2 (Suburban) or a Designated
17 Center shall be located within a one-half mile radius of the mid-
18 point, with bicycle and pedestrian connectivity, of a New Jersey
19 Transit Corporation, Port Authority Transit Corporation, or Port
20 Authority Trans-Hudson Corporation rail, bus, or ferry station,
21 including all light rail stations, or a high frequency bus stop as
22 certified by the New Jersey Transit Corporation.

23 "Incentive award" means an award of tax credits to reimburse a
24 developer for all or a portion of the project financing gap of a
25 redevelopment project pursuant to the provisions of sections 54
26 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335).

27 "Incentive award agreement" means the contract executed
28 between a developer and the authority pursuant to section 60 of
29 P.L.2020, c.156 (C.34:1B-328), which sets forth the terms and
30 conditions under which the developer may receive the incentive
31 awards authorized pursuant to the provisions of sections 54 through
32 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335).

33 "Incentive phase agreement" means a sub-agreement of the
34 incentive award agreement that governs the timing, capital
35 investment, and other applicable details of the respective phase of a
36 phased project.

37 "Incubator facility" means a commercial property, which
38 contains 5,000 or more square feet of office, laboratory, or
39 industrial space, which is located near, and presents opportunities
40 for collaboration with, a research institution, teaching hospital,
41 college, or university, and within which at least 75 percent of the
42 gross leasable area is restricted for use by one or more technology
43 startup companies.

44 "Individuals with special needs" means individuals with mental
45 illness, individuals with physical or developmental disabilities, and
46 individuals in other emerging special needs groups identified by the
47 authority, based on guidelines established for the administration of
48 the Special Needs Housing Trust Fund established pursuant to

1 section 1 of P.L.2005, c.163 (C.34:1B-21.25a) or developed in
2 consultation with other State agencies.

3 "Low-income housing" means housing affordable according to
4 federal Department of Housing and Urban Development or other
5 recognized standards for home ownership and rental costs and
6 occupied or reserved for occupancy by households with a gross
7 household income equal to 50 percent or less of the median gross
8 household income for households of the same size within the
9 housing region in which the housing is located.

10 "Major rail station" means a railroad station that is located within
11 a qualified incentive area and that provides to the public access to a
12 minimum of six rail passenger service lines operated by the New
13 Jersey Transit Corporation.

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

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

29 "Municipal Revitalization Index" means the index by the
30 Department of Community Affairs ranking New Jersey's
31 municipalities according to eight separate indicators that measure
32 diverse aspects of social, economic, physical, and fiscal conditions
33 in each locality.

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

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

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

44 "Program" means the New Jersey Aspire Program established by
45 section 56 of P.L.2020, c.156 (C.34:1B-324).

46 "Project cost" means the costs incurred in connection with a
47 redevelopment project by a developer until the issuance of a
48 permanent certificate of occupancy, or until such other time

1 specified by the authority, for a specific investment or
2 improvement, including the costs relating to lands, buildings,
3 improvements, real or personal property, or any interest therein,
4 including leases discounted to present value, including lands under
5 water, riparian rights, space rights, and air rights acquired, owned,
6 developed or redeveloped, constructed, reconstructed, rehabilitated,
7 or improved, any environmental remediation costs, plus costs not
8 directly related to construction, of an amount not to exceed 20
9 percent of the total costs, capitalized interest paid to third parties,
10 and the cost of infrastructure improvements, including ancillary
11 infrastructure projects. The [cost of acquisition of land or] fees
12 associated with the application or administration of a grant under
13 sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through
14 C.34:1B-335) shall not constitute a project cost.

15 "Project financing gap" means the part of the total project cost,
16 including reasonable and appropriate return on investment, that
17 remains to be financed after all other sources of capital have been
18 accounted for, including, but not limited to developer contributed
19 capital, which shall not be less than 20 percent of the total project
20 cost, and investor or financial entity capital or loans for which the
21 developer, after making all good faith efforts to raise additional
22 capital, certifies that additional capital cannot be raised from other
23 sources on a non-recourse basis; provided, however, that for a
24 redevelopment project located in a government-restricted
25 municipality, the developer contributed capital shall not be less than
26 10 percent of the total project cost. Developer contributed capital
27 may consist of cash, development fees, costs for project feasibility
28 incurred within the 12 months prior to application, federal tax
29 credits, property value less any mortgages, and any other
30 investment by the developer in the project deemed acceptable by the
31 authority, as provided by regulations promulgated by the authority.
32 Property value shall be valued at the lesser of: (i) the purchase
33 price, provided the property was purchased pursuant to an arm's
34 length transaction within 12 months of application; or (ii) the value
35 as determined by a current appraisal.

36 "Project labor agreement" means a form of pre-hire collective
37 bargaining agreement covering terms and conditions of a specific
38 project that satisfies the requirements set forth in section 5 of
39 P.L.2002, c.44 (C.52:38-5).

40 "Qualified incentive tract" means (i) a population census tract
41 having a poverty rate of 20 percent or more; or (ii) a census tract in
42 which the median family income for the census tract does not
43 exceed 80 percent of the greater of the Statewide median family
44 income or the median family income of the metropolitan statistical
45 area in which the census tract is situated.

46 "Quality childcare facility" is a child care center licensed by the
47 Department of Children and Families, operating continuously,
48 which has not been subject to an enforcement action, and which has

1 and maintains a total licensed capacity of at least 60 children age 6
2 years or younger.

3 "Redevelopment project" means a specific construction project
4 or improvement or phase of a project or improvement undertaken
5 by a developer, owner or tenant, or both, and any ancillary
6 infrastructure project. A redevelopment project may involve
7 construction or improvement upon lands, buildings, improvements,
8 or real and personal property, or any interest therein, including
9 lands under water, riparian rights, space rights, and air rights,
10 acquired, owned, developed or redeveloped, constructed,
11 reconstructed, rehabilitated, or improved.

12 "Residential project" means a redevelopment project that is
13 predominantly residential, intended for multi-family residency, and
14 may include a parking component.

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

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

19 "Technology startup company" means a for-profit business that
20 has been in operation fewer than five years at the time that it
21 initially occupies or expands in a qualified business facility and is
22 developing or possesses a proprietary technology or business
23 method of a high technology or life science-related product,
24 process, or service, which proprietary technology or business
25 method the business intends to move to commercialization. The
26 business shall be deemed to have begun operation on the date that
27 the business first hired at least one employee in a full-time position.

28 "Total project cost" means the costs incurred in connection with
29 the redevelopment project by the developer until the issuance of a
30 permanent certificate of occupancy, or upon such other event
31 evidencing project completion as set forth in the incentive grant
32 agreement, for a specific investment or improvement.

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

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

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

1 b. in which 30 percent or more of the value of real property was
2 exempt from local property taxation during tax year 2006. The
3 percentage of exempt property shall be calculated by dividing the
4 total exempt value by the sum of the net valuation which is taxable
5 and that which is tax exempt.

6 "Transit Village" means a municipality that has been designated
7 as a transit village by the Commissioner of Transportation and the
8 Transit Village Task Force established pursuant to P.L.1985, c.398
9 (C.27:1A-5).

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

18 (cf: P.L.2020, c.156, s.55)

19

20 24. Section 57 of P.L.2020, c.156 (C.34:1B-325) is amended to
21 read as follows:

22 57. a. Prior to March 1, 2027, a developer shall be eligible to
23 receive an incentive award for a redevelopment project only if the
24 developer demonstrates to the authority at the time of application
25 that:

26 (1) without the incentive award, the redevelopment project is
27 not economically feasible;

28 (2) a project financing gap exists, or the authority determines
29 that the redevelopment project will generate a below market rate of
30 return;

31 (3) the redevelopment project is located in the incentive area;

32 (4) except for demolition and site remediation activities, the
33 developer has not commenced any construction at the site of the
34 redevelopment project prior to submitting an application, unless the
35 authority determines that the redevelopment project would not be
36 completed otherwise or, in the event the redevelopment project is to
37 be undertaken in phases, the requested incentive award is limited to
38 only phases for which construction has not yet commenced;

39 (5) the redevelopment project shall comply with minimum
40 environmental and sustainability standards;

41 (6) the redevelopment project shall comply with the authority's
42 affirmative action requirements, adopted pursuant to section 4 of
43 P.L.1979, c.303 (C.34:1B-5.4);

44 (7) during the eligibility period, each worker employed to
45 perform construction work or building services work at the
46 redevelopment project shall be paid not less than the prevailing
47 wage rate for the worker's craft or trade, as determined by the
48 Commissioner of Labor and Workforce Development pursuant to

1 P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379
2 (C.34:11-56.58 et seq.). In the event a redevelopment project is
3 undertaken by a tenant and the tenant has a leasehold of more than
4 55 percent of space in the building owned or controlled by the
5 developer, the requirement that each worker employed to perform
6 building service work at the building be paid not less than the
7 prevailing wage shall apply to the entire building;

8 (8) the redevelopment project shall be completed, and the
9 developer shall be issued a certificate of occupancy for the
10 redevelopment project facilities by the applicable enforcing agency
11 within four years **【of executing】** from the commencement date
12 specified in the incentive award agreement or incentive phase
13 agreement corresponding to the redevelopment project;

14 (9) the developer has complied with all requirements for filing
15 tax and information returns and for paying or remitting required
16 State taxes and fees by submitting, as a part of the application, a tax
17 clearance certificate, as described in section 1 of P.L.2007, c.101
18 (C.54:50-39); and

19 (10) the developer is not more than 24 months in arrears at the
20 time of application.

21 b. In addition to the requirements set forth in subsection a. of
22 this section, for a commercial project to qualify for an incentive
23 award the developer shall demonstrate that:

24 (1) the incremental increase of State revenues realized from the
25 commercial project upon its completion shall be in excess of the
26 amount necessary to reimburse the developer for its project
27 financing gap, except that this requirement shall not apply to a
28 redevelopment project located in a government-restricted
29 municipality; and

30 (2) the developer shall **【have an equity participation】** contribute
31 capital of at least 20 percent of the total project cost, except that if a
32 redevelopment project is located in a government-restricted
33 municipality, the developer shall contribute capital of at least 10
34 percent of the total project cost.

35 c. In addition to the requirements set forth in subsection a. of
36 this section, for a residential project to qualify for an incentive
37 award, the residential project shall:

38 (1) have a total project cost of at least \$17,500,000, if the
39 project is located in a municipality with a population greater than
40 200,000 according to the latest federal decennial census;

41 (2) have a total project cost of at least \$10,000,000 if the project
42 is located in a municipality with a population less than 200,000
43 according to the latest federal decennial census; or

44 (3) have a total project cost of at least \$5,000,000 if the project
45 is in a qualified incentive tract or government-restricted
46 municipality.

47 d. In addition to the requirements set forth in subsections a. and
48 c. of this section, for a residential project consisting of newly-

1 constructed residential units to qualify for an incentive award, the
2 developer shall reserve at least 20 percent **■**, but not more than 50
3 percent, **■** of the residential units constructed for occupancy by low-
4 and moderate-income households with affordability controls as
5 required under the "Fair Housing Act," P.L.1985, c. 222 (C.52:27D-
6 301 et al.) and at least 5 percent of the residential units constructed
7 as workforce housing, unless: the municipality in which the
8 property is located has received substantive certification from the
9 council and such a reservation is not required under the approved
10 affordable housing plan; the municipality has been given a
11 judgment of repose or a judgment of compliance by the court, and
12 such a reservation is not required under the approved affordable
13 housing plan. If the municipality in which the property is located
14 has received substantive certification from the council and such a
15 reservation is not required under the approved affordable housing
16 plan or the municipality has been given a judgment of repose or a
17 judgment of compliance by the court, and such a reservation is not
18 required under the approved affordable housing plan, then the
19 developer shall reserve at least 10 percent **■**, but not more than 50
20 percent, **■** of the residential units constructed for occupancy by low-
21 and moderate-income households with affordability controls as
22 required under the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-
23 301 et al.) and at least 15 percent of the residential units constructed
24 as workforce housing; provided, however, that for a residential
25 project located within a government-restricted municipality or an
26 enhanced area, a developer may, in lieu of the requirements of this
27 subsection, make a contribution to a municipal affordable housing
28 trust fund in an amount equal to the total cost of constructing: (1)
29 low- and moderate-income housing units, with affordability controls
30 as required under the "Fair Housing Act," P.L.1985, c. 222
31 (C.52:27D-301 et al.), equal in number to 10 percent of the total
32 units constructed in the residential project; and (2) workforce
33 housing units, equal in number to 15 percent of the total units
34 constructed in the residential project.

35 e. Prior to the board considering an application submitted by a
36 developer, the Department of Labor and Workforce Development,
37 the Department of Environmental Protection, and the Department of
38 the Treasury shall each report to the chief executive officer of the
39 authority whether the developer is in substantial good standing, as
40 defined in regulations adopted by the authority, with the respective
41 department, or has entered into an agreement with the respective
42 department that includes a practical corrective action plan for the
43 developer. The authority may also contract with an independent
44 third party to perform a background check on the developer.
45 (cf: P.L.2020, c.156, s.57)

46
47 25. Section 58 of P.L.2020, c.156 (C.34:1B-326) is amended to
48 read as follows:

1 58. a. Prior to March 1, 2027, a developer that meets the
2 eligibility criteria in section 57 of P.L.2020, c.156 (C.34:1B-325)
3 and is seeking an incentive award for a redevelopment project shall
4 submit an application to the authority **【**and, in the case of a
5 residential project, shall submit an application to the authority and
6 the agency**】**, in a form and manner prescribed in regulations
7 adopted by the authority **【**, in consultation with the agency**】**,
8 pursuant to the provisions of the "Administrative Procedure Act,"
9 P.L.1968, c.410 (C.52:14B-1 et seq.). The authority shall accept
10 applications for incentive awards during the grant periods
11 established pursuant to section 59 of P.L.2020, c.156 (C.34:1B-
12 327). If the developer intends to apply to both the authority and the
13 agency for subsidies, the developer shall simultaneously notify the
14 agency upon submitting any application to the authority.

15 b. The authority shall not consider an application for a
16 commercial project unless the developer submits a letter evidencing
17 support for the commercial project from the governing body of the
18 municipality in which the commercial project is located with the
19 application.

20 c. The authority shall review the project cost, evaluate and
21 validate the project financing gap estimated by the developer, and
22 conduct a State fiscal impact analysis to ensure that the overall
23 public assistance provided to the project will result in a net positive
24 benefit to the State, provided that the net benefit analysis shall not
25 apply to capital investment for a food delivery source; a health care
26 or health services center with a minimum of 10,000 square feet of
27 space devoted to health care or health services that is located in a
28 municipality with a Municipal Revitalization Index distress score of
29 at least 50 lacking adequate access, as determined by the
30 Commissioner of Health; or a residential project. In determining
31 whether a project will result in a net positive benefit to the State,
32 the authority shall not consider the value of any taxes exempted,
33 abated, rebated, or retained under the "Five-Year Exemption and
34 Abatement Law," P.L.1991, c.441 (C.40A:21-1 et seq.), the "Long
35 Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et al.),
36 the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303
37 (C.52:27H-60 et seq.), or any other law that has the effect of
38 lowering or eliminating the developer's State or local tax liability.
39 The determination made pursuant to this subsection shall be based
40 on the potential tax liability of the developer without regard for
41 potential tax losses if the developer were to locate in another state.
42 The authority shall assess the cost of these reviews to the applicant.
43 A developer shall pay to the authority the full amount of the direct
44 costs of an analysis concerning the developer's application for a tax
45 credit that a third party retained by the authority performs, if the
46 authority deems such retention to be necessary. The authority shall
47 evaluate the net economic benefits on a present value basis under
48 which the requested tax credit allocation amount is discounted to

1 present value at the same discount rate as the projected benefits
2 from the implementation of the proposed redevelopment project for
3 which an award of tax credits is being sought.

4 d. For a redevelopment project subject to the requirement of
5 subsection c. of this section to be eligible for any tax credits under
6 the program, a developer shall demonstrate to the authority that the
7 award of tax credits will yield a net positive benefit to the State
8 equaling an amount determined by the authority through regulation
9 that exceeds the requested tax credit amount. The developer shall
10 certify, under the penalty of perjury, that all documents submitted,
11 and factual assertions made, to the authority to demonstrate that the
12 award of tax credits will yield a net positive benefit to the State in
13 accordance with this subsection are true and accurate at the time of
14 submission. A redevelopment project located in a government-
15 restricted municipality shall yield a net positive benefit to the State
16 that exceeds the requested tax credit amount, but the net benefit
17 requirement set by the authority for such redevelopment projects
18 may be up to 35 percentage points lower than the net benefit
19 requirement set by the authority for all other eligible redevelopment
20 projects.

21 e. If at any time during the eligibility period the authority
22 determines that the developer made a material misrepresentation on
23 the developer's application, the developer shall forfeit the incentive
24 award.

25 f. If circumstances require a developer to amend its application
26 to the authority, then the developer, or an authorized agent of the
27 developer, shall certify to the authority that the information
28 provided in its amended application is true under the penalty of
29 perjury.

30 (cf: P.L.2020, c.156, s.58)

31

32 26. Section 59 of P.L.2020, c.156 (C.34:1B-327) is amended to
33 read as follows:

34 59. a. Prior to March 1, 2027, for redevelopment projects
35 eligible pursuant to section 57 of P.L.2020, c.156 (C.34:1B-325),
36 the authority shall award incentive awards based on the order in
37 which complete, qualifying applications were received by the
38 authority. If a developer intends to apply to both the authority and
39 the agency for subsidies, the developer shall notify the agency
40 simultaneously with any application made to the authority. The
41 authority shall transmit its grant determination for such residential
42 projects to the agency along with any information developed by the
43 authority and confirmation of the authority's intent to provide an
44 incentive award or award to the project. Approval of an application
45 by the agency shall be the final determination required for an
46 incentive award for a residential project under this section.

47 b. Prior to allocating an incentive award to a redevelopment
48 project, the Department of Labor and Workforce Development, the

1 Department of Environmental Protection, and the Department of the
2 Treasury shall each report to the chief executive officer of the
3 authority whether the developer and each contractor and
4 subcontractor under contract in an amount exceeding \$100,000
5 performing work at the redevelopment project is in substantial good
6 standing with the respective department, or a developer not in
7 substantial good standing with each department has entered into an
8 agreement with the respective department that includes a practical
9 corrective action plan for the developer. The authority may also
10 contract with an independent third party to perform a background
11 check on the developer. Provided that the developer, and all
12 contractors and subcontractors under contract in an amount
13 exceeding \$100,000, are in substantial good standing, or have
14 entered into such agreements, the authority shall allocate incentive
15 awards **to** redevelopment projects according to the redevelopment
16 project's score and until either the available incentive awards are
17 exhausted or all redevelopment projects obtaining the minimum
18 score receive an incentive award, whichever occurs first. If
19 insufficient funding exists to fully fund all eligible projects, a
20 project may be offered partial funding **pursuant to the**
21 requirements of sections 57 and 58 of P.L.2020, c.156 (C.34:1B-
22 325 and C.34:1B-326).

23 (cf: P.L.2020, c.156, s.59)

24
25 27. Section 60 of P.L.2020, c.156 (C.34:1B-328) is amended to
26 read as follows:

27 60. a. (1) Following approval and selection of an application
28 pursuant to sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and
29 C.34:1B-327), the authority shall enter into an incentive award
30 agreement with the developer. The chief executive officer of the
31 authority shall negotiate the terms and conditions of the incentive
32 award agreement on behalf of the State.

33 (2) For a phased project, the incentive phase agreement shall set
34 forth, for each phase of the project and for the total project, the
35 capital investment requirements and the time periods in which each
36 phase of the project shall be commenced and completed. The
37 awarding of tax credits shall be conditioned on the developer's
38 compliance with the requirements of the agreement.

39 b. An incentive award agreement shall specify the amount of
40 the incentive award the authority shall award to the developer and
41 the duration of the eligibility period, which shall not exceed 15
42 years for a commercial or mixed-use project or phase of project and
43 shall not exceed 10 years for a residential project or phase of
44 project. The cumulative term of a phased commercial project shall
45 not exceed 30 years, and the cumulative term of a phased residential
46 project shall not exceed 20 years. The incentive award agreement
47 shall provide an estimated date of completion and include a
48 requirement for periodic progress reports, including the submittal of

1 executed financing commitments and documents that evidence site
2 control. If the authority does not receive periodic progress reports,
3 or if the progress reports demonstrate unsatisfactory progress, then
4 the authority may rescind the incentive award. If the authority
5 rescinds an incentive award in the same calendar year in which the
6 authority approved the incentive award, then the authority may
7 assign the incentive award to another applicant. The incentive
8 award agreement may also provide for a verification of the
9 financing gap at the time the developer provides executed financing
10 commitments to the authority and a verification of the developer's
11 projected cash flow at the time of certification that the project is
12 completed.

13 c. To ensure the protection of taxpayer money, **[if]** the
14 authority **[determines that]** shall determine whether the actual
15 project financing gap is smaller than determined at board approval
16 **[, the authority shall reduce the amount of the tax credit on a pro**
17 **rata basis. If there is no project financing gap, then the developer**
18 **shall forfeit the incentive award]**. This test shall be conducted at
19 the end **[of the third year]** of the eligibility period whereupon the
20 authority shall evaluate the developer's **[cash flow]** cumulative
21 internal rate of return on investment and compare that **[cash flow]**
22 return on investment to the projected **[cash flow]** return on
23 investment at the time of board approval, which rates shall be
24 calculated in the same manner. **[For a commercial project, if]** If
25 the actual [cash flow] return on investment exceeds the projected
26 [cash flow] return on investment at the time of board approval by
27 more than 15 percent, the authority shall require the developer to
28 pay up to 15 percent of the amount of the excess [, which] . For
29 the purposes of determining the cumulative internal rate of return
30 on investment for a project not sold before the end of the eligibility
31 period, the terminal value shall be calculated by dividing the actual
32 cash flow in the year preceding the end of the eligibility period by
33 (1) the residual capitalization rate assumed at board approval, or (2)
34 the current market capitalization rate as determined by the
35 authority, whichever is higher. If the project is sold before the end
36 of the eligibility period, this test shall be applied at time of sale. In
37 either event, the payment shall be deposited in the State General
38 Fund. [To the extent applicable, in the case] If a developer of a
39 residential project also obtained financing from the agency, the
40 developer's return on investment shall be subject to the provisions
41 of section 7 of P.L.1983, c.530 (C.55:14K-7).

42 d. The incentive award agreement shall include a requirement
43 that the chief executive officer of the authority receive annual
44 reports from the Department of Environmental Protection, the
45 Department of Labor and Workforce Development, and the
46 Department of the Treasury **[demonstrating]** confirming that the
47 developer and each contractor and subcontractor under contract in

1 an amount exceeding \$100,000 performing work at the
2 redevelopment project is in substantial good standing, as defined in
3 regulations adopted by the authority, with the respective
4 department, or the developer has entered into an agreement with the
5 respective department that includes a practical corrective action for
6 the developer. The incentive award agreement shall also include a
7 provision that the developer shall forfeit the incentive award in any
8 year in which **【any such report is not received】** the developer is
9 neither in substantial good standing with each department nor has
10 entered into a practical corrective action. The incentive award
11 agreement shall also require a developer to engage in on-site
12 consultations with the Division of Workplace Safety and Health in
13 the Department of Health.

14 e. (1) Except as provided in paragraph (2) of this subsection, the
15 authority shall not enter into an incentive award agreement for a
16 redevelopment project that includes at least one retail establishment
17 which will have more than 10 employees, at least one distribution
18 center which will have more than 20 employees, or at least one
19 hospitality establishment which will have more than 10 employees,
20 unless the incentive award agreement includes a precondition that
21 any business that serves as the owner or operator of the retail
22 establishment or distribution center enters into a labor harmony
23 agreement with a labor organization or cooperating labor
24 organizations which represent retail or distribution center
25 employees in the State.

26 (2) A labor harmony agreement shall be required only if the
27 State has a proprietary interest in the redevelopment project and
28 shall remain in effect for as long as the State acts as a market
29 participant in the redevelopment project. The authority may enter
30 into an incentive award agreement with a developer without the
31 labor harmony agreement required under paragraph (1) of this
32 subsection if the authority determines that the redevelopment
33 project would not be able to go forward if a labor harmony
34 agreement is required. The authority shall support the
35 determination by a written finding, which provides the specific
36 basis for the determination.

37 (3) As used in this subsection:

38 "Hospitality establishment" means a hotel, motel, or any
39 business, however organized, that sells food, beverages, or both for
40 consumption by patrons on the premises.

41 "Labor harmony agreement" means an agreement between a
42 business that serves as the owner or operator of a retail
43 establishment or distribution center and one or more labor
44 organizations, which requires, for the duration of the agreement:
45 that any participating labor organization and its members agree to
46 refrain from picketing, work stoppages, boycotts, or other economic
47 interference against the business; and that the business agrees to
48 maintain a neutral posture with respect to efforts of any

1 participating labor organization to represent employees at an
2 establishment or other unit in the retail establishment or distribution
3 center, agrees to permit the labor organization to have access to the
4 employees, and agrees to guarantee to the labor organization the
5 right to obtain recognition as the exclusive collective bargaining
6 representatives of the employees in an establishment or unit at the
7 retail establishment or distribution center by demonstrating to the
8 New Jersey State Board of Mediation, Division of Private
9 Employment Dispute Settlement, or a mutually agreed-upon,
10 neutral, third-party, that a majority of workers in the unit have
11 shown their preference for the labor organization to be their
12 representative by signing authorization cards indicating that
13 preference. The labor organization or organizations shall be from a
14 list of labor organizations which have requested to be on the list and
15 which the Commissioner of Labor and Workforce Development has
16 determined represent substantial numbers of retail or distribution
17 center employees in the State.

18 f. (1) For a redevelopment project whose total project cost equals
19 or exceeds \$10 million, in addition to the incentive award
20 agreement, a developer shall enter into a community benefits
21 agreement with the authority and the county or municipality in
22 which the redevelopment project is located. The agreement may
23 include, but shall not be limited to, requirements for training,
24 employment, and youth development and free services to
25 underserved communities in and around the community in which
26 the redevelopment project is located. Prior to entering a community
27 benefits agreement, the governing body of the county or
28 municipality in which the redevelopment project is located shall
29 hold at least one public hearing at which the governing body shall
30 hear testimony from residents, community groups, and other
31 stakeholders on the needs of the community that the agreement
32 should address.

33 (2) The community benefits agreement shall provide for the
34 creation of a community advisory committee to oversee the
35 implementation of the agreement, monitor successes, ensure
36 compliance with the terms of the agreement, and produce an annual
37 public report. The community advisory committee created pursuant
38 to this paragraph shall be comprised of representatives of diverse
39 community groups and residents of the county or municipality in
40 which the redevelopment project is located.

41 (3) At the time the developer submits the annual report required
42 pursuant to section 62 of P.L.2020, c.156 (C.34:1B-330) to the
43 authority, the developer shall certify, under the penalty of perjury,
44 that it is in compliance with the terms of the community benefits
45 agreement. If the developer fails to provide the certification
46 required pursuant to this paragraph or the authority determines that
47 the developer is not in compliance with the terms of the community
48 benefits agreement based on the reports submitted by the

1 community advisory committee pursuant to paragraph (2) of this
2 subsection, then the authority may rescind an award or recapture all
3 or part of any tax credits awarded.

4 (4) A developer shall not be required to enter into a community
5 benefits agreement pursuant to this subsection if the developer
6 submits to the authority a copy of the developer's redevelopment
7 agreement that is certified by the municipality in which the
8 redevelopment project is located.

9 g. A developer shall submit, prior to the first disbursement of
10 tax credits under the incentive award agreement or incentive phase
11 agreement, but no later than six months following project or phase
12 completion, satisfactory evidence of actual project costs, as
13 certified by a certified public accountant, evidence of a temporary
14 certificate of occupancy, or other event evidencing project
15 completion that begins the eligibility period indicated in the
16 incentive award agreement or incentive phase agreement. The
17 developer, or an authorized agent of the developer, shall certify that
18 the information provided pursuant to this subsection is true under
19 the penalty of perjury. Claims, records, or statements submitted by
20 a developer to the authority in order to receive tax credits shall not
21 be considered claims, records, or statements made in connection
22 with State tax laws.

23 h. The incentive award agreement shall include a provision
24 allowing the authority to extend, in individual cases, the deadline
25 for any annual reporting or certification requirement.
26 (cf: P.L.2020, c.156, s.60)

27
28 28. Section 61 of P.L.2020, c.156 (C.34:1B-329) is amended to
29 read as follows:

30 61. a. Up to the limits established in subsection b. of this
31 section and in accordance with an incentive award agreement,
32 beginning upon the receipt of occupancy permits for any portion of
33 the redevelopment project, or upon any other event evidencing
34 project completion as set forth in the incentive award agreement, a
35 developer shall be allowed a total tax credit that shall not exceed:

36 (1) 60 percent of the total project cost for the new construction
37 of a residential project that receives federal low income housing tax
38 credits under 26 U.S.C. s.42(b)(1)(B)(ii);

39 (2) 50 percent of the total project cost for a commercial project
40 that is located in a government-restricted municipality; or

41 (3) 45 percent of the total project cost [of the] for any other
42 redevelopment project [, except for a commercial project that is
43 located in a government-restricted municipality, in which case the
44 total tax credit allowed shall not exceed 50 percent of the total
45 project cost of the commercial project].

46 b. The value of all tax credits approved by the authority under
47 the program for a redevelopment project or phase shall not exceed
48 **[\$50,000,000]** :

1 (1) \$60,000,000 per redevelopment project **【if】** or phase for a
2 residential project that is allowed a tax credit under paragraph (1) of
3 subsection a. of this section, or a redevelopment project or phase
4 that is located in a qualified incentive tract, government-restricted
5 municipality, or municipality with a Municipal Revitalization Index
6 distress score of at least 50 **【, or \$32,000,000】** ;

7 (2) \$42,000,000 for any other redevelopment project or phase;
8 and;

9 (3) for a redevelopment project approved to be completed in
10 multiple phases, the aggregate value of all tax credits awarded for
11 all phases of the redevelopment project shall not exceed
12 \$150,000,000.

13 (cf: P.L.2020, c.156, s.61)

15 29. Section 62 of P.L.2020, c.156 (C.34:1B-330) is amended to
16 read as follows:

17 62. a. A developer approved for an incentive award pursuant to
18 sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and C.34:1B-
19 327) and that enters an incentive award agreement pursuant to
20 section 60 of P.L.2020, c.156 (C.34:1B-328) shall submit annually,
21 commencing in the year in which the incentive award is issued and
22 for the remainder of the eligibility period, a report indicating
23 whether the developer is aware of any condition, event, or act that
24 would cause the developer not to be in compliance with the
25 incentive award agreement or the provisions of sections 54 through
26 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335) and any
27 additional reporting requirements contained in the incentive award
28 agreement or tax credit certificate. The developer, or an authorized
29 agent of the developer, shall certify that the information provided
30 pursuant to this subsection is true under the penalty of perjury.

31 b. (1) Upon receipt and review of each report submitted during
32 the eligibility period, the authority shall provide to the developer
33 and the director a certificate of compliance indicating the amount of
34 tax credits that the developer may apply against the developer's tax
35 liability.

36 (2) Upon receipt by the director of the certificate of compliance,
37 the director shall allow the developer a credit against the tax
38 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). A
39 developer shall apply the credit awarded against the developer's
40 liability under section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2
41 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1
42 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 for the privilege
43 period during which the director allows the developer a tax credit
44 pursuant to this subsection. A developer **【shall not】** may carry
45 forward an unused credit **【unless】** for up to three years, except that
46 if the developer was unable to use the credit because the developer's
47 redevelopment project was directly impacted due to a natural
48 disaster, state emergency, national emergency, or a situation that

1 was out of the developer's control that impacted the developer's use
2 of the credit **【that year, in which case】**, the developer is permitted
3 to carry forward an unused credit for up to two additional years
4 upon submitting evidence of the developer's redevelopment project
5 being directly impacted by such a circumstance and receiving
6 approval from the authority. Credits granted to a partnership shall
7 be passed through to the partners, members, or owners,
8 respectively, pro-rata, or pursuant to an executed agreement among
9 the partners, members, or owners documenting an alternate
10 distribution method provided to the director accompanied by any
11 additional information as the director may prescribe.

12 (3) The director shall prescribe the order of priority of the
13 application of the credit allowed under this section and any other
14 credits allowed by law against the tax imposed under section 5 of
15 P.L.1945, c.162 (C.54:10A-5). The amount of the credit applied
16 under this section against the tax imposed pursuant to section 5 of
17 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with
18 any other credits allowed by law, shall not reduce the tax liability to
19 an amount less than the statutory minimum provided in subsection
20 (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).
21 (cf: P.L.2020, c.156, s.62)
22

23 30. Section 63 of P.L.2020, c.156 (C.34:1B-331) is amended to
24 read as follows:

25 63. a. A developer may apply to the director and the chief
26 executive officer of the authority for a tax credit transfer certificate,
27 covering one or more years, in lieu of the developer being allowed
28 any amount of the credit against the tax liability of the developer.
29 The tax credit transfer certificate, upon receipt thereof by the
30 developer from the director and the chief executive officer of the
31 authority, may be sold or assigned, in full or in part in an amount
32 not less than \$25,000, in the privilege period during which the
33 developer receives the tax credit transfer certificate from the
34 director, to another person, who may apply the credit against a tax
35 liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
36 sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3),
37 section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The
38 certificate provided to the developer shall include a statement
39 waiving the developer's right to claim the amount of the credit that
40 the developer has elected to sell or assign against the developer's
41 tax liability.

42 b. The developer shall not sell or assign, including a collateral
43 assignment, a tax credit transfer certificate allowed under this
44 section for consideration received by the developer of less than
45 **【85】** 90 percent of the transferred credit amount before considering
46 any further discounting to present value which shall be permitted,
47 except a developer of a residential project consisting of newly-
48 constructed residential units may assign a tax credit transfer

1 certificate for consideration of less than **【85】 90** percent subject to
2 the submission of a plan to the authority and the agency to use the
3 proceeds derived from the assignment of tax credits to complete the
4 residential project, except a developer of a residential project
5 consisting of newly-constructed residential units that has received
6 federal low income housing tax credits under 26 U.S.C.
7 **【s.42(b)(2)(B)(i)】 s.42(b)(1)(B)(i)** may assign a tax credit transfer
8 certificate for consideration of no less than 75 percent subject to the
9 submission of a plan to the authority and the New Jersey Housing
10 and Mortgage Finance Agency to use the proceeds derived from the
11 assignment of tax credits to complete the residential project. The
12 tax credit transfer certificate issued to a developer by the director
13 shall be subject to any limitations and conditions imposed on the
14 application of State tax credits pursuant to sections 54 through 67 of
15 P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335) and any other
16 terms and conditions that the director may prescribe.

17 c. A purchaser or assignee of a tax credit transfer certificate
18 pursuant to this section shall not make any subsequent transfers,
19 assignments, or sales of the tax credit transfer certificate. A
20 purchaser or assignee of a tax credit certificate may carry forward
21 an unused credit for up to three years.

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

- 25 (1) the name of the transferrer;
26 (2) the name of the transferee;
27 (3) the value of the tax credit transfer certificate; and
28 (4) the consideration received by the transferrer.

29 (cf: P.L.2020, c.156, s.63)

30
31 31. Section 65 of P.L.2020, c.156 (C.34:1B-333) is amended to
32 read as follows:

33 65. a. As used in this section, "transformative project" means a
34 redevelopment project, which may be developed in multiple phases,
35 that is located in an incentive area, that has a project financing gap,
36 that has a total project cost of at least \$100,000,000, and that
37 includes 500,000 or more square feet of new or substantially
38 renovated industrial, commercial, or residential space or that
39 includes 250,000 or more square feet of film studios, professional
40 stages, television studios, recording studios, screening rooms, or
41 other infrastructure for film production and which is of special
42 economic importance as measured by the level of new jobs, new
43 capital investment, opportunities to leverage leadership in a high-
44 priority targeted industry, or other state priorities as determined by
45 the authority pursuant to rules and regulations promulgated to
46 implement this section. The criteria developed by the authority
47 shall include, but shall not be limited to:

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

4 (2) (a) for a residential **or mixed-use** project, the construction
5 of 1,000 or more new residential units **or**;

6 (b) for a mixed-use project, the construction of 250 or more new
7 residential units if the project is located in a government-restricted
8 municipality, 350 or more residential units if the project is located
9 in an enhanced area, or 600 or more residential units for all other
10 mixed-use projects;

11 (c) for a mixed-use project, the construction of 100,000 square
12 feet or more of retail or commercial space; and

13 (d) for a residential or mixed-use project, 20 percent of **which**
14 the new residential units shall be constructed for occupancy by low-
15 and moderate-income households with affordability controls as
16 required under the "Fair Housing Act," P.L.1985, c. 222 (C.52:27D-
17 301 et al.) and at least 5 percent of the residential units constructed
18 as workforce housing, unless: the municipality in which the
19 property is located has received substantive certification from the
20 council and such a reservation is not required under the approved
21 affordable housing plan; the municipality has been given a
22 judgment of repose or a judgment of compliance by the court, and
23 such a reservation is not required under the approved affordable
24 housing plan. If the municipality in which the property is located
25 has received substantive certification from the council and such a
26 reservation is not required under the approved affordable housing
27 plan or the municipality has been given a judgment of repose or a
28 judgment of compliance by the court, and such a reservation is not
29 required under the approved affordable housing plan, then the
30 developer shall reserve at least 10 percent **or**, but not more than 50
31 percent, **or** of the residential units constructed for occupancy by low-
32 and moderate-income households with affordability controls as
33 required under the "Fair Housing Act," P.L.1985, c. 222 (C.52:27D-
34 301 et al.) and at least 15 percent of the residential units constructed
35 as workforce housing; provided, however, that for a residential
36 project located within a government-restricted municipality or an
37 enhanced area, a developer may, in lieu of the requirements of this
38 subparagraph, make a contribution to a municipal affordable
39 housing trust fund in an amount equal to the total cost of
40 constructing: (i) low- and moderate-income housing units, with
41 affordability controls as required under the "Fair Housing Act,"
42 P.L.1985, c. 222 (C.52:27D-301 et al.), equal in number to 10
43 percent of the total units constructed in the residential project; and
44 (ii) workforce housing units, equal in number to 15 percent of the
45 total units constructed in the residential project; and

46 (3) the extent to which the proposed project would leverage the
47 competitive economic development advantages of the State's mass

1 transit assets, higher education assets, and other economic
2 development assets in attracting or retaining both employers and
3 skilled workers generally or in targeted industries.

4 A "transformative project" shall not include a redevelopment
5 project at which more than 50 percent of the premises is occupied
6 by one or more businesses engaged in final point of sale retail.

7 b. The authority may award an incentive award to no more than
8 **【ten】 15** transformative projects in accordance with the provisions
9 of sections **【59】 55** through 67 of P.L.2020, c.156 (**【C.34:1B-327】**
10 C.34:1B-323 through C.34:1B-335) **【;** provided, however, a
11 transformative project shall not be subject to the competitive
12 application procedure set forth in section 59 of P.L.2020, c.156
13 (C.34:1B-327) **【** , except as otherwise provided in this section, and
14 notwithstanding the limitations of paragraph (8) of subsection a. of
15 section 57 of P.L.2020, c.156 (C.34:1B-325), paragraph (1) of
16 subsection b. of section 57 of P.L.2020, c.156 (C.34:1B-325), and
17 subsection c. of section 57 of P.L.2020, c.156 (C.34:1B-325). A
18 transformative project receiving an incentive award pursuant to this
19 section, other than a project that includes 250,000 or more square
20 feet of film studios, professional stages, television studios,
21 recording studios, screening rooms or other infrastructure for film
22 production, shall be located in a distressed municipality, a
23 government-restricted municipality, or **【an urban】** a transit hub
24 municipality. No more than two transformative projects receiving
25 an incentive award pursuant to this section shall be located in the
26 same municipality. The authority shall not consider an application
27 for a transformative project unless the applicant submits with its
28 application a letter evidencing support for the transformative project
29 from the governing body of the municipality in which the
30 transformative project is located.

31 c. The authority shall review the transformative project cost,
32 evaluate and validate the project financing gap estimated by the
33 developer, and conduct a State fiscal impact analysis to ensure that
34 the overall public assistance provided to the transformative project
35 will result in a net positive benefit to the State. In determining
36 whether a transformative project will result in a net positive benefit
37 to the State, the authority shall not consider the value of any taxes
38 exempted, abated, rebated, or retained under the "Five-Year
39 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et
40 seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431
41 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act,"
42 P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the
43 effect of lowering or eliminating the developer's State or local tax
44 liability. The determination made pursuant to this subsection shall
45 be based on the potential tax liability of the developer without
46 regard for potential tax losses if the developer were to locate in
47 another state. The authority shall assess the cost of these reviews to

1 the applicant. A developer shall pay to the authority the full
2 amount of the direct costs of an analysis concerning the developer's
3 application for an incentive award that a third party retained by the
4 authority performs, if the authority deems such retention to be
5 necessary. The authority shall evaluate the net economic benefits
6 on a present value basis under which the requested tax credit
7 allocation amount is discounted to present value at the same
8 discount rate as the projected benefits from the implementation of
9 the proposed transformative project for which an award of tax
10 credits is being sought. Projects that are predominantly residential
11 shall be excluded from the calculation of the net benefit test
12 required pursuant to this subsection.

13 d. In determining net benefits for any business or person
14 considering locating in a transformative project and applying to
15 receive from the authority any other economic development
16 incentive subsequent to the award of transformative project tax
17 credits pursuant to section 65 of P.L.2020, c.156 (C.34:1B-333), the
18 authority shall not credit the business or person with any benefit
19 that was previously credited to the transformative project pursuant
20 to section 65 of P.L.2020, c.156 (C.34:1B-333).

21 e. The authority shall administer the credits awarded pursuant
22 to this section in accordance with the provisions of sections 62 and
23 63 of P.L.2020, c.156 (C.34:1B-330 and C.34:1B-331).

24 f. Prior to allocating an incentive award to a developer, the
25 Department of Labor and Workforce Development, the Department
26 of Environmental Protection, and the Department of the Treasury
27 shall each report to the chief executive officer of the authority
28 whether the developer and each contractor and subcontractor under
29 contract in an amount exceeding \$100,000 performing work at the
30 transformative project is in substantial good standing, as defined in
31 regulations adopted by the authority, with the respective
32 department, or the developer has entered into an agreement with the
33 respective department that includes a practical corrective action
34 plan. The authority may also contract with an independent third
35 party to perform a background check on the **【applicant】** developer.

36 g. Notwithstanding the limitation on incentive awards set forth
37 in subsection b. of section 61 and section 98 of P.L.2020, c.156
38 (C.34:1B-329 and C.34:1B-362) to the contrary, the authority may
39 allow a developer of a transformative project a tax credit, as
40 reimbursement for certain project financing gap costs, in an amount
41 not to exceed **【30】** 45 percent of the total project cost, the total
42 value of the project financing gap, or \$250,000,000 whichever is
43 less; provided, however, that for a transformative project that is
44 developed in phases, the \$250,000,000 limitation on incentive
45 awards set forth in this subsection shall apply to the total aggregate
46 award for all phases of the transformative project.

47 (cf: P.L.2020, c.156, s.65)

1 32. Section 69 of P.L.2020, c.156 (C.34:1B-337) is amended to
2 read as follows:

3 69. As used in sections 68 through 81 of P.L.2020, c.156
4 (C.34:1B-336 et al.):

5 "Affiliate" means an entity that directly or indirectly controls, is
6 under common control with, or is controlled by the business.
7 Control exists in all cases in which the entity is a member of a
8 controlled group of corporations, as defined pursuant to section
9 1563 of the Internal Revenue Code of 1986 (26 U.S.C. s.1563), or
10 the entity is an organization in a group of organizations under
11 common control, as defined pursuant to subsection (c) of section
12 414 of the Internal Revenue Code of 1986 (26 U.S.C. s.414). A
13 taxpayer may establish by clear and convincing evidence, as
14 determined by the Director of the Division of Taxation in the
15 Department of the Treasury, that control exists in situations
16 involving lesser percentages of ownership than required by sections
17 1563 and 414 of the Internal Revenue Code of 1986 (26 U.S.C.
18 ss.1563 and 414).

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

21 "Aviation district" means all areas within the boundaries of the
22 Atlantic City International Airport, established pursuant to section
23 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation
24 Administration William J. Hughes Technical Center and the area
25 within a one-mile radius of the outermost boundary of the Atlantic
26 City International Airport and the Federal Aviation Administration
27 William J. Hughes Technical Center.

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

31 "Building services" means any cleaning or routine building
32 maintenance work, including but not limited to sweeping,
33 vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse
34 or trash, window cleaning, securing, patrolling, or other work in
35 connection with the care or securing of an existing building,
36 including services typically provided by a door-attendant or
37 concierge. "Building services" shall not include any skilled
38 maintenance work, professional services, or other public work for
39 which a contractor is required to pay the "prevailing wage" as
40 defined in section 2 of P.L.1963, c.150 (C.34:11-56.26).

41 "Business" means an applicant proposing to own or lease
42 premises in a qualified business facility that is: a corporation that is
43 subject to the tax imposed pursuant to section 5 of P.L.1945, c.162
44 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and
45 C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or
46 N.J.S.17B:23-5, or is a partnership, S corporation, limited liability
47 company, or non-profit corporation. A business shall include an
48 affiliate of the business if that business applies for a credit based

1 upon any capital investment made by or full-time employees of an
2 affiliate. If the business or tenant is a cooperative or part of a
3 cooperative, then the cooperative may qualify for credits by
4 counting the full-time employees and capital investments of its
5 member organizations, and the cooperative may distribute credits to
6 its member organizations. If the business or tenant is a cooperative
7 that leases to its member organizations, the lease shall be treated as
8 a lease to an affiliate or affiliates. A business shall include an
9 affiliate of the business if that business applies for a credit based
10 upon any capital investment made by full-time employees of an
11 affiliate.

12 "Capital investment" means expenses that a business or an
13 affiliate of the business incurs following its submission of an
14 application to the authority pursuant to section 72 of P.L.2020,
15 c.156 (C.34:1B-340), but prior to the project completion date, as
16 shall be defined in the project agreement, for: a. site preparation and
17 construction, repair, renovation, improvement, equipping, or
18 furnishing on real property or of a building, structure, facility, or
19 improvement to real property; b. obtaining and installing
20 furnishings and machinery, apparatus, or equipment, including but
21 not limited to material goods subject to bonus depreciation under
22 sections 168 and 179 of the federal Internal Revenue Code (26
23 U.S.C. ss.168 and 179), for the operation of a business on real
24 property or in a building, structure, facility, or improvement to real
25 property; or any combination of the foregoing.

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

29 "Commitment period" means a period that is 1.5 times the
30 eligibility period specified in the project agreement entered into
31 pursuant to section 73 of P.L.2020, c.156 (C.34:1B-341), rounded
32 up, for each applicable phase agreement.

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

36 "Director" means the Director of the Division of Taxation in the
37 Department of the Treasury.

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

47 "Doctoral university" means a university located within New
48 Jersey that is classified as a doctoral university under the Carnegie

1 Classification of Institutions of Higher Education's Basic
2 Classification methodology on the effective date of P.L.2017, c.221.

3 "Eligibility period" means the period in which an eligible
4 business may claim a tax credit under the program for a given
5 project phase, beginning with the tax period in which the authority
6 accepts certification of the eligible business that it has met the
7 capital investment and employment requirements of the program for
8 the respective project phase, and extending thereafter for a term of
9 not more than seven years, with the term to be determined at the
10 discretion of the applicant, provided that the term of the eligibility
11 period may consist of nonconsecutive tax years if the applicant
12 elects at any time after the end of the first tax period of the
13 eligibility period to defer the continuation of the eligibility period to
14 a subsequent tax period. The authority may extend the eligibility
15 period one additional tax period to accommodate a prorated
16 payment pursuant to paragraph (2) of subsection a. of section 77 of
17 P.L.2020, c.156 (C.34:1B-345).

18 "Eligible business" means any business that satisfies the criteria
19 set forth in section 71 of P.L.2020, c.156 (C.34:1B-339) at the time
20 of application for tax credits under the program.

21 "Eligible position" or "full-time job" means a full-time position
22 in a business in this State which the business has filled with a full-
23 time employee. An eligible position shall not include an
24 independent contractor or a consultant.

25 "Employment and Investment Corridor" means the portions of
26 the qualified incentive area that are not located within a distressed
27 municipality and which:

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

36 b. intersect with portions of: a port district, a qualified
37 incentive tract, or federally-owned land approved for closure under
38 a federal Commission on Base Realignment and Closure action;

39 c. are the proposed site of a qualified incubator facility, a
40 tourism destination project, or transit oriented development; or

41 d. contain: a vacant commercial building having **[over**
42 **400,000]** at least 100,000 square feet of office, laboratory, or
43 industrial space, or any combination of office, laboratory, or
44 industrial space, available for occupancy for a period of over one
45 year; or a site that has been negatively impacted by the approval of
46 a "qualified business facility," as defined pursuant to section 2 of
47 P.L.2007, c.346 (C.34:1B-208).

1 "Enhanced area" means (1) a municipality that contains an urban
2 transit hub as defined in section 2 of P.L.2007, c.346 (C.34:1B-
3 208), (2) the five municipalities with the highest poverty rates
4 according to the 2017 Municipal Revitalization Index, and (3) the
5 three municipalities with the highest percentage of SNAP recipients
6 according to the 2017 Municipal Revitalization Index.

7 "Full-time employee" means a person:

8 a. who is employed by a business for consideration for at least
9 35 hours a week, or who renders any other standard of service
10 generally accepted by custom or practice as full-time employment,
11 and whose wages are subject to withholding as provided in the
12 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.;

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

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

31 A "full time employee" further means a person who, except for
32 purposes of the Statewide workforce, is provided, by the business,
33 with employee health benefits under a health benefits plan
34 authorized pursuant to State or federal law and who is paid no less
35 than \$15 per hour or 120 percent of the minimum wage fixed under
36 subsection a. of section 5 of P.L.1966, c.113 (C.34:11-56a4),
37 whichever is higher.

38 With respect to a logistics, manufacturing, energy, defense,
39 aviation, or maritime business, excluding primarily warehouse or
40 distribution operations, located in a port district having a container
41 terminal, the requirement that employee health benefits are to be
42 provided shall be deemed to be satisfied if the benefits are provided
43 in accordance with industry practice by a third party obligated to
44 provide such benefits pursuant to a collective bargaining agreement.

45 A "full-time employee" shall include, but shall not be limited to,
46 an employee that has been hired by way of a labor union hiring hall
47 or its equivalent. 35 hours of employment per week per qualified
48 business facility shall constitute one "full-time employee,"

1 regardless of whether or not the hours of work were performed by
2 one or more persons.

3 "Full-time employee" shall not include any person who works as
4 an independent contractor or on a consulting basis for the business
5 or a contract worker whose income is subject to withholding as
6 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
7 et seq., except that any person working as an independent contractor
8 or contract worker whose income is subject to withholding as
9 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
10 et seq., for the business shall be deemed a full-time employee if the
11 business demonstrates to the authority that: (a) the person working
12 as an independent contractor for the business works at least 35
13 hours per week or renders any other standard service generally
14 accepted by custom or practice as full- time employment, and the
15 person is provided with employee health benefits under a health
16 benefits plan authorized pursuant to State or federal law; and (b) the
17 business provides documentation to the authority to permit the
18 authority to verify the compensation paid to, and the time worked
19 by, the person working as an independent contractor. The business
20 shall provide to the authority an annual report that identifies the
21 number of persons working as independent contractors for the
22 business and their contractual or partnering relationship with the
23 business.

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

31 "Government-restricted municipality" means a municipality in
32 this State with a municipal revitalization index distress score of at
33 least 75, that met the criteria for designation as an urban aid
34 municipality in the 2019 State fiscal year, and that, on the effective
35 date of P.L.2020, c.156 (C.34:1B-269 et al.), is subject to financial
36 restrictions imposed pursuant to the "Municipal Stabilization and
37 Recovery Act," P.L.2016, c.4 (C.52:27BBBB-1 et seq.), or is
38 restricted in its ability to levy property taxes on property in that
39 municipality as a result of the State of New Jersey owning or
40 controlling property representing at least 25 percent of the total land
41 area of the municipality or as a result of the federal government of
42 the United States owning or controlling at least 50 acres of the total
43 land area of the municipality, which is dedicated as a national
44 natural landmark.

45 **["Incentive agreement" means the contract between the business**
46 **and the authority, which sets forth the terms and conditions under**
47 **which the business shall be eligible to receive the incentives**
48 **authorized pursuant to the program.】**

1 "Hospitality establishment" means a hotel, motel, or any
2 business, however organized, that sells food, beverages, or both for
3 consumption by patrons on the premises.

4 "Incentive area" means:

5 a. an aviation district;

6 b. a port district;

7 c. a distressed municipality or transit hub municipality;

8 d. an area designated pursuant to the "State Planning Act,"
9 P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1
10 (Metropolitan), Planning Area 2 (Suburban), Planning Area 3
11 (Fringe Planning Area); or a Designated Center under the State
12 Development and Redevelopment Plan **I**, provided an area
13 designated as Planning Area 2 (Suburban) or Planning Area 3
14 (Fringe Planning Area) or a Designated Center shall be located
15 within a one-half mile radius of the mid-point, with bicycle and
16 pedestrian connectivity, of a New Jersey Transit Corporation, Port
17 Authority Transit Corporation, or Port Authority Trans-Hudson
18 Corporation rail, bus, or ferry station, including all light rail
19 stations, or a high frequency bus stop as certified by the New Jersey
20 Transit Corporation. **I**;

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

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

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

38 h. an area located within a government-restricted municipality;

39 i. an area located within land approved for closure under any
40 federal Commission on Base Realignment and Closure action;

41 j. an area located within an area designated pursuant to the
42 "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as
43 Planning Area 4A (Rural Planning Area), Planning Area 4B
44 (Rural/Environmentally Sensitive), or Planning Area 5
45 (Environmentally Sensitive), so long as that area designated as
46 Planning Area 4A (Rural Planning Area), Planning Area 4B
47 (Rural/Environmentally Sensitive), or Planning Area 5
48 (Environmentally Sensitive) is located within: (1) a designated

1 center under the State Development and Redevelopment Plan; (2) a
2 designated growth center in an endorsed plan until the State
3 Planning Commission revises and readopts New Jersey's State
4 Strategic Plan and adopts regulations to revise this definition as it
5 pertains to Statewide planning areas; (3) any area determined to be
6 in need of redevelopment pursuant to sections 5 and 6 of P.L.1992,
7 c.79 (C.40A:12A-5 and C.40A:12A-6) or in need of rehabilitation
8 pursuant to section 14 of P.L.1992, c.79 (C.40A:12A-14); (4) any
9 area on which a structure exists or previously existed including any
10 desired expansion of the footprint of the existing or previously
11 existing structure provided the expansion otherwise complies with
12 all applicable federal, State, county, and local permits and
13 approvals; or (5) any area on which an existing tourism destination
14 project is located; or

15 k. an area located in a qualified opportunity zone.

16 **["Incentive phase agreement" means a sub-agreement of the**
17 **incentive agreement that governs the timing, capital investment,**
18 **employment levels, and other applicable details of the respective**
19 **phase.]**

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

33 "Industrial premises" or "industrial space" means premises or
34 space in which at least 51 percent of the square footage will be or
35 has been used for the assembling, processing, manufacturing, or any
36 combination thereof, of finished or partially finished products from
37 materials or fabricated parts, including, but not limited to, factories
38 or as a warehouse if the business uses the warehouse as part of the
39 chain of distribution for products assembled, processed,
40 manufactured, or any combination thereof, by the business at the
41 qualified business facility; for the breaking or demolishing of
42 finished or partially finished products; or for the production of oil
43 or gas or the generation or transformation of electricity.

44 "Industrial use" means assembling, processing, manufacturing, or
45 any combination thereof, of finished or partially finished products
46 from materials or fabricated parts; the breaking or demolishing of
47 finished or partially finished products; or the production of oil or
48 gas or the generation or transformation of electricity. "Industrial

1 use" includes farming purposes as that term is defined under 26
2 U.S.C. s.6420(c)(3)(A), undertaken in an industrial space.

3 "Infrastructure Fund" means the Recovery Infrastructure Fund
4 established pursuant to section 79 of P.L.2020, c.156 (C.52:27D-
5 520) to fund local infrastructure improvements.

6 "Labor harmony agreement" means an agreement between a
7 business that serves as the owner or operator of a retail
8 establishment or distribution center and one or more labor
9 organizations, which requires, for the duration of the agreement:
10 that any participating labor organization and its members agree to
11 refrain from picketing, work stoppages, boycotts, or other economic
12 interference against the business; and that the business agrees to
13 maintain a neutral posture with respect to efforts of any
14 participating labor organization to represent employees at an
15 establishment or other unit in the retail establishment or distribution
16 center, agrees to permit the labor organization to have access to the
17 employees, and agrees to guarantee to the labor organization the
18 right to obtain recognition as the exclusive collective bargaining
19 representatives of the employees in an establishment or unit at the
20 retail establishment or distribution center by demonstrating to the
21 New Jersey State Board of Mediation, Division of Private
22 Employment Dispute Settlement, or a mutually agreed-upon,
23 neutral, third-party, that a majority of workers in the unit have
24 shown their preference for the labor organization to be their
25 representative by signing authorization cards indicating that
26 preference. The labor organization or organizations shall be from a
27 list of labor organizations which have requested to be on the list and
28 which the Commissioner of Labor and Workforce Development has
29 determined represent substantial numbers of retail or distribution
30 center employees in the State.

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

35 "Mega project" means a project of special economic importance,
36 as determined pursuant to regulations adopted by the board, as
37 measured by the level of new jobs, new capital investment, and
38 opportunities to leverage leadership in a high-priority targeted
39 industry, as determined by the authority pursuant to rules and
40 regulations promulgated to implement sections 68 through 81 of
41 P.L.2020, c.156 (C.34:1B-336 et al.).

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

1 "Municipal Revitalization Index" means the index by the
2 Department of Community Affairs ranking New Jersey's
3 municipalities according to eight separate indicators that measure
4 diverse aspects of social, economic, physical, and fiscal conditions
5 in each locality.

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

11 "Other eligible area" means the portions of the incentive area
12 that are not located within a distressed municipality, or the
13 employment and investment corridor.

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

16 "Port district" means the portions of an incentive area that are
17 located within the "Port of New York District" of the Port Authority
18 of New York and New Jersey, as defined in Article II of the
19 Compact Between the States of New York and New Jersey of 1921;
20 or a 15-mile radius of the outermost boundary of each marine
21 terminal facility established, acquired, constructed, rehabilitated, or
22 improved by the South Jersey Port District established pursuant to
23 "The South Jersey Port Corporation Act," P.L.1968, c.60
24 (C.12:11A-1 et seq.).

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

28 "Program" means the Emerge Program established by section 70
29 of P.L.2020, c.156 (C.34:1B-338).

30 "Project" means the capital investment **【and the employment**
31 **commitment】** at a qualified business facility and the employment
32 commitment pursuant to the project agreement.

33 "Project agreement" means the contract executed between an
34 eligible business and the authority pursuant to section 73 of
35 P.L.2020, c.156 (C.34:1B-341), which sets forth the terms and
36 conditions under which the eligible business may receive the
37 incentives authorized pursuant to the program.

38 "Project labor agreement" means a form of pre-hire collective
39 bargaining agreement covering terms and conditions of a specific
40 project that satisfies the requirements set forth in section 5 of
41 P.L.2002, c.44 (C.52:38-5).

42 "Project phase agreement" means a sub-agreement of the project
43 agreement that governs the timing, capital investment, employment
44 levels, and other applicable details of the respective phase.

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

47 "Qualified business facility" means any building, complex of
48 buildings, or structural components of buildings, and all machinery

1 and equipment located therein, used in connection with the
2 operation of a business that is not engaged in final point of sale
3 retail business at that location, unless the building, complex of
4 buildings or structural components of buildings, and all machinery
5 and equipment therein, are used in connection with the operation of
6 a tourism destination project located in the Atlantic City Tourism
7 District as established pursuant to section 5 of P.L.2011, c.18
8 (C.5:12-219).

9 "Qualified incentive tract" means: a. a population census tract
10 having a poverty rate of 20 percent or more; or b. a census tract in
11 which the median family income for the census tract does not
12 exceed 80 percent of the greater of the Statewide median family
13 income or the median family income of the metropolitan statistical
14 area in which the census tract is situated.

15 "Qualified incubator facility" means a commercial building
16 located within an incentive area: that contains 5,000 or more square
17 feet of office, laboratory, or industrial space; that is located near,
18 and presents opportunities for collaboration with, a research
19 institution, teaching hospital, college, or university; and within
20 which at least 50 percent of the gross leasable area is restricted for
21 use by one or more technology startup companies during the
22 commitment period.

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

26 "Quality child care facility" is a child care center licensed by the
27 Department of Children and Families, operating continuously,
28 which has not been subject to an enforcement action, and which has
29 and maintains a total licensed capacity of at least 60 children age 6
30 years or younger.

31 "Retained full-time job" means an eligible position that currently
32 exists in New Jersey and is filled by a full-time employee, but
33 which, because of a potential relocation by the business, is at risk of
34 being lost to another state or country or of being eliminated. For
35 the purposes of determining the number of retained full-time jobs,
36 the eligible positions of an affiliate shall be considered eligible
37 positions of the business.

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

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

42 "Small business" means a business engaged primarily in a
43 targeted industry with fewer than 100 employees, as determined at
44 the time of application.

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

47 "Targeted industry" means any industry identified from time to
48 time by the authority which shall initially include advanced

1 transportation and logistics, advanced manufacturing, aviation,
2 autonomous vehicle and zero-emission vehicle research or
3 development, clean energy, life sciences, hemp processing,
4 information and high technology, finance and insurance,
5 professional services, film and digital media, non-retail food and
6 beverage businesses including food innovation, and other
7 innovative industries that disrupt current technologies or business
8 models.

9 "Technology startup company" means a for-profit business that
10 has been in operation fewer than five years at the time that it
11 initially occupies or expands in a qualified business facility and is
12 developing or possesses a proprietary technology or business
13 method of a high technology or life science-related product,
14 process, or service, which proprietary technology or business
15 method the business intends to move to commercialization. The
16 business shall be deemed to have begun operation on the date that
17 the business first hired at least one employee in a full-time position.

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

26 "Transit oriented development" means a qualified business
27 facility located within a 1/2-mile radius, or one-mile radius for
28 projects located in a Government-restricted municipality,
29 surrounding the mid-point of a New Jersey Transit Corporation,
30 Port Authority Transit Corporation, or Port Authority Trans-Hudson
31 Corporation rail, bus, or ferry station platform area, including all
32 light rail stations.

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

37 "Transit hub municipality" means a Transit Village or a
38 municipality: a. which qualifies for State aid pursuant to P.L.1978,
39 c.14 (C.52:27D-178 et seq.), or which has continued to be a
40 qualified municipality thereunder pursuant to P.L.2007, c.111; and
41 b. in which 30 percent or more of the value of real property was
42 exempt from local property taxation during tax year 2006. The
43 percentage of exempt property shall be calculated by dividing the
44 total exempt value by the sum of the net valuation which is taxable
45 and that which is tax exempt.

46 "Transit Village" means a municipality that has been designated
47 as a transit village by the Commissioner of Transportation and the

1 Transit Village Task Force.
2 (cf: P.L.2020, c.156, s.69)

3

4 33. Section 71 of P.L.2020, c.156 (C.34:1B-339) is amended to
5 read as follows:

6 71. a. Beginning on the effective date of P.L.2020, c.156
7 (C.34:1B-269 et al.), but prior to March 1, 2027, to be eligible for
8 tax credits under the program, a business's chief executive officer,
9 or equivalent officer, shall demonstrate to the authority at the time
10 of application that:

11 (1) the business will make, acquire, or lease a capital investment
12 at the qualified business facility equal to or greater than the
13 applicable amount set forth in subsection b. of this section;

14 (2) the business will create or retain new and retained full-time
15 jobs **【at the qualified business facility】** in the State in an amount
16 equal to or greater than the applicable number set forth in
17 subsection c. of this section;

18 (3) the qualified business facility is located in a qualified
19 incentive area;

20 (4) the award of tax credits will be a material factor in the
21 business's decision to create or retain the number of new and
22 retained full-time jobs set forth in its application;

23 (5) the award of tax credits, the capital investment resultant
24 from the award of tax credits, and the resultant creation and
25 retention of new and retained full-time jobs will yield a net positive
26 benefit to the State equaling at least 400 percent of the requested
27 tax credit allocation amount, or for a phased project the requested
28 tax credit allocation amount for the initial phase, and on a
29 cumulative basis each phase thereafter, which determination shall
30 be calculated prior to considering the value of the requested tax
31 credit under the program and shall be based on the benefits
32 generated during the period of time from approval through the end
33 of the commitment period, or through the end of the longer period
34 of extended commitment that the business may elect for purposes of
35 receiving credit for benefits projected to occur after the expiration
36 of the commitment period, except that:

37 (a) an award of tax credits to a business for a qualified business
38 facility located in a distressed municipality or transit hub
39 municipality shall yield a net positive benefit to the State, based on
40 the benefits generated during the period of time from approval
41 through the end of the commitment period, that equals at least 300
42 percent of the requested tax credit amount;

43 (b) an award of tax credits to a business for a qualified business
44 facility located in a government-restricted municipality, or for a
45 mega project, shall yield a net positive benefit to the State, based on
46 the benefits generated during the period of time from approval
47 through the end of the commitment period, that equals at least 200
48 percent of the requested tax credit amount;

1 (c) the net economic benefits shall be evaluated on a present
2 value basis with the requested tax credit allocation amount
3 discounted to present value at the same discount rate as the benefits
4 from capital investment resultant from the award of tax credits and
5 the resultant retention and creation of full-time jobs as provided in
6 subparagraph (d) of this paragraph; and

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

19 (e) in making the determination required pursuant to this
20 paragraph, the authority shall not consider the value of any taxes
21 exempted, abated, rebated, or retained under the "Five-Year
22 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et
23 seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431
24 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act,"
25 P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the
26 effect of lowering or eliminating the business's State or local tax
27 liability, and the business's chief executive officer or equivalent
28 officer shall certify, under the penalty of perjury, that all documents
29 submitted, and factual assertions made, to the authority to
30 demonstrate that the award of tax credits will yield a net positive
31 benefit to the State in accordance with this paragraph are true and
32 accurate at the time of submission;

33 (f) If, during the term of the program, the methodology used by
34 the authority in projecting benefits of a project in making the
35 determination required pursuant to this paragraph is modified, the
36 respective percentages by which the benefits must exceed the
37 requested tax credit allocation amount set forth pursuant to this
38 paragraph (5) **【may】** shall be adjusted to ensure consistent
39 application of the respective thresholds in this paragraph (5) applied
40 to each application;

41 (6) the qualified business facility shall be in compliance with
42 minimum environmental and sustainability standards;

43 (7) the project shall comply with the authority's affirmative
44 action requirements, adopted pursuant to section 4 of P.L.1979,
45 c.303 (C.34:1B-5.4); and

46 (8) (a) each worker employed to perform construction work or
47 building services work at the qualified business facility shall be
48 paid not less than the prevailing wage rate for the worker's craft or

1 trade, as determined by the Commissioner of Labor and Workforce
2 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.)
3 and P.L.2005, c.379 (C.34:11-56.58 et seq.), unless:

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

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

8 (iii) the qualified business facility constitutes a lease of less than
9 35 percent of the qualified business facility at the time of contract
10 and under any agreement to subsequently lease the qualified
11 business facility.

12 (b) In accordance with section 1 of P.L.1979, c.303 (C.34:1B-
13 5.1), nothing in this paragraph shall be construed as requiring the
14 payment of prevailing wage for construction commencing more
15 than two years after a business has executed with the authority a
16 commitment letter regarding authority financial assistance and the
17 first payment or other provision of the assistance is received.

18 b. (1) The minimum capital investment required to be eligible
19 under the program shall be as follows:

20 (a) for the rehabilitation, improvement, fit-out, or retrofit of an
21 existing industrial, warehousing, logistics, or research and
22 development portion of the premises for continued similar use by
23 the business, a minimum investment of \$20 per square foot of gross
24 leasable area;

25 (b) for the new construction of an industrial, warehousing,
26 logistics, or research and development portion of the premises for
27 use by the business, a minimum investment of \$60 per square foot
28 of gross leasable area;

29 (c) for the rehabilitation, improvement, fit-out, or retrofit of
30 existing portion of the premises that does not qualify pursuant to
31 subparagraph (a) or (b) of this paragraph, a minimum investment of
32 \$40 per square foot of gross leasable area;

33 (d) for the new construction of a portion of the premises that
34 does not qualify pursuant to subparagraph (a) or (b) of this
35 paragraph, a minimum investment of \$120 per square foot of gross
36 leasable area; and

37 (e) for a small business, no new minimum capital investment
38 shall be required, provided the applicant has demonstrated evidence
39 satisfactory to the authority of its intent to remain in the State for
40 the commitment period.

41 (2) In the event the business invests less than that amount set
42 forth in paragraph (1) of this subsection in the qualified business
43 facility, the business shall donate the uninvested balance to the
44 infrastructure fund established pursuant to section 79 of P.L.2020,
45 c.156 (C.52:27D-520).

46 (3) Notwithstanding the provisions of paragraphs (1) and (2) of
47 this subsection, the authority may adopt, pursuant to the provisions
48 of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-

1 1 et seq.), rules and regulations adjusting the minimum capital
2 investment amounts required under the program when necessary to
3 respond to the prevailing economic conditions in the State.

4 c. (1) The minimum number of new or retained full-time jobs
5 required to be eligible under the program shall be as follows:

6 (a) for a small business, 25 percent growth of its workforce with
7 new full-time jobs within the eligibility period in accordance with
8 subsection e. of section 76 of P.L.2020, c.156 (C.34:1B-344);

9 (b) for a business engaged primarily in a targeted industry which
10 does not qualify as a small business, 25 new full-time jobs;

11 (c) for any other business, a minimum of 35 new full-time jobs;

12 (d) for a **business** project located in **qualified incentive tract**
13 **or** a government-restricted municipality **that will retain 500 or**
14 **more** **, a minimum of 100** retained full-time jobs **, a minimum of**
15 **the business's retained full-time jobs at the time of application and**
16 **new construction or rehabilitation, improvement, fit-out, or retrofit**
17 **of an existing portion of the premises equal in size to the space**
18 **occupied by the business's retained full-time jobs at the time of**
19 **application**;

20 (e) for a project located in a qualified incentive tract or
21 enhanced area, a minimum of 250 retained full-time jobs;

22 (f) for **a business** any other project located in the State **that**
23 **will retain 1,000 or more** **, a minimum of 500** retained full-time
24 jobs **, a minimum of the business's retained full-time jobs at the**
25 **time of application and new construction or rehabilitation,**
26 **improvement, fit-out, or retrofit of an existing portion of the**
27 **premises equal in size to the space occupied by the business's**
28 **retained full-time jobs at the time of application**.

29 (2) (a) Notwithstanding the provisions of paragraph (1) of this
30 subsection to the contrary, a business in a targeted industry may
31 satisfy the minimum requirements of subparagraphs (a), (b), or (c)
32 of paragraph (1) of this subsection by counting the total number of
33 new full-time jobs and retained full-time jobs, provided that at least
34 half of the eligible positions created or retained by the business are
35 new full-time jobs.

36 (b) Notwithstanding the provisions of subparagraph (d) of
37 paragraph (1) of this subsection to the contrary, a project located in
38 a government-restricted municipality shall satisfy the minimum
39 requirements of this subsection if the project meets the
40 requirements set forth in subparagraphs (a), (b), or (c) of paragraph
41 (1) of this subsection.

42 (3) Notwithstanding the provisions of paragraph (1) of this
43 subsection, the authority may adopt, pursuant to the provisions of
44 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
45 seq.), rules and regulations adjusting the minimum number of new
46 or retained full-time jobs required under the program when

1 necessary to respond to the prevailing economic conditions in the
2 State.

3 d. A business shall provide and adhere to a plan that
4 demonstrates that the qualified business facility is capable of
5 accommodating more than half of the business's new **【or】** and
6 retained full-time employees as approved and shall certify, under
7 the penalty of perjury, that not less than 80 percent of the
8 withholdings of new **【or】** and retained full-time jobs are subject to
9 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.,
10 provided that withholdings for an employee that works in New
11 Jersey but resides in a state with which New Jersey has a reciprocal
12 income tax agreement under N.J.S.54A:9-17 shall count towards
13 meeting the requirements of this section. Beginning on the
14 effective date of P.L. , c. (C.) (pending before the
15 Legislature as this bill), the requirements of this subsection shall
16 apply to projects approved under P.L.2011, c.149 (C.34:1B-242 et
17 seq.), P.L.2007, c.346 (C.34:1B-207 et seq.), and P.L.1996, c.26
18 (C.34:1B-124 et al.), and shall supersede any law or regulation that
19 imposes a requirement that the employee be present for a specified
20 percentage of time at the qualified business facility. The
21 requirements set forth in this subsection may be modified by the
22 authority to respond to an emergency, disaster, or other factors that
23 result in employees of an eligible business having to work from a
24 location other than the qualified business facility.

25 e. The **【owner】** chief executive officer of the business, or an
26 **【authorized agent of the owner】** equivalent officer, shall certify that
27 all factual representations made by the business to the authority
28 pursuant to subsection a. of this section are true under the penalty of
29 perjury.

30 f. A business eligible pursuant to this section may submit an
31 application to the authority in accordance with the provisions of
32 section 72 of P.L.2020, c.156 (C.34:1B-340) on or after the
33 effective date of P.L.2020, c.156 (C.34:1B-269 et al.) but prior to
34 March 1, 2027.

35 (cf: P.L.2020, c.156, s.71)

36

37 34. Section 72 of P.L.2020, c.156 (C.34:1B-340) is amended to
38 read as follows:

39 72. a. A business that meets the eligibility criteria in section 71
40 of P.L.2020, c.156 (C.34:1B-339) and is seeking a grant of tax
41 credits for a project under the program shall submit an application
42 for approval of the project to the authority in a form and manner
43 prescribed in regulations adopted by the authority pursuant to the
44 provisions of the "Administrative Procedure Act," P.L.1968, c.410
45 (C.52:14B-1 et seq.).

46 b. (1) Before the board may consider an eligible business's
47 application for tax credits, the Department of Labor and Workforce
48 Development, the Department of Environmental Protection, and the

1 Department of the Treasury shall each report to the chief executive
2 officer of the authority whether the eligible business is in
3 **【compliance】** substantial good standing, as defined in regulations
4 adopted by the authority, with the respective department, or, if
5 necessary, has entered into an agreement with the respective
6 department that includes a practical corrective action plan for the
7 eligible business. The authority may also contract with an
8 independent third party to perform a background check on the
9 eligible business. Provided that the eligible business is in
10 substantial good standing, or has entered into such an agreement,
11 before the board may approve an eligible business's application for
12 tax credits, the eligible business shall execute a non-binding letter
13 of intent with the chief executive officer of the authority, specifying
14 the amount and terms and conditions of tax credits that the authority
15 is prepared to propose for board approval and that are intended to
16 be a material factor in the decision by the eligible business to create
17 or retain the proposed number of new and retained full-time jobs,
18 and in which the eligible business certifies such tax credits are a
19 material factor in its decision.

20 (2) To assist the authority in determining whether the award of
21 tax credits is a material factor in the eligible business's decision to
22 create or retain the minimum number of new and retained full-time
23 jobs for eligibility under the program, the chief executive officer of
24 the authority shall require the eligible business to submit, as part of
25 its application, a full economic analysis of all locations under
26 consideration by the eligible business; all lease agreements,
27 ownership documents, or substantially similar documentation for
28 the eligible business's **【current】** proposed in-State locations; and all
29 lease agreements, ownership documents, or substantially similar
30 documentation for potential out-of-State location alternatives, to the
31 extent they exist. The chief executive officer of the authority may
32 further consider the costs associated with opening and maintaining a
33 business in New Jersey, competitive proposals that the eligible
34 business has received from other states, the prevailing economic
35 conditions, and any other factors that the chief executive officer of
36 the authority deems relevant to assist the authority in determining
37 whether an award of tax credits is a material factor in the eligible
38 business's decision. Based on this information, the authority shall
39 independently verify and confirm the eligible business's assertion
40 that the award of tax credits under the program is a material factor
41 in the eligible business's decision to create or retain the minimum
42 number of new and retained full-time jobs for eligibility under the
43 program and, in the case of retained full-time jobs, the jobs are
44 actually at risk of leaving the State or of being eliminated, before
45 the authority may award the eligible business any tax credits under
46 the " Emerge Program Act," sections 70 through 81 of P.L.2020,
47 c.156 (C.34:1B-338 et al.). The **【owner】** chief executive officer of
48 the eligible business, or an **【authorized agent of the owner】**

1 equivalent officer, shall certify that all factual representations made
2 by the business to the authority pursuant to this paragraph are true
3 under the penalty of perjury.

4 c. An eligible business shall pay to the authority the full
5 amount of the direct costs of an analysis concerning the eligible
6 business's application for a tax credit, which a third party retained
7 by the authority performs, if the authority deems such retention to
8 be necessary. The authority shall have the discretion to waive all or
9 a portion of the costs of application for a small business.

10 d. If at any time during the eligibility period the authority
11 determines that the eligible business made a material
12 misrepresentation on the eligible business's application, the eligible
13 business shall forfeit all tax credits awarded under the program,
14 which shall be in addition to any other criminal or civil penalties to
15 which the business and the officer may be subject.

16 e. If circumstances require an eligible business to amend its
17 application to the authority, then the **owner** chief executive
18 officer of the eligible business, or an **authorized agent of the**
19 **owner** equivalent officer, shall certify to the authority that the
20 information provided in its amended application is true under the
21 penalty of perjury.

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

25 (cf: P.L.2020, c.156, s.72)

26

27 35. Section 73 of P.L.2020, c.156 (C.34:1B-341) is amended to
28 read as follows:

29 73. a. Following approval by the board, but before the issuance
30 of tax credits, the authority shall require an eligible business to
31 enter into a project agreement. The terms of the project agreement
32 shall be consistent with the eligibility requirements of section 71 of
33 P.L.2020, c.156 (C.34:1B-339), as applicable, and shall include, but
34 shall not be limited to, the following:

35 (1) (a) a detailed description of the proposed project which will
36 result in job creation or retention, and the number of new and
37 retained full-time jobs that are approved for tax credits;

38 (b) for a phased project, **an incentive** a project phase
39 agreement for which each phase identifies a description of the
40 phase, the expected capital investment and number of new full-time
41 jobs, and the time following acceptance of the **incentive** project
42 agreement when each phase is to begin and be completed, with the
43 awarding of tax credits under the **incentive** project agreement to
44 be predicated on the number of full-time jobs created through the
45 fulfillment of each **incentive** project phase agreement;

46 (2) the eligibility period of the tax credits or, for a phased
47 project, the eligibility period of the tax credits for each phase;

- 1 (3) personnel information that will enable the authority to
2 administer the program;
- 3 (4) a requirement that the eligible business maintain the project
4 at a location in New Jersey for the commitment period, with at least
5 the minimum number of full-time jobs as required by this program,
6 and a provision to permit the authority to recapture all or part of any
7 tax credits awarded, at its discretion, if the eligible business does
8 not remain in compliance with this provision for the required term
9 or significantly reduces the number of full-time employees, or the
10 salaries thereof, to which the eligible business certified at the
11 commencement of the eligibility period;
- 12 (5) a method for the eligible business to certify that it has met
13 the capital investment and employment requirements of the program
14 set forth in subsections b. and c. of section 71 of P.L.2020, c.156
15 (C.34:1B-339) and to report annually to the authority the number of
16 new and retained full-time employees, and the salaries thereof, for
17 which the tax credits are to be allowed;
- 18 (6) representations that the eligible business is in substantial
19 good standing with the Department of Environmental Protection,
20 the Department of Labor and Workforce Development, and the
21 Department of the Treasury or **【meets the agreement requirements**
22 **described in paragraph (1) of subsection b. of section 71 of**
23 **P.L.2020, c.156 (C.34:1B-339)】** has entered into an agreement with
24 the departments that includes a practical corrective action plan, and
25 the project complies with all applicable laws, and specifically, that
26 the project does not violate any environmental law;
- 27 (7) a provision permitting an audit of the payroll records of the
28 business from time to time, as the authority deems necessary;
- 29 (8) a provision that the chief executive officer of the authority
30 receives annual reports from the Department of Environmental
31 Protection, the Department of Labor and Workforce Development,
32 and the Department of the Treasury **【demonstrating】** confirming
33 that the eligible business, and each contractor and subcontractor
34 under contract in an amount exceeding \$100,000 performing work
35 at the qualified business facility is in 【compliance】 substantial good
36 standing, as defined in regulations adopted by the authority, with
37 the respective department, or has entered into an agreement with the
38 respective department that includes a practical corrective action
39 plan, and a provision providing that if the eligible business is 【not
40 in compliance with its legal obligations of rules administered by
41 these departments and has been given formal notice thereof】 neither
42 in substantial good standing nor has entered into a practical
43 corrective action plan, then the authority may suspend the annual
44 certifications, or the issuance of tax credits thereunder, pending
45 resolution of the 【dispute】 underlying violations or other issues;

1 (9) a requirement for the eligible business to engage in on-site
2 consultations with the Division of Workplace Safety and Health in
3 the Department of Health;

4 (10) a provision permitting the authority to amend the
5 agreement;

6 and

7 (11) a provision establishing the conditions under which the
8 authority, the eligible business, or both, may terminate the
9 agreement.

10 b. (1) For a project whose **total project cost** capital investment
11 equals or exceeds \$10 million, in addition to the project agreement,
12 an eligible business shall enter into a community benefits agreement
13 with the authority and the county or municipality in which the
14 qualified business facility is located. The agreement may include,
15 but shall not be limited to, requirements for training, employment,
16 and youth development and free services to underserved
17 communities in and around the community in which the qualified
18 business facility is located. Prior to entering a community benefits
19 agreement, the governing body of the county or municipality in
20 which the qualified business facility is located shall hold at least
21 one public hearing at which the governing body shall hear
22 testimony from residents, community groups, and other
23 stakeholders on the needs of the community that the agreement
24 should address.

25 (2) The community benefits agreement shall provide for the
26 creation of a community advisory committee to oversee the
27 implementation of the agreement, monitor successes, ensure
28 compliance with the terms of the agreement, and produce an annual
29 public report. The community advisory committee created pursuant
30 to this paragraph shall be comprised of representatives from
31 community groups and residents of the county or municipality in
32 which the qualified business facility is located.

33 (3) At the time the eligible business submits the annual report
34 required pursuant to section 77 of P.L.2020, c.156 (C.34:1B-345) to
35 the authority, the eligible business shall certify, under the penalty of
36 perjury, that it is in compliance with the terms of the community
37 benefits agreement. If the eligible business fails to provide the
38 certification required pursuant to this paragraph or the authority
39 determines that the eligible business is not in compliance with the
40 terms of the community benefits agreement based on the reports
41 submitted by the community advisory committee pursuant to
42 paragraph (2) of this subsection, then the authority may rescind the
43 award or recapture all or part of any tax credits awarded.

44 (4) An eligible business shall not be required to enter into a
45 community benefits agreement pursuant to this subsection if the
46 eligible business submits to the authority a copy of either the
47 eligible business's project agreement or a redevelopment project
48 incentive award agreement applicable to the qualified business

1 facility that is certified by the municipality in which the project is
2 located.

3 (cf: P.L.2020, c.156, s.73)
4

5 36. Section 74 of P.L.2020, c.156 (C.34:1B-342) is amended to
6 read as follows:

7 74. a. Commencing with the date six months following, or at
8 the discretion of the authority, any date within 12 months following,
9 the date the authority and an eligible business execute a project
10 agreement, the eligible business shall demonstrate that it has
11 obtained site plan approval and has committed financing for, and
12 site control of, the qualified business facility. If the eligible
13 business obtained site control of the qualified business facility prior
14 to the execution of the letter of intent pursuant to section 72 of
15 P.L.2020, c.156 (C.34:1B-340), then the authority may rescind
16 approval of the award of tax credits, unless the eligible business
17 disclosed the fact that the eligible business had obtained the site
18 prior to executing the letter of intent and the authority determines
19 that the award of tax credits was still a material factor in the eligible
20 business's decision to create or retain the minimum number of new
21 and retained full-time jobs for eligibility under the program. The
22 eligible business shall provide an estimated date of completion and
23 shall submit periodic progress reports. The authority may rescind
24 an award of tax credits if an eligible business fails to provide the
25 information required under this section within the period indicated
26 in the approval of the tax credits by the board. The authority may
27 rescind an award of tax credits under the program if a project fails
28 to advance in accordance with the project agreement.

29 b. Upon completion of the capital investment and employment
30 requirements of the program, an eligible business shall submit to
31 the authority certifications evidencing that the eligible business has
32 satisfied the conditions relating to the capital investment and
33 employment requirements of the project agreement with supporting
34 evidence satisfactory to the authority. Absent extenuating
35 circumstances and the written approval of the authority, the eligible
36 business shall submit the certification within three years following
37 the date of approval of the application. The authority may grant
38 two six-month extensions of the deadline; provided that the date of
39 completion shall not occur later than four years following the date
40 of approval of the application by the authority; provided further that
41 the authority may grant one additional extension not to exceed one
42 year upon a finding by the authority that: (1) the project is delayed
43 due to unforeseeable acts related to the project beyond the eligible
44 business's control and without its fault or negligence; (2) the
45 eligible business is using best efforts, with all due diligence, to
46 proceed with the completion of the project and the submission of
47 the certification; and (3) the eligible business has made, and
48 continues to make, all reasonable efforts to prevent, avoid, mitigate,

1 and overcome the delay. To qualify for the one-year extension, the
2 eligible business shall provide timely notice to the authority of the
3 delay within 30 days after the eligible business has actual or
4 constructive knowledge of the delay, and shall provide periodic
5 reports, not less than every 30 days, of the status of the delay and
6 the steps the eligible business is taking to mitigate or overcome the
7 delay.

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

21 d. The **owner** chief executive officer of the eligible business,
22 or an **authorized agent of the owner** equivalent officer, shall
23 certify that the information provided pursuant to this section is true
24 under the penalty of perjury.
25 (cf: P.L.2020, c.156, s.74)

26
27 37. Section 75 of P.L.2020, c.156 (C.34:1B-343) is amended to
28 read as follows:

29 75. a. The total amount of the tax credit for an eligible business
30 for each new or retained full-time job shall be as set forth in
31 subsections b. through g. of this section. The total tax credit
32 amount shall be calculated and credited to the business annually for
33 each year of the eligibility period, notwithstanding any other
34 provisions of P.L.2020, c.156 (C.34:1B-269 et al.) to the contrary.

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

37 (1) for **an eligible** a qualified business facility located within
38 a government-restricted municipality, or which is a mega project,
39 \$4,000 per year;

40 (2) for a qualified business facility located within an enhanced
41 area, \$3,500 per year;

42 (3) for a qualified business facility located within a distressed
43 municipality, \$3,000 per year;

44 (4) for a project in a qualified opportunity zone or an
45 employment and investment corridor, \$2,500 per year; and

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

- 1 c. (1) In addition to the base amount of the tax credit, the amount
2 of the tax credit to be awarded for each new or retained full-time
3 job shall be increased with the following bonuses:
- 4 (a) for an eligible business with a qualified business facility
5 located in a municipality with a Municipal Revitalization Index
6 distress score greater than 50, an increase of \$1,000 per year;
- 7 (b) for an eligible business with a qualified business facility at
8 which the capital investment in industrial or research and
9 development premises for industrial or research and development
10 use by the business is in excess of the minimum capital investment
11 required for eligibility pursuant to subsection b. of section 71 of
12 P.L.2020, c.156 (C.34:1B-339), an increase of **["\$1,000"]** \$500 per
13 year for each additional amount of investment that exceeds the
14 minimum amount required for eligibility by 40 percent, with a
15 maximum increase of **["\$3,000"]** \$1,500 per year, unless the project
16 qualifies as a mega project or the qualified business facility is
17 located in a government-restricted municipality, in which case the
18 maximum increase is \$5,000 per year;
- 19 (c) for an eligible business with large numbers of new full-time
20 jobs during the commitment period, the increases shall be in
21 accordance with the following schedule:
- 22 (i) if the number of new full-time jobs is between 251 and 400,
23 \$500 per year;
- 24 (ii) if the number of new full-time jobs is between 401 and 600,
25 \$750 per year;
- 26 (iii) if the number of new full-time jobs is between 601 and 800,
27 \$1000 per year;
- 28 (iv) if the number of new full-time jobs is between 801 and
29 1,000, \$1,250 per year;
- 30 (v) if the number of new full-time jobs is in excess of 1,000,
31 \$1,500 per year;
- 32 (d) for an eligible business that annually funds an industry-
33 specific training program, which has the capacity to enroll 10
34 percent or more of the eligible business's full-time workforce, or
35 pays a State educational institution to provide to the public an
36 industry-specific training program, an increase of \$500 per year;
37 provided, however, that if the training program is provided by a
38 State educational institution that is within 10 miles of the qualified
39 business facility, then the increase shall be \$1,000 per year;
- 40 (e) for an eligible business that qualifies as a small business, an
41 increase of \$500 per year;
- 42 (f) for an eligible business with new full-time jobs and retained
43 full-time jobs **["at the qualified business facility"]** in the State with a
44 median salary in excess of the existing median salary for the county
45 in which the project is located, or, in the case of a project in a
46 government-restricted municipality, a business **["that employs"]** with
47 employees in full-time positions **["at the project"]** subject to the

1 project agreement with a median salary in excess of the median
2 salary for the government-restricted municipality, an increase of
3 **【\$250】** \$200 per year during the eligibility period for each 35
4 percent by which the project's median salary levels exceeds the
5 county or government-restricted municipality median salary, with a
6 maximum increase of **【\$1,500】** \$1,000 per year;

7 (g) for an eligible business with a qualified business facility
8 located in a qualified incentive tract, an increase of \$500 per year;

9 (h) for an eligible business engaged primarily in a targeted
10 industry, an increase of \$500 per year;

11 (i) for an eligible business with a qualified business facility
12 located in a qualified incubator facility, an increase of \$500 per
13 year;

14 (j) for an eligible business that enters into a labor harmony
15 agreement in accordance with section 69 of P.L.2020, c.156
16 (C.34:1B-337), an increase of \$2,000 per year for the portion of the
17 project subject to that labor harmony agreement; provided further
18 that an eligible business receiving a bonus under this subparagraph
19 may exceed the limitation applicable to the eligible business
20 pursuant to subsection d. of this section by an amount not to exceed
21 \$1,000;

22 (k) for an eligible business that provides its employees access to
23 child care either through an on-site quality child care facility free of
24 charge to its employees or through reimbursements paid by the
25 eligible business to its employees for the cost of child care in
26 accordance with standards adopted by the authority, an increase of
27 \$1,000 per year;

28 (l) for an eligible business that enters into a partnership with a
29 prisoner re-entry program for the purpose of identifying and
30 promoting employment opportunities at the eligible business for
31 former inmates and current inmates leaving the corrections system,
32 and that hires at least one active participant in the re-entry program,
33 an increase of \$500 per year.

34 (m) for an eligible business with a qualified business facility that
35 exceeds the Leadership in Energy and Environmental Design's
36 "Silver" rating standards but does not exceed "Gold" rating
37 standards or completes substantial environmental remediation, an
38 additional increase of \$250 per year, or for an eligible business with
39 a qualified business facility that exceeds the Leadership in Energy
40 and Environmental Design's "Gold" rating standards, an additional
41 increase of \$500 per year;

42 (n) for an eligible business in a targeted industry with a
43 qualified business facility that is used by the eligible business to
44 conduct a full time collaborative relationship with a college or
45 university, including, but not limited to, a doctoral university, an
46 increase of \$1,000 per year;

47 (o) for an eligible business with a project that generates solar ,
48 geo-thermal, wind, or any other renewable or distributed energy on

1 site for use within the qualified business facility of an amount that
2 equals at least 50 percent of the qualified business facility electric
3 supply service needs, an increase of \$500 per year;

4 (p) for an eligible business with a marine terminal project in a
5 municipality located outside a government-restricted municipality,
6 but within the geographical boundaries of the South Jersey Port
7 District, an increase of \$1,500 per year;

8 (q) for an eligible business with a qualified business facility
9 located in a qualified opportunity zone, an increase of \$1,000 per
10 year; and

11 (r) for an eligible business if one-third or more of the members
12 of the eligible business's governing board or other governing body
13 self-identify as members of an underrepresented community, which
14 may include Black, African American, Hispanic, Latino, Asian,
15 Pacific Islander, Native American, Native Hawaiian, Alaska Native
16 or gay, lesbian, bisexual or transgender, an increase of \$2,000 per
17 year. The authority shall work with the Chief Diversity Officer or
18 other State entities to ensure that the bonus provided under this
19 subparagraph is implemented faithfully and in compliance with law.

20 (2) The authority shall not award a bonus to an eligible business
21 with full-time jobs **【at the qualified business facility】** in the State
22 that pay less than \$15 per hour or 120 percent of the minimum wage
23 fixed under subsection a. of section 5 of P.L.1966, c.113 (C.34:11-
24 56a4), whichever is higher.

25 (3) The authority may adopt, pursuant to the provisions of the
26 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
27 seq.), criteria in addition to, or in place of, the criteria set forth in
28 paragraph (1) of this subsection in response to the prevailing
29 economic conditions in the State.

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

36 (1) for a mega project or a project in a government-restricted
37 municipality, the gross amount for each new or retained full-time
38 job shall not exceed \$8,000 per year;

39 (2) for a qualified business facility located within an enhanced
40 area, the gross amount for each new or retained full-time job shall
41 not exceed \$6,000 per year;

42 (3) for a qualified business facility within a distressed
43 municipality, the gross amount for each new or retained full-time
44 job shall not exceed \$5,000 per year;

45 (4) for a qualified business facility in a qualified opportunity
46 zone or an employment and investment corridor, the gross amount
47 for each new or retained full-time job shall not exceed \$4,000 per
48 year; and

1 (5) for a qualified business facility in other eligible areas, the
2 gross amount for each new or retained full-time job shall not exceed
3 \$3,000 per year.

4 e. The authority shall reduce the gross amount of tax credits
5 per full-time job if the median salary of new full-time jobs and
6 retained full-time jobs **【at the qualified business facility】** subject to
7 the project agreement is less than: (1) the existing median salary for
8 the county in which the qualified business facility is located; or (2)
9 for a project located in a government-restricted municipality, the
10 existing median salary for the municipality in which the qualified
11 business facility is located. The authority shall reduce the gross
12 amount of tax credits per full-time job by an amount, in percentage
13 points, equal to the percentage the median salary of new full-time
14 jobs and retained full-time jobs **【at the qualified business facility】**
15 subject to the project agreement is below the existing median salary
16 for the county in which the qualified business facility is located.
17 The authority shall not award a tax credit to an eligible business if
18 the median salary of new full-time jobs and retained full-time jobs
19 **【at the qualified business facility】** that would otherwise be subject
20 to the project agreement is 30 percent or more below the existing
21 median salary for the county or government restricted municipality
22 in which the qualified business facility is located.

23 f. After the determination by the authority of the gross amount
24 of tax credits for which an eligible business is eligible pursuant to
25 subsection d. of this section, the final total tax credit amount shall
26 be calculated as follows: (1) for each new full-time job, the eligible
27 business shall be allowed tax credits equaling the lesser of 100
28 percent of the gross amount of tax credits for each new full-time
29 job; and (2) for each retained full-time job, the eligible business
30 shall be allowed tax credits equaling 50 percent of the gross amount
31 of tax credits for each retained full-time job.

32 g. Notwithstanding the provisions of subsections a. through f.
33 of this section to the contrary, for each application approved by the
34 board, the amount of tax credits available to be applied by the
35 business annually shall not exceed an amount determined by the
36 authority to be necessary to induce the project to be sited in New
37 Jersey as determined by the board. The authority shall determine
38 the amount necessary to complete the project through staff analysis
39 of all locations under consideration by the eligible business and all
40 lease agreements, ownership documents, or substantially similar
41 documentation for the eligible business's **【current】** proposed in-
42 State locations and potential out-of-State location alternatives,
43 competitive proposals from other states, the prevailing economic
44 conditions, and any other information that the authority deems
45 relevant.

46 (cf: P.L.2020, c.156, s.75)

1 38. Section 76 of P.L.2020, c.156 (C.34:1B-344) is amended to
2 read as follows:

3 76. a. (1) If, in any tax period, an eligible business reduces the
4 total number of full-time employees in its Statewide workforce by
5 more than 20 percent from the number of full-time employees in its
6 Statewide workforce in the last tax period prior to the credit amount
7 approval under the program, then the eligible business shall forfeit
8 its credit amount for that tax period and each subsequent tax period,
9 until the first tax period for which documentation demonstrating the
10 restoration of the eligible business's Statewide workforce to the
11 threshold levels required by this subsection has been reviewed and
12 approved by the authority, for which tax period and each
13 subsequent tax period the full amount of the credit shall be allowed.

14 (2) If the annual report filed by an eligible business pursuant to
15 section 77 of P.L.2020, c.156 (C.34:1B-345) provides that the
16 number of new full-time employees employed by the eligible
17 business **【at the qualified business facility】** subject to the project
18 agreement, or the salaries thereof, was reduced by more than 10
19 percent of the number of new full-time employees, or salaries
20 thereof, in the annual report of the prior year, or the project
21 agreement if the annual report is the first such report filed, then the
22 authority may reevaluate the net positive economic benefit of the
23 project and reduce the size of the award accordingly. This reduction
24 shall not affect any recapture under subsection f. of this section.

25 b. If, in any tax period, the number of full-time employees
26 employed by the eligible business **【at the qualified business**
27 **facility】** subject to the project agreement, or the salaries thereof,
28 drops below 80 percent of the number of new and retained full-time
29 jobs, and the salaries thereof, specified in the project agreement or
30 the **【incentive】** project phase agreement, then the eligible business
31 shall forfeit its tax credit amount for that tax period and each
32 subsequent tax period, until the first tax period for which
33 documentation demonstrating the restoration of the number of full-
34 time employees employed by the eligible business **【at the qualified**
35 **business facility】** subject to the project agreement to 80 percent of
36 the number of jobs specified in the project agreement or **【incentive】**
37 project phase agreement or the restoration of 80 percent of the
38 salaries specified in the project agreement is reviewed and approved
39 by the authority.

40 c. Except for an eligible business engaged primarily in a
41 targeted industry with less than 50 employees at application:

42 (1) If the qualified business facility is sold in whole or in part
43 during the eligibility period, the new owner shall not acquire the
44 capital investment of the seller, provided, however, that any tax
45 credits of tenants shall remain unaffected. The seller shall forfeit
46 all tax credits for the tax period in which the sale occurs and all

1 subsequent tax periods, provided, however, that an eligible business
2 may change the location of the qualified business facility if:

3 (a) the new facility:

4 (i) meets all applicable location qualifying criteria and has
5 gross leasable area not less than the gross leasable area of the
6 qualified business facility initially approved by the authority and
7 the alternate qualified business facility meets the minimum capital
8 investment and sustainability requirements of the program; or

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

27 (b) in the event that the modified project economics materially
28 deviate from the economics of the initial approval in a manner that
29 undermines the recommendation of approval made by the staff of
30 the authority at the time of the initial approval, then the business
31 requesting to re-locate a qualified business facility shall be required
32 to obtain the approval of the members of the authority.

33 (2) If a tenant subleases its tenancy in whole or in part during
34 the eligibility period, the new tenant shall not acquire the tax credits
35 of the sublessor, and the sublessor shall forfeit all tax credits for
36 any tax period of its sublease in which the sublessor, in continued
37 occupation of a portion of the qualified business facility, fails to
38 maintain the number of jobs required for the sublessor to earn tax
39 credits for the tax period or fails to independently satisfy the
40 minimum capital investment or sustainability requirements for the
41 program as set forth in section 71 of P.L.2020, c.156 (C.34:1B-
42 339). Provided, however, if the capital investment of the sublessor
43 in the occupied portion of the qualified business facility is below
44 the project minimum capital investment as set forth in section 71 of
45 P.L.2020, c.156 (C.34:1B-339), the sublessor may include capital
46 investment made by or on behalf of the new tenant in the subleased
47 portion of the qualified business facility, so long as that capital

1 investment is not the subject of an independent application under an
2 incentive program with the authority.

3 d. A small business may move its qualified business facility
4 provided that the business remains in New Jersey during the
5 commitment period.

6 e. The authority may require a small business to submit a
7 growth plan, which specifies the number of new full-time
8 employees **【at the qualified business facility】** subject to the project
9 agreement that the eligible business will hire each year of the
10 eligibility period; provided that by the end of the eligibility period,
11 the eligible business shall have a minimum of 25 percent growth of
12 its workforce with new full-time jobs. If the eligible business meets
13 the number of new full-time employees specified in the growth plan
14 each year of the eligibility period, then the eligible business shall be
15 entitled to an increased credit amount for that tax period, and each
16 subsequent tax period, for each additional full-time employee added
17 above the number of full-time employees certified, until the full-
18 time employees number the maximum number projected for the
19 final year of the eligibility period. Failure to meet the projections
20 in any year shall not constitute a default but shall cause the
21 authority to reduce the award in accordance with a schedule
22 attached to the project agreement.

23 f. (1) The authority may recapture all or part of a tax credit
24 awarded if an eligible business does not remain in compliance with
25 the requirements of a project agreement for the duration of the
26 commitment period. A recapture pursuant to this subsection may
27 include interest on the recapture amount, at a rate equal to the
28 statutory rate for corporate business or insurance premiums tax
29 deficiencies, plus any statutory penalties, and all costs incurred by
30 the authority and the Division of Taxation in the Department of the
31 Treasury in connection with the pursuit of the recapture, including,
32 but not limited to, counsel fees, court costs, and other costs of
33 collection. Failure of the eligible business to meet any program
34 criteria shall constitute a default and shall result in the recapture of
35 all or part of the tax credit awarded.

36 (2) If all or part of a tax credit sold or assigned pursuant to
37 section 78 of P.L.2020, c.156 (C.34:1B-346) is subject to recapture,
38 then the authority shall pursue recapture from the eligible business
39 and not from the purchaser or assignee of the tax credit transfer
40 certificate. The purchaser or assignee of a tax credit transfer
41 certificate shall be subject to any limitations and conditions that
42 apply to the use of the tax credits by the eligible business.

43 (3) Any funds recaptured pursuant to this subsection, including
44 penalties and interest, shall be deposited into the General Fund of
45 the State.

46 g. A business may include an affiliate for any period, provided
47 that the business provides a valid tax clearance certificate for the
48 affiliate and a verification of the nature of the affiliate relationship

1 during the relevant period, and provided further that the affiliate
2 provides acceptable responses to the authority's legal disclosures
3 inquiries, as determined by the authority. A formal modification of
4 the authority's approval of the **【incentive】** project agreement shall
5 not be necessary to add or remove an affiliate after approval or
6 execution of the **【incentive】** project agreement.

7 h. A business may change its name filed with the authority by
8 providing a copy of the filed amendment to the certificate of
9 incorporation or formation, as the case may be, of the business and
10 a valid tax clearance certificate with the business's new name. A
11 formal modification of the authority's approval shall not be
12 necessary to change a business's name after approval or execution
13 of the **【incentive】** project agreement.

14 (cf: P.L.2020, c.156, s.76)

15
16 39. Section 77 of P.L.2020, c.156 (C.34:1B-345) is amended to
17 read as follows:

18 77. a. (1) An eligible business which is awarded tax credits
19 under the program shall submit annually, no later than the date
20 indicated in the project agreement, commencing in the year in
21 which the grant of tax credits is issued and for the remainder of the
22 commitment period, a report that indicates that the eligible business
23 continues to maintain the number of new and retained full-time
24 jobs, and the salaries thereof, specified in the project agreement.
25 As part of the annual report required pursuant to this subsection, an
26 eligible business shall provide to the authority a copy of its
27 applicable New Jersey tax return showing business income and
28 withholdings as a condition of its continuation in the program, and
29 the quarterly wage report required under R.S.43:21-14 submitted to
30 the Department of Labor and Workforce Development together with
31 an annual payroll report showing: (a) the new full-time jobs which
32 were created in accordance with the project agreement, and (b) the
33 new full-time jobs created during each subsequent year of the
34 commitment period. The failure of an eligible business to submit to
35 the authority a copy of its annual payroll report or submit the
36 quarterly wage report in accordance with the provisions of this
37 subsection during the eligibility period shall result in the forfeiture
38 of the award for that year. An eligible business shall explain, in the
39 reports required by this subsection, the reason for any discrepancies
40 between the annual payroll report submitted by the eligible business
41 and the quarterly wage report. The **【owner】** chief executive officer
42 of the eligible business, or an **【authorized agent of the owner】**
43 equivalent officer, shall certify that the information provided
44 pursuant to this paragraph is true under the penalty of perjury.
45 Claims, records, or statements submitted by an eligible business to
46 the authority in order to receive tax credits shall not be considered

1 claims, records, or statements made in connection with State tax
2 laws.

3 (2) Upon receipt and review of each report submitted during the
4 eligibility period, the authority shall provide to the eligible business
5 and the director a certificate of compliance indicating the amount of
6 tax credits that the eligible business may apply against its tax
7 liability. The authority shall pro rate the tax credit for the first and
8 last years of the eligibility period based on the number of full
9 months the project was certified in the year the eligible business
10 first certifies.

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

14 (2) An eligible business shall forfeit the credit amount for any
15 tax period for which the eligible business's documentation remains
16 uncertified as of the date for certification indicated in the project
17 agreement, although credit amounts for the remainder of the years
18 of the eligibility period shall remain available to the eligible
19 business.

20 c. Full-time employment for an accounting or privilege period
21 shall be determined as the average of the monthly full-time
22 employment for the period.

23 d. (1) Upon receipt by the director of the certificate of
24 compliance, the director shall allow the eligible business a tax
25 credit. The eligible business may apply the credit allowed by the
26 director against the eligible business's tax liability for the tax period
27 in which the director allowed the tax credit or may carry forward
28 the credit for use by the eligible business in any of the next seven
29 successive tax periods, which credit shall expire thereafter.

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

35 (b) Credits granted to a partnership shall be passed through to
36 the partners, members, or owners, respectively, pro-rata, or
37 pursuant to an executed agreement among the partners, members, or
38 owners documenting an alternate distribution method provided to
39 the director accompanied by any additional information as the
40 director may prescribe. With respect to credits passed through to a
41 person subject to tax liability due pursuant to section 2 or 3 of
42 P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), the person shall be
43 allowed to apply credits against the person's tax liability without the
44 provision of a tax credit certificate to the Division of Taxation in
45 the Department of the Treasury for the tax period accompanying the
46 person's tax return and the person shall be considered the tax
47 certificate holder and be subject to subparagraph (c) of this
48 paragraph. The authority may recapture all or part of any tax

1 credits claimed by a person pursuant to subparagraph (b) of this
2 paragraph with penalties and interest from the person or the
3 business in the event the Division of Taxation in the Department of
4 the Treasury does not issue a tax credit certificate in an amount at
5 least equal to the tax credit amount claimed on the person's tax
6 return for the applicable tax period.

7 (3) The director shall prescribe the order of priority of the
8 application of the credit allowed under this section and any other
9 credits allowed by law against the tax imposed under section 5 of
10 P.L.1945, c.162 (C.54:10A-5). The amount of a credit applied
11 under this section against the tax imposed pursuant to section 5 of
12 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with
13 any other credits allowed by law, shall not reduce the tax liability to
14 an amount less than the statutory minimum provided in subsection
15 (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

16 (4) In lieu of applying any credit certificate or credit transfer
17 certificate against tax liability otherwise due pursuant to section 5
18 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945,
19 c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231
20 (C.17:32-15), or N.J.S.17B:23-5, the credit certificate or credit
21 transfer certificate may be surrendered to the Division of Taxation
22 in the Department of the Treasury for a cash payment equal to 90
23 percent of the amount of tax credits evidenced by the certificate,
24 provided that the issuance date of the credit certificate or credit
25 transfer certificate to the taxpayer surrendering such certificate
26 occurred at least two years prior to the date of surrender and the
27 credit certificate or credit transfer certificate has not been sold or
28 assigned previously.

29 (cf: P.L.2020, c.156, s.77)

30
31 40. Section 78 of P.L.2020, c.156 (C.34:1B-346) is amended to
32 read as follows:

33 78. a. An eligible business may apply to the director and the
34 chief executive officer of the authority for a tax credit transfer
35 certificate, within three years of the tax period in which the director
36 allows the eligible business a tax credit, in lieu of any amount of the
37 tax credit against the eligible business's State tax liability. The tax
38 credit transfer certificate, upon receipt thereof by the eligible
39 business from the director and the chief executive officer of the
40 authority, may be sold or assigned, in an amount not less than
41 \$25,000, within three years of the tax period in which the eligible
42 business receives the tax credit transfer certificate from the director,
43 to another person that may have a tax liability pursuant to section 5
44 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945,
45 c.132 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231
46 (C.17:32-15), or N.J.S.17B:23-5. A purchaser or assignee of a tax
47 credit transfer certificate pursuant to this section shall apply the
48 transferred credit against the same tax for which the eligible

1 business was approved a tax credit under the program. The tax
2 credit transfer certificate provided to the eligible business shall
3 include a statement waiving the eligible business's right to claim the
4 credit that the eligible business has elected to sell or assign.

5 b. (1) The eligible business shall not sell or assign a tax credit
6 transfer certificate allowed under this section for consideration
7 received by the eligible business of less than **[85]** 90 percent of the
8 transferred credit amount before considering any further
9 discounting to present value which shall be permitted. The tax
10 credit transfer certificate issued to the eligible business by the
11 director shall be subject to any limitations and conditions imposed
12 on the application of State tax credits pursuant to sections 70
13 through 81 of P.L.2020, c.156 (C.34:1B-338 et al.) and any other
14 terms and conditions that the director may prescribe.

15 (2) With respect to credits to be sold or assigned, in full or in
16 part, pursuant to an application to the authority for a tax credit
17 transfer certificate by a business to a person subject to tax liability
18 due pursuant to section 2 or 3 of P.L.1945, c.132 (C.54:18A-2 or
19 C.54:18A-3), the person shall be allowed to apply the credits
20 against the person's tax liability without the provision of a tax credit
21 certificate to the Division of Taxation in the Department of the
22 Treasury for the tax period accompanying its tax return, and the
23 person be considered a tax credit transferee and be subject to
24 paragraph (3) of this subsection.

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

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

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

- 37 (1) the name of the transferrer;
38 (2) the name of the transferee;
39 (3) the value of the tax credit transfer certificate;
40 (4) the State tax against which the transferee may apply the tax
41 credit; and
42 (5) the consideration received by the transferrer.

43 (cf: P.L.2020, c.156, s.78)

44

45 41. Section 79 of P.L.2020, c.156 (C.52:27D-520) is amended to
46 read as follows:

47 79. a. The authority shall establish a dedicated fund to be
48 known as the "Recovery Infrastructure Fund." Money in the fund

1 shall be dedicated to the purpose of funding local infrastructure,
2 which shall include:

3 (1) buildings and structures, such as schools, fire houses, police
4 stations, recreation centers, public works garages, and water and
5 sewer treatment and pumping facilities;

6 (2) sidewalks, streets, roads, ramps, and jug handles;

7 (3) open space with improvements such as athletic fields,
8 playgrounds, and planned parks;

9 (4) open space without improvements;

10 (5) public transportation facilities such as train stations and
11 public parking facilities; and

12 (6) the purchase of equipment considered vital to public safety.

13 b. The fund shall be credited with money remitted by eligible
14 businesses pursuant to paragraph (2) of subsection b. of section 71
15 of P.L.2020, c.156 (C.34:1B-339).

16 c. Money remitted to the fund by an eligible business pursuant
17 to paragraph (2) of subsection b. of section 71 of P.L.2020, c.156
18 (C.34:1B-339) shall be earmarked for use on local infrastructure
19 projects in the municipality in which the eligible business's project
20 is located.

21 d. A municipality shall apply to the authority, in a form and
22 manner prescribed by the authority, for disbursements from the
23 Recovery Infrastructure Fund. The authority, in consultation with
24 the Department of Community Affairs, shall review and approve
25 applications for disbursements of money from the fund pursuant to
26 the provisions of this section and the rules and regulations
27 promulgated by the authority pursuant to paragraph (1) of
28 subsection f. of this section.

29 e. The Department of Community Affairs shall coordinate with
30 the authority and other boards, commissions, institutions,
31 departments, agencies, State officers, and employees to carry out
32 the local infrastructure projects funded through the Recovery
33 Infrastructure Fund.

34 f. (1) **【The】** Notwithstanding the provisions of the
35 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
36 seq.), to the contrary, the chief executive officer of the authority
37 **【shall】** may adopt, immediately upon filing with the Office of
38 Administrative Law, rules and regulations that the chief executive
39 officer deems necessary to effectuate the purposes of subsections a.
40 through d. of this section, which rules and regulations shall be
41 effective for a period not to exceed 360 days from the date of the
42 filing. The chief executive officer shall thereafter amend, adopt, or
43 readopt the rules and regulations **【pursuant to the "Administrative**
44 **Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate**
45 **the purposes of subsections a. through d. of this section】** in
46 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
47 et seq.).

1 (2) **【The】** Notwithstanding the provisions of the
2 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
3 seq.), to the contrary, the Commissioner of the Department of
4 Community Affairs 【shall】 may adopt, immediately upon filing
5 with the Office of Administrative Law, rules and regulations that
6 the commissioner deems necessary to effectuate the purposes of
7 subsection e. of this section, which rules and regulations shall be
8 effective for a period not to exceed 360 days from the date of the
9 filing. The commissioner shall thereafter amend, adopt, or readopt
10 the rules and regulations 【pursuant to the "Administrative
11 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate
12 the purposes of subsection e. of this section】 in accordance with the
13 requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).
14 (cf: P.L.2020, c.156, s.79)

15
16 42. Section 83 of P.L.2020, c.156 (C.34:1B-350) is amended to
17 read as follows:

18 83. As used in sections 82 through 88 of P.L.2020, c.156
19 (C.34:1B-349 et al.):

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

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

25 "Eligible microbusiness" means a business enterprise located in
26 the State that produces goods or provides services and has fewer
27 than 10 full-time equivalent employees and annual gross revenue of
28 less than **【\$1,000,000】** \$1,500,000 at the time of application for a
29 loan under the program.

30 "Eligible small business" means any business that satisfies the
31 criteria set forth in subsection b. of section 85 of P.L.2020, c.156
32 (C.34:1B-352) at the time of application for a grant under the
33 program.

34 "Program" means the Main Street Recovery Finance Program
35 established pursuant to section 84 of P.L.2020, c.156 (C.34:1B-
36 351).

37 "Small business" means a business engaged in the conduct of a
38 trade or business in this State that qualifies as a "small business
39 concern" within the meaning of the federal "Small Business Act,"
40 Pub.L.85-536 (15 U.S.C. § 631 et seq.) for the purpose of the small
41 business's eligibility assistance from the United States Small
42 Business Administration.

43 (cf: P.L.2020, c.156, s.83)

44
45 43. Section 84 of P.L.2020, c.156 (C.34:1B-351) is amended to
46 read as follows:

84. The Main Street Recovery Finance Program is hereby established as a program under the jurisdiction of the New Jersey Economic Development Authority. The authority shall administer the program for the purpose of providing grants, loans, and loan guarantees to eligible small businesses in accordance with the provisions of sections 82 through 88 of P.L.2020, c.156 (C.34:1B-349 et al.). A business seeking a grant, loan, or loan guarantee under the program shall submit an application to the authority. The authority shall adopt eligibility criteria for the program and may consider a business's benefit to the community in which it is situated and the degree to which the business enhances [and promotes job creation and] economic development in communities that have been severely impacted by the COVID-19 pandemic when making awards under the program.

(cf: P.L.2020, c.156, s.84)

44. Section 85 of P.L.2020, c.156 (C.34:1B-352) is amended to read as follows:

85. a. As part of the Main Street Recovery Finance Program, the authority shall provide grants to eligible small businesses from the Main Street Recovery Fund, subject to appropriation or the availability of federal funds, provided that [not less than 40 percent of such funds shall be made available to eligible microbusinesses certified by the State as a "minority business" or a "women's business" pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.)] the authority shall undertake a disparity study of the relative availability of capital and related banking resources for small businesses and microbusiness that are women- and minority-owned business enterprises in this State and the authority's historic support of such businesses, and, as recommended by the study, shall establish policies, practices, protocols, and, if appropriate, minimum percentages of the fund to be set aside for eligible small businesses and microbusinesses that are minority-owned business enterprises or women-owned business enterprises. Grants awarded pursuant to the program may be used by an eligible small business for capital improvements or to cover operating expenses. The authority may dedicate up to 10 percent of [any] the amount appropriated for the purposes of this section to provide technical assistance grants to for-profit or non-profit entities that are experienced in providing technical assistance services or to eligible microbusinesses to help such eligible microbusinesses in applying for the grants authorized under this section.

b. (1) A small business shall be eligible to receive a grant pursuant to this section if the small business demonstrates to the authority that:

(a) the small business has complied with all requirements for filing tax and information returns and for paying or remitting

1 required State taxes and fees by submitting, as a part of the
2 application, a tax clearance certificate, as described in section 1 of
3 P.L.2007, c.101 (C.54:50-39); and

4 (b) each worker employed by the small business shall be paid
5 not less than \$15 per hour or 120 percent of the minimum wage
6 fixed under subsection a. of section 5 of P.L.1966, c.113 (C.34:11-
7 56a4), whichever is higher, except an employee who customarily
8 and regularly receives gratuities or tips shall be paid not less than
9 120 percent of the minimum wage.

10 (2) In addition to the requirements of paragraph (1) of this
11 subsection, a small business shall be eligible to receive a grant
12 pursuant to this subsection for capital improvements only if the
13 small business demonstrates to the authority at the time of
14 application that:

15 (a) any capital improvement in excess of \$50,000 and
16 undertaken with grant funds shall comply with standards established
17 by the authority in accordance with the green building manual
18 prepared by the Commissioner of Community Affairs pursuant to
19 section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding the use of
20 renewable energy, energy-efficient technology, and non-renewable
21 resources to reduce environmental degradation and encourage long-
22 term cost reduction; and

23 (b) each worker employed to perform construction work in
24 connection with a capital improvement undertaken with grant funds
25 in excess of \$50,000 shall be paid not less than the prevailing wage
26 rate for the worker's craft or trade, as determined by the
27 Commissioner of Labor and Workforce Development pursuant to
28 P.L.1963, c.150 (C.34:11-56.25 et seq.).

29 c. Prior to March 1, 2025, an eligible small business seeking a
30 grant pursuant to this section shall submit an application for
31 approval to the authority in the form and manner prescribed in
32 regulations adopted by the authority pursuant to the provisions of
33 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
34 seq.). Before the board may consider an eligible small business's
35 application for grants, the Department of Labor and Workforce
36 Development, the Department of Environmental Protection, and the
37 Department of the Treasury shall each report to the chief executive
38 officer of the authority whether the eligible small business is in
39 substantial good standing, as defined in regulations adopted by the
40 authority, with the respective department, or has entered into an
41 agreement with the respective department that includes a practical
42 corrective action plan for the eligible small business. The authority
43 may also contract with an independent third party to perform a
44 background check on the eligible small business. The eligible small
45 business, or an authorized agent thereof, shall certify under the
46 penalty of perjury that any information provided in the application
47 required pursuant to this subsection is true.

1 d. Following approval **【by the board】** of an application, but
2 before the disbursement of grant funds, the authority shall require
3 an eligible small business to enter into a grant agreement. The
4 grant agreement shall specify the amount of the grant to be awarded
5 the eligible small business and the frequency of payments. If the
6 authority determines that an eligible small business made a material
7 misrepresentation on the eligible small business's grant application
8 or the eligible small business has **【filed】** failed to comply with any
9 requirement set forth in **【paragraphs (1) through (4) of】** subsection
10 b. of this section, then the small business shall return to the
11 authority any grant awarded pursuant to this section.
12 (cf: P.L.2020, c.156, s.85)

13
14 45. Section 86 of P.L.2020, c.156 (C.34:1B-353) is amended to
15 read as follows:

16 86. a. As part of the Main Street Recovery Finance Program,
17 the authority shall make loans and grants available from the Main
18 Street Recovery Fund, subject to annual appropriation and the
19 availability of funds, to eligible community development finance
20 institutions, minority depository institutions, and other eligible
21 lenders pursuant to subsection b. of this section and to eligible
22 microbusinesses pursuant to subsection c. of this section, provided
23 that **【not less than 40 percent of such】** funds shall be made
24 available to eligible microbusinesses certified by the State as a
25 "minority business" or a "women's business" pursuant to P.L.1986,
26 c.195 (C.52:27H-21.17 et seq.) in a manner consistent with
27 authority requirements within paragraph a. of section 85 of
28 P.L.2020, c.156 (C.34:1B-352). The authority may dedicate up to
29 10 percent of **【any】** the amount appropriated for the purposes of
30 this section to provide technical assistance grants to for-profit or
31 non-profit entities that are experienced in providing technical
32 assistance services or to eligible microbusinesses to help such
33 eligible microbusinesses in applying for loan packaging services
34 under the programs authorized to receive grants and loans pursuant
35 to this section.

36 b. The authority shall provide loans and grants to eligible
37 community development finance institutions, minority depository
38 institutions, and other eligible lenders in accordance with this
39 subsection. Loans and grants made available to eligible community
40 development finance institutions, minority depository institutions,
41 and other eligible lenders pursuant to this paragraph shall be used to
42 strengthen capital structures, leverage additional debt capital, and
43 increase lending and investing in economically disadvantaged
44 communities. The authority shall require an eligible community
45 development finance institution, minority depository institution, or
46 other eligible lender that receives a grant or loan pursuant to this
47 subsection to enter into an agreement with the authority.

1 As used in this section, "other eligible lender" means a zone
2 development corporation as defined in section 3 of P.L.1983, c.303
3 (C.52:27H-62) that is located in a municipality with a population
4 greater than 100,000 or another nonprofit lender with at least 10
5 years experience lending to microbusinesses.

6 c. The authority shall provide loans to eligible microbusinesses
7 in accordance with this subsection. Loans made available to
8 eligible microbusinesses pursuant to this subsection may be used for
9 capital improvements, employee training, salaries for new positions,
10 and to pay for day-to-day operating expenditures, including payroll,
11 rent, utilities, insurance, and purchases of goods and services. The
12 authority shall require an eligible microbusiness to enter into a loan
13 agreement. Loans made pursuant to this subsection shall have a
14 term and an interest rate determined by the authority based on
15 conditions currently prevailing in the market. The authority may
16 forgive loans provided to eligible microbusinesses pursuant to this
17 subsection at the authority's discretion. The authority may, through
18 the terms of the loan agreement, establish terms governing the
19 incidence of default by an eligible microbusiness.

20 d. Prior to March 1, 2025, an eligible community development
21 finance institution, minority depository institution, or other eligible
22 lender seeking a loan or a grant pursuant to subsection b. of this
23 section or an eligible microbusiness seeking a loan pursuant to
24 subsection c. of this section shall submit an application for approval
25 to the authority in the form and manner prescribed in regulations
26 adopted by the authority pursuant to the provisions of the
27 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
28 seq.). Before the authority may **【consider】** approve an application,
29 the Department of Labor and Workforce Development, the
30 Department of Environmental Protection, and the Department of the
31 Treasury shall each report to the chief executive officer of the
32 authority whether the applicant is in substantial good standing, as
33 defined in regulations adopted by the authority, with the respective
34 department, or has entered into an agreement with the respective
35 department that includes a practical corrective action plan for the
36 applicant. The authority may also contract with an independent
37 third party to perform a background check on the applicant. The
38 applicant, or an authorized agent thereof, shall certify under the
39 penalty of perjury that any information provided in the application
40 required pursuant to this subsection is true.

41 (cf: P.L.2020, c.156, s.86)

42
43 46. Section 87 of P.L.2020, c.156 (C.52:18A-262) is amended to
44 read as follows:

45 87. a. To aid in the economic recovery of those communities
46 most impacted by the COVID-19 pandemic and to better ensure
47 their long-term economic growth, there is created the "Main Street
48 Recovery Fund" to be held by the State Treasurer and administered

1 by the authority. All moneys deposited in the fund shall be held
2 and disbursed in the amounts necessary to fulfill the purposes of
3 providing grants and loans related to an identified program that is
4 administered by the authority pursuant to sections 85 and 86 of
5 P.L.2020, c.156 (C.34:1B-352 and C.34:1B-353) **【and】** , for the
6 purposes enumerated in subsection b. of this section, and for
7 reasonable administrative costs of implementing sections 82
8 through 88 of P.L.2020, c.156 (C.34:1B-349 et al.). The fund may
9 be credited with pay backs; bonuses; entitlements; money received
10 from the federal government; transfers; grants; gifts; bequests;
11 moneys appropriated by the Legislature; or any other money made
12 available from any source. The State Treasurer, in consultation
13 with the authority, may invest and reinvest any moneys in the fund
14 in the State Treasurer's discretion. Any income from, interest on, or
15 increment to moneys so invested or reinvested shall be included in
16 the fund.

17 b. Upon application to the **【State Treasurer, and in consultation**
18 **with the】** Chief Executive Officer of the New Jersey Economic
19 Development Authority, the **【State Treasurer shall】** the authority
20 may make loan guarantees from the fund to leverage private and
21 public lending to help finance small businesses, real estate
22 developments, and manufacturers that are creditworthy but not
23 receiving the financing needed to expand and create jobs. In
24 making loan guarantees under this section, the **【State Treasurer】**
25 chief executive officer of the authority shall give due consideration
26 to small businesses and real estate developments in underserved
27 communities throughout the State that have been deeply impacted
28 by the COVID-19 pandemic.

29 c. (1) The **【State Treasurer】** chief executive officer of the
30 authority shall monitor the activities of the beneficiaries of the loan
31 guarantees issued pursuant to this section on an annual basis to
32 ensure compliance with the terms and conditions imposed on the
33 recipient by the chief executive officer.

34 (2) An entity receiving a loan guarantee and the beneficiaries of
35 such loan guarantee under this section shall provide the **【State**
36 **Treasurer】** authority with an annual accounting of how the benefit it
37 received from the fund was applied.

38 (3) The authority, at the time the annual accounting required
39 under paragraph (2) of this 【section】 subsection is provided, shall
40 **【include certifications by】** confirm with the Department of Labor
41 and Workforce Development, the Department of Environmental
42 Protection, and the Department of the Treasury that the entity and
43 the beneficiaries are in substantial good standing, as defined in
44 regulations adopted by the authority, with the respective
45 departments, or have entered into an agreement with the respective
46 department that includes a practical corrective action plan.

1 (4) The entity and beneficiary, or an authorized agent thereof,
2 shall certify under the penalty of perjury that the information
3 provided pursuant to this subsection is true.

4 (cf: P.L.2020, c.156, s.87)

5
6 47. Section 89 of P.L.2020, c.156 (C.52:18A-263) is amended to
7 read as follows:

8 89. a. **【**The Director of the Division of Taxation in the
9 Department of the Treasury may purchase unused tax credits
10 awarded under a program listed in subsection b. of this section,
11 including tax credit transfer certificates issued by the director in
12 lieu of a tax credit allowed under such programs. The director shall
13 not pay consideration in excess of 75 percent of the credit amount
14 to be purchased, except for a credit awarded under the "Emerge
15 Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-
16 336 et al.), which shall be subject to the provisions of paragraph (4)
17 of subsection d. of section 77 of P.L.2020, c.156 (C.34:1B-345)**】** In
18 lieu of applying any credit certificate or credit transfer certificate
19 awarded under a program listed in subsection b. of this section
20 against tax liability otherwise due pursuant to section 5 of P.L.1945,
21 c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-
22 2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or
23 N.J.S.17B:23-5, the credit certificate or credit transfer certificate,
24 which has not been sold or assigned previously, may be surrendered
25 to the Division of Taxation in the Department of the Treasury for a
26 cash payment equal to 90 percent of the amount of tax credits
27 evidenced by the certificate, provided that the issuance date of the
28 credit certificate or credit transfer certificate to the taxpayer
29 surrendering such certificate occurred at least two years prior to the
30 date of surrender.

31 b. The Director of the Division of Taxation in the Department
32 of the Treasury may **【purchase】** accept the surrender of tax credits
33 awarded under the following:

34 (1) the "Historic Property Reinvestment Act," sections 1 through
35 8 of P.L.2020, c.156 (C.34:1B-269 through C.34:1B-276);

36 (2) the "Brownfield Redevelopment Incentive Program Act,"
37 sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through
38 C.34:1B-287);

39 (3) **【**the "New Jersey Innovation Evergreen Act," sections 20
40 through 34 of P.L.2020, c.156 (C.34:1B-288 through C.34:1B-
41 302)**】** (Deleted by amendment, P.L. , c.) (pending before the
42 Legislature as this bill)

43 (4) the "Food Desert Relief Act," sections 35 through 42 of
44 P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310);

45 (5) the "New Jersey Community-Anchored Development Act,"
46 sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through
47 C.34:1B-321);

1 (6) the "New Jersey Aspire Program Act," sections 54 through
2 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335);

3 (7) the " Emerge Program Act," sections 68 through 81 of
4 P.L.2020, c.156 (C.34:1B-336 et al.);

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

7 (9) section 6 of P.L.2010, c.57 (C.34:1B-209.4);

8 (10) the State Economic Redevelopment and Growth Grant
9 program established pursuant to section 5 of P.L.2009, c.90
10 (C.52:27D-489e);

11 (11) section 1 of P.L.2018, c.56 (C.54:10A-5.39b); and

12 (12) section 2 of P.L.2018, c.56 (C.54A:4-12b).

13 (cf: P.L.2020, c.156, s.89)

14

15 48. Section 90 of P.L.2020, c.156 (C.34:1B-355) is amended to
16 read as follows:

17 90. a. There is established in the New Jersey Economic
18 Development Authority a Working Group on Entrepreneur Zones
19 for the purpose of making recommendations for the establishment
20 of entrepreneur zones throughout the State. The working group
21 shall consider whether the establishment of entrepreneur zones in
22 which the State provides the tax incentives, regulation relief, and
23 financial support to local entrepreneurs is the most effective way to
24 create jobs in the State. The working group shall identify census
25 tracts within the State that are suitable for designation as an
26 entrepreneur zone.

27 b. The working group shall consist of **【seven】** 14 members
28 appointed by the chief executive officer of the New Jersey
29 Economic Development Authority.

30 c. Appointments to the working group shall be made within 30
31 days after the effective date of this act. Vacancies in the
32 membership of the working group shall be filled in the same
33 manner as the original appointments were made.

34 d. Members of the working group shall serve without
35 compensation, but the authority shall reimburse such members for
36 actual expenses necessarily incurred in the discharge of their duties.

37 e. Members of the working group shall be subject to the
38 provisions of subsection l. of section 4 of P.L.1974, c.80 (C.34:1B-
39 4).

40 (cf: P.L.2020, c.156, s.90)

41

42 49. Section 93 of P.L.2020, c.156 (C.34:1B-357) is amended to
43 read as follows:

44 93. As used in sections 92 through 97 of P.L.2020, c.156
45 (C.34:1B-356 through C.34:1B-361):

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

1 "Authority commitment period" means the period for which the
2 authority commits to provide a start-up rent grant for the payment
3 of rent in a collaborative workspace.

4 "Collaborative workspace" means a business facility certified
5 pursuant to section 95 of P.L.2020, c.156 (C.34:1B-359), located in
6 this State, developed to provide flexible workspaces for early stage
7 innovation economy businesses, and designed to encourage
8 community and collaboration within an inter-connected
9 environment in which multiple start-up businesses have access to
10 shared community events and shared workplace accommodations
11 including, but not limited to, kitchens and makerspaces.

12 "Collaborative workspace commitment period" means a period of
13 months equal to one-half the number of months of the authority
14 commitment period.

15 "Community event" means an event hosted by a collaborative
16 workspace and accessible to start-up tenant or member businesses,
17 without charge or with nominal charge, organized to support an
18 innovation ecosystem, as defined in section 21 of P.L.2020, c.156
19 (C.34:1B-289), at the collaborative workspace, including, but not
20 limited to, events such as meet-ups, speaker series, and office hours
21 for lawyers, accountants, consultants, or investors.

22 "Early stage innovation economy business" means a business
23 that operates within a targeted industry with at least one full-time
24 employee, who is assigned to the collaborative workspace, and
25 fewer than 10 employees overall and with less than \$1,000,000 in
26 gross sales over the 12-month period immediately prior to
27 submitting an application for tenancy at a collaborative workspace.
28 To be considered an "early stage innovation economy business" the
29 earliest date of formation for the business must have been not more
30 than **【three】** seven years prior to utilizing or renting space in, or
31 access to, the collaborative workspace under the program, and the
32 business shall not have previously utilized or rented space in, or
33 access to, another collaborative workspace in the State.

34 "Full time employee" means a person who is: employed by the
35 start-up tenant or member business for at least 35 hours a week;
36 working as an independent contractor providing critical capabilities
37 to the start-up tenant or member business for at least 35 hours a
38 week; or an owner or partner of the start-up tenant or member
39 business who works for at start-up tenant or member business for at
40 least 35 hours a week.

41 "Grant agreement" means an agreement between the authority
42 and the owner and operator of a collaborative workspace which
43 memorializes the terms and conditions of the collaborative
44 workspace's participation in the program.

45 "Program" means the New Jersey Ignite Program established
46 pursuant to section 94 of P.L.2020, c.156 (C.34:1B-358).

47 "Targeted industry" means any industry identified from time to
48 time by the authority which shall initially include advanced

1 transportation and logistics, advanced manufacturing, aviation,
2 autonomous vehicle and zero-emission vehicle research or
3 development, clean energy, life sciences, hemp processing,
4 information and high technology, finance and insurance,
5 professional services, film and digital media, non-retail food and
6 beverage businesses including food innovation, and other
7 innovative industries that disrupt current technologies or business
8 models.

9 "Start-up rent grant" means a grant provided by the authority to a
10 collaborative workspace for the rent that would otherwise be due to
11 the collaborative workspace from a start-up tenant or member
12 business for the period of the authority commitment period.

13 "Start-up tenant or member business" means an early stage
14 innovation economy business that is registered to do business in
15 New Jersey, rents space in, or access to, a collaborative workspace
16 under the program, and enters into an agreement with the owner and
17 operator of the collaborative workspace to rent space in, or access
18 to, the collaborative workspace for an agreed upon period, which
19 shall include the authority commitment period, collaborative
20 workspace commitment period, and start-up tenant or member
21 business commitment period.

22 "Start-up tenant or member business commitment period" means
23 a period of months equal to the sum of the authority commitment
24 period and the collaborative workspace commitment period.
25 (cf: P.L.2020, c.156, s.93)

26

27 50. Section 96 of P.L.2020, c.156 (C.34:1B-360) is amended to
28 read as follows:

29 96. a. Up to the limits established in this subsection and in
30 accordance with the grant agreement, the authority shall provide
31 start-up rent grants to the owner and operator of a collaborative
32 workspace through a series of scheduled payments as set forth in
33 the grant agreement. The owner and operator of the collaborative
34 workspace shall utilize the grant funding to provide rent-free space
35 to a start-up tenant or member business that agrees to continue
36 renting space in, or access to, the collaborative workspace for the
37 start-up tenant or member business commitment period. The
38 maximum start-up rent grant that the authority may provide to a
39 collaborative workspace for the tenancy of a single start-up tenant
40 or member business shall not exceed \$25,000, including bonus
41 months. The maximum aggregate amount of start-up rent grants
42 that the authority may provide to an approved collaborative
43 workspace in a calendar year shall not exceed \$100,000.

44 b. The authority may provide a start-up rent grant for the
45 payment of rent for space in, or access to, a collaborative workspace
46 for up to six months; provided, however, if a collaborative
47 workspace or start-up tenant or member business satisfies any of the
48 bonuses set forth in paragraphs (1) through (5) of this subsection,

1 then the authority may provide an additional month of rent for each
2 bonus satisfied by the collaborative workspace or start-up tenant or
3 member business. Additional months of rent provided by the
4 authority for bonus criteria satisfied by a collaborative workspace
5 or start-up tenant or member business shall first be applied to the
6 start-up tenant or member business commitment period, followed by
7 the collaborative workspace commitment period. Any bonus
8 months provided in excess of the combined commitment periods
9 shall be forfeited. The authority may award a bonus [to the owner
10 and operator of a collaborative workspace] month if:

11 (1) the collaborative workspace is located in a qualified
12 opportunity zone designated pursuant to 26 U.S.C. s.1400Z-1;

13 (2) the collaborative workspace is affiliated with a hospital
14 system or a New Jersey university;

15 (3) the collaborative workspace has been open less than 90 days
16 from the date on which the owner and operator of the collaborative
17 workspace applied to the authority to participate in the program and
18 the collaborative workspace is not in the same location as an
19 existing facility;

20 (4) the start-up tenant or member business for which the start-up
21 rent grant is paid is certified by the State as a "minority business" or
22 a "women's business" pursuant to P.L.1986, c.195 (C.52:27H-21.17
23 et seq.); or

24 (5) the start-up tenant or member business for which the start-up
25 rent grant is paid is the first presence of a foreign company entering
26 into the United States.

27 c. (1) The owner and operator of a collaborative workspace shall
28 annually certify to the authority, under the penalty of perjury, that it
29 is in compliance with the grant agreement.

30 (2) In addition to the certification required pursuant to
31 paragraph (1) of this subsection, the authority shall conduct an
32 annual inspection and review of the collaborative workspace and
33 may request documentation evidencing that the collaborative
34 workspace utilized the start-up rent grant it received from the
35 authority in accordance with the requirements of the program and
36 the grant agreement.

37 d. (1) If a start-up tenant or member business stops occupying or
38 accessing a collaborative workspace before the end of the start-up
39 tenant or member business commitment period, then the
40 collaborative workspace shall refund to the authority that portion of
41 the start-up rent grant covering any period in which the start-up
42 tenant or member business did not have space in, or access to, the
43 collaborative workspace.

44 (2) If the authority determines that a collaborative workspace is
45 not in compliance with the requirements of the program or of the
46 grant agreement, then the authority shall rescind the business
47 facility's certification as a collaborative workspace and bar the

1 business facility from further participation in the program.
2 (cf: P.L.2020, c.156, s.96)

3

4 51. Section 98 of P.L.2020, c.156 (C.34:1B-362) is amended to
5 read as follows:

6 98. a. The combined value of all tax credits awarded under the
7 "Historic Property Reinvestment Act," sections 1 through 8 of
8 P.L.2020, c.156 (C.34:1B-269 through C.34:1B-276), the
9 "Brownfield Redevelopment Incentive Program Act," sections 9
10 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287),
11 the "New Jersey Innovation Evergreen Act," sections 20 through 34
12 of P.L.2020, c.156 (C.34:1B-288 through C.34:1B-302), the "Food
13 Desert Relief Act," sections 35 through 42 of P.L.2020, c.156
14 (C.34:1B-303 through C.34:1B-310), the "New Jersey Community-
15 Anchored Development Act," sections 43 through 53 of P.L.2020,
16 c.156 (C.34:1B-311 through C.34:1B-321); the "New Jersey Aspire
17 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
18 322 through C.34:1B-335); **and** the "Emerge Program Act,"
19 sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.); and
20 section 6 of P.L.2010, c.57 (C.34:1B-209.4) shall not exceed an
21 overall cap of \$11.5 billion over a seven-year period, subject to the
22 conditions and limitations set forth in this section. Of this \$11.5
23 billion, \$2.5 billion shall be reserved for transformative projects
24 approved under the Aspire Program **or the Emerge Program**.

25 b. (1) The total value of tax credits awarded under any
26 constituent program of the "New Jersey Economic Recovery Act of
27 2020," P.L.2020, c.156 (C.34:1B-269 et al.) shall be subject to the
28 following annual limitations, except as otherwise provided in
29 subsection c. of this section:

30 (a) for tax credits awarded under the "Historic Property
31 Reinvestment Act," sections 1 through 8 of P.L.2020, c.156
32 (C.34:1B-269 through C.34:1B-276), the total value of tax credits
33 annually awarded during each of the first six years of the seven-year
34 period shall not exceed \$50 million;

35 (b) for tax credits awarded under the "Brownfield
36 Redevelopment Incentive Program Act," sections 9 through 19 of
37 P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287), the total
38 value of tax credits annually awarded during each of the first six
39 years of the seven-year period shall not exceed \$50 million;

40 (c) for tax credits awarded under the "New Jersey Innovation
41 Evergreen Act," sections 20 through 34 of P.L.2020, c.156
42 (C.34:1B-288 through C.34:1B-302), the total value of tax credits
43 annually awarded during each of the first six years of the seven-year
44 period shall not exceed \$60 million and the total value of tax credits
45 awarded over the entirety of the seven-year program shall not
46 exceed \$300,000,000;

47 (d) for tax credits awarded under the "Food Desert Relief Act,"
48 sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through

1 C.34:1B-310), the total value of tax credits annually awarded during
2 each of the first six years of the seven-year period shall not exceed
3 \$40 million;

4 (e) for tax credits awarded under the "New Jersey Community-
5 Anchored Development Act," sections 43 through 53 of P.L.2020,
6 c.156 (C.34:1B-311 through C.34:1B-321), the total value of tax
7 credits annually awarded during each of the first six years of the
8 seven-year period shall not exceed \$200 million, except that during
9 each of the first six years of the seven-year period, the authority
10 shall annually award tax credits valuing no greater than \$130
11 million for projects located in the 13 northern counties of the State,
12 and the authority shall annually award tax credits valuing no greater
13 than \$70 million for projects located in the eight southern counties
14 of the State. If during any of the first six years of the seven-year
15 period, the authority awards tax credits in an amount less than the
16 annual limitation for projects located in northern counties or
17 southern counties, as applicable, the uncommitted portion of the
18 annual limitation shall be available to be deployed by the authority
19 in a subsequent year, provided that the uncommitted portion of tax
20 credits shall be awarded for projects located in the applicable
21 geographic area, except that (i) after the completion of the third
22 year of the seven-year period, the authority may deploy 50 percent
23 of the uncommitted portion of tax credits from any previous year
24 without consideration to the county in which a project is located;
25 and (ii) after the completion of the sixth year of the seven-year
26 period, the authority may deploy all available tax credits, including
27 the uncommitted portion of the annual limitation for any previous
28 year, without consideration to the county in which a project is
29 located;

30 (f) for tax credits awarded under the "New Jersey Aspire
31 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
32 322 through C.34:1B-335), and the "Emerge Program Act," sections
33 68 through 81 of P.L.2020, c.156 **[(C.34:1B-34:1B-336 et al.)]**
34 (C.34:1B-336 et al.), not including tax credits awarded for
35 transformative projects, the total value of tax credits annually
36 awarded during each of the first six years of the seven-year period
37 shall not exceed \$1.1 billion, except that during each of the first six
38 years of the seven-year period, the authority shall annually award
39 tax credits valuing no greater than \$715 million for projects located
40 in the northern counties of the State, and the authority shall
41 annually award tax credits valuing no greater than \$385 million for
42 projects located in the southern counties of the State. If during any
43 of the first six years of the seven-year period, the authority awards
44 tax credits in an amount less than the annual limitation for projects
45 located in northern counties or southern counties, as applicable, the
46 uncommitted portion of the annual limitation shall be available to
47 be deployed by the authority in a subsequent year, provided that the
48 uncommitted portion of tax credits shall be awarded for projects

1 located in the applicable geographic area, except that (i) after the
2 completion of the third year of the seven-year period, the authority
3 may deploy 50 percent of the uncommitted portion of tax credits for
4 any previous year without consideration to the county in which a
5 project is located; and (ii) after the completion of the sixth year of
6 the seven-year period, the authority may deploy all available tax
7 credits, including the uncommitted portion of the annual limitation
8 for any previous year, without consideration to the county in which
9 a project is located; **and**

10 (g) for tax credits awarded for transformative projects under the
11 "New Jersey Aspire Program Act," sections 54 through 67 of
12 P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the
13 "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156
14 (C.34:1B-336 et al.), the total value of tax credits awarded during
15 the seven-year period shall not exceed \$2.5 billion. The total value
16 of tax credits awarded for transformative projects in a given year
17 shall not be subject to an annual limitation, except that no more
18 than 10 transformative projects shall be awarded tax credits during
19 the seven-year period, and the total value of tax credits awarded to
20 any transformative project shall not exceed \$250 million; and

21 (h) from the tax credits made available, pursuant to
22 subparagraph (f) of this paragraph, to the "New Jersey Aspire
23 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
24 322 through C.34:1B-335), and the "Emerge Program Act," sections
25 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not
26 including tax credits awarded for transformative projects, an
27 amount not to exceed \$350,000,000 shall be available for qualified
28 offshore wind projects awarded a credit pursuant to section 6 of
29 P.L.2010, c.57 (C.34:1B-209.4) during the first three years of the
30 seven-year period.

31 (2) The authority may in any given year determine that it is in
32 the State's interest to approve an amount of tax credits in excess of
33 the annual limitations set forth in paragraph (1) of this subsection,
34 but in no event more than \$200,000,000 in excess of the annual
35 limitation, upon a determination by the authority board that such
36 increase is warranted based on specific criteria that may include:

37 (i) the increased demand for opportunities to create or retain
38 employment and investment in the State as indicated by the volume
39 of project applications and the amount of tax credits being sought
40 by those applications;

41 (ii) the need to protect the State's economic position in the event
42 of an economic downturn;

43 (iii) the quality of project applications and the net economic
44 benefit to the State and municipalities associated with those
45 applications;

46 (iv) opportunities for project applications to strengthen or protect
47 the competitiveness of the state under the prevailing market
48 conditions;

1 (v) enhanced access to employment and investment for
2 underserved populations in distressed municipalities and qualified
3 incentives tracts;

4 (vi) increased investment and employment in high-growth
5 technology sectors and in projects that entail collaboration with
6 education institutions in the State;

7 (vii) increased development proximate to mass transit facilities;

8 (viii) any other factor deemed relevant by the authority.

9 c. In the event that the authority in any year approves projects
10 for tax credits in an amount less than the annual limitations set forth
11 in paragraph (1) of subsection b. of this section, then the
12 uncommitted portion of the annual limitation shall be available to
13 be deployed by the authority in future years for projects under the
14 same program; provided however, that in no event shall the
15 aggregate amount of tax credits approved be in excess of the overall
16 cap of \$11.5 billion, and in no event shall the uncommitted portion
17 of the annual limitation for any previous year be deployed after the
18 conclusion of the seven-year period.

19 (cf: P.L.2020, c.156, s.98)

20
21 52. Section 101 of P.L.2020, c.156 (C.34:1B-365) is amended to
22 read as follows:

23 101. a. The New Jersey Economic Development Authority shall
24 employ a Chief Compliance Officer, who shall be appointed by the
25 Chief Executive Officer of the authority to manage the Division of
26 Portfolio Management and Compliance in the authority.

27 b. The Chief Compliance Officer shall:

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

33 (2) **【conduct,】** on such periodic basis as determined by the
34 authority, arrange for systematic audits of economic development
35 incentive programs for compliance with the laws, regulations,
36 codes, orders, procedures, advisory opinions and rulings concerning
37 those programs;

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

44 (4) prior to the adoption of any rule or regulation by the
45 authority or the board related to the general administration of the
46 programs administered by the authority pursuant to section 6 of
47 P.L.2020, c.156 (C.34:1B-274), section 19 of P.L.2020, c.156
48 (C.34:1B-287), section 29 of P.L.2020, c.156 (C.34:1B-297),

1 section 34 of P.L.2020, c.156 (C.34:1B-302), section 41 of
2 P.L.2020, c.156 (C.34:1B-309), section 52 of P.L.2020, c.156
3 (C.34:1B-320), section 67 of P.L.2020, c.156 (C.34:1B-335),
4 section 79 of P.L.2020, c.156 (C.52:27D-520), section 88 of
5 P.L.2020, c.156 (C.34:1B-354), and section 97 of P.L.2020, c.156
6 (C.34:1B-361), or any other regulation specifically related to the
7 recapture of economic development incentive award values, review
8 and certify that the provisions of program rules or regulations
9 provide the authority with adequate procedures to pursue the
10 recapture of the value of an economic development incentive in the
11 case of substantial noncompliance, fraud, or abuse by the economic
12 development incentive recipient, and that program rules and
13 regulations are sufficient to ensure against economic development
14 incentive fraud, waste, and abuse; and

15 (5) refer, to the Economic Development Inspector General and
16 to the Attorney General, information on suspected fraud or abuse
17 identified by the Division of Portfolio Management and
18 Compliance.

19 c. The Chief Compliance Officer, in consultation with the
20 Department of Labor and Workforce Development and the
21 Department of the Treasury, shall:

22 Develop, adopt, and implement a corrective action plan **■**, within
23 one year of the effective date of sections 99 through 105 of
24 P.L.2020, c.156 (C.34:1B-363 through C.34:1B-369) and **■** within
25 six months of receiving notice of any program deficiency issued by
26 the Economic Development Inspector General, that is designed to
27 enable the authority to properly manage the economic development
28 incentive programs administered by the authority **■**, and adopt rules
29 and regulations concerning the administration and enforcement of
30 the Division of Portfolio Management and Compliance's duties in a
31 manner that is most compatible with ensuring against fraud and
32 abuse in the State's economic development incentive programs **■**.

33 d. To ensure against economic development incentive fraud,
34 waste, and abuse, the authority may recapture all or any portion of
35 the value of an economic development incentive awarded pursuant
36 to any of the authority's economic development incentive programs
37 in the case of substantial noncompliance, fraud, or abuse by the
38 economic development incentive recipient. The authority may
39 incorporate provisions in the regulations for each economic
40 development incentive program that the authority deems necessary
41 to implement this subsection.

42 (cf: P.L.2020, c.156, s.101)

43

44 53. Section 102 of P.L.2020, c.156 (C.34:1B-366) is amended to
45 read as follows:

46 102. a. There is established, in but not of the authority, the
47 Office of the Economic Development Inspector General, which
48 shall operate independent of the oversight or management of the

1 Chief Executive Officer **【of】** and the authority. The Office of the
2 Economic Development Inspector General shall operate under the
3 Economic Development Inspector General, who shall be a retired
4 member of the Judicial Branch of the State, to be appointed by the
5 Governor with the advice and consent of the Senate for a term of
6 four years. The Economic Development Inspector General shall
7 direct the work of the Office of the Economic Development
8 Inspector General and have the following general functions, duties,
9 powers, and responsibilities:

10 (1) to appoint such deputies, directors, assistants, and other
11 officers and employees as may be needed for the Office of the
12 Economic Development Inspector General to meet its
13 responsibilities, and to prescribe their duties and fix their
14 compensation within the amounts appropriated therefor;

15 (2) to conduct and supervise State government activities relating
16 to State economic development incentive integrity, fraud, and
17 abuse;

18 (3) to call upon any department, office, division, or agency of
19 State government to provide such information, resources, or other
20 assistance as the Economic Development Inspector General deems
21 necessary to discharge the duties and functions and to fulfill the
22 responsibilities of the Economic Development Inspector General
23 under sections 99 through 105 of P.L.2020, c.156 (C.34:1B-363
24 through C.34:1B-369). Each department, office, division, and
25 agency of this State shall cooperate with the Economic
26 Development Inspector General and furnish the Office of the
27 Economic Development Inspector General with the assistance
28 necessary to accomplish the purposes of sections 99 through 105 of
29 P.L.2020, c.156 (C.34:1B-363 through C.34:1B-369);

30 (4) to coordinate activities to prevent, detect, and investigate
31 economic development incentive fraud and abuse among the
32 following: the authority, State and local government officials, and
33 all economic development incentive applicants and recipients;

34 (5) to recommend and implement policies relating to economic
35 development incentive integrity, fraud, and abuse, and monitor the
36 implementation of any recommendations made by the Office of the
37 Economic Development Inspector General to the authority for the
38 administration of economic development incentives;

39 (6) to perform any other functions that are necessary or
40 appropriate in furtherance of the mission of the Office of the
41 Economic Development Inspector General; and

42 (7) to direct an economic development incentive applicant or
43 recipient to cooperate with the Office of the Economic
44 Development Inspector General and provide such information or
45 assistance as shall be reasonably required by the Office of the
46 Economic Development Inspector General.

47 b. As it relates to ensuring compliance with applicable
48 economic development incentive standards and requirements,

1 identifying and reducing fraud and abuse, and improving the
2 efficiency and effectiveness of economic development incentives,
3 the functions, duties, powers, and responsibilities of the Economic
4 Development Inspector General shall include, but not be limited to,
5 the following:

6 (1) to establish, in consultation with the authority and the
7 Attorney General, guidelines under which the withholding of
8 payments or exclusion from economic development incentive
9 programs shall be imposed on an economic development incentive
10 applicant or recipient;

11 (2) to review the utilization of economic development incentives
12 to ensure that economic development incentive funds are
13 appropriately spent to meet the goals and purposes of an individual
14 economic development incentive program;

15 (3) to review and audit contracts, reports, documentation,
16 claims, and all awards of economic development incentives to
17 determine compliance with applicable laws, regulations, guidelines,
18 and standards, and enhance program integrity;

19 (4) to consult with the authority to optimize the economic
20 development incentive management information system in
21 furtherance of the mission of the Office of the Economic
22 Development Inspector General. The authority shall consult with
23 the Economic Development Inspector General on matters that
24 concern the operation, upgrade, and implementation of the
25 economic development incentive management information system;

26 (5) to coordinate the implementation of information technology
27 relating to economic development incentive integrity, fraud, and
28 abuse;

29 (6) to conduct educational programs for economic development
30 incentive for State and local government officials and economic
31 development incentive recipients designed to limit economic
32 development incentive fraud and abuse; and

33 (7) to provide notice to the Chief Compliance Officer, appointed
34 pursuant to section 101 of P.L.2020, c.156 (C.34:1B-365) if the
35 Economic Development Inspector General determines that a
36 program deficiency exists in an economic development incentive
37 program administered by the authority and to provide notice to the
38 Chief Executive Officer of the Authority of pending investigations
39 if the Economic Development Inspector General determines that
40 such disclosure is consistent with the public interest in maintaining
41 the integrity of an economic development incentive program
42 administered by the authority or to abate the continuation of fraud
43 or abuse.

44 c. As it relates to investigating allegations of economic
45 development incentive fraud and abuse and enforcing applicable
46 laws, rules, regulations, and standards, the functions, duties,
47 powers, and responsibilities of the Economic Development
48 Inspector General shall include, but not be limited to, the following:

1 (1) to conduct economic development investigations concerning
2 any acts of misconduct within economic development incentive
3 programs;

4 (2) to provide information concerning the economic
5 development investigations of the Office of the Economic
6 Development Inspector General to the Attorney General, law
7 enforcement authorities, and any prosecutor of competent
8 jurisdiction, and endeavor to develop these economic development
9 investigations in a manner that expedites and facilitates criminal
10 prosecutions and the recovery of improperly expended economic
11 development incentives, including the maintenance of detailed
12 records for cases processed by the Economic Development
13 Inspector General. The records shall include: information on the
14 total number of cases processed and, for each case, the agency and
15 division to which the case is referred for an economic development
16 investigation; the date on which the case is referred; and the nature
17 of the suspected fraud or abuse.

18 (3) to provide information and evidence relating to suspected
19 criminal acts that the Economic Development Inspector General
20 may obtain in carrying out its duties to law enforcement officials
21 when appropriate, and to provide such information to the Attorney
22 General and county prosecutors in order to facilitate criminal
23 economic development investigations and prosecutions;

24 (4) to refer complaints alleging criminal conduct to the Attorney
25 General or other appropriate prosecutorial authority. The Economic
26 Development Inspector General shall maintain a record of all
27 matters referred to the Attorney General and shall be authorized to
28 disclose information received, as appropriate and as may be
29 necessary to resolve the matter referred, to the extent consistent
30 with the public interest in disclosure, the need for protecting the
31 confidentiality of complainants and informants, and preserving the
32 confidentiality of ongoing criminal economic development
33 investigations. Notwithstanding any referral made pursuant to this
34 subsection, the Economic Development Inspector General may
35 pursue any administrative or civil remedy under the law. A referral
36 by the inspector general to the Attorney General or a prosecutorial
37 authority shall in no way preclude the inspector general from
38 performing its own separate, independent investigation; and

39 (5) in furtherance of an economic development investigation, to
40 compel at a specific time and place, by subpoena, the appearance
41 and sworn testimony of any person whom the Economic
42 Development Inspector General reasonably believes may be able to
43 give information relating to a matter subject to an economic
44 development investigation:

45 (a) for this purpose, the Economic Development Inspector
46 General is empowered to administer oaths and examine witnesses
47 under oath, and compel any person to produce at a specific time and
48 place, by subpoena, any documents, books, records, papers, objects,

1 or other evidence that the Economic Development Inspector
2 General reasonably believes may relate to a matter subject to an
3 economic development investigation; and

4 (b) if any person to whom a subpoena is issued fails to appear
5 or, having appeared, refuses to give testimony, or fails to produce
6 the books, papers, or other documents required, the Economic
7 Development Inspector General may apply to the Superior Court
8 and the court may order the person to appear and give testimony or
9 produce the books, papers, or other documents, as applicable. Any
10 person failing to obey that order may be held by the court in
11 contempt;

12 (6) subject to applicable State law, to have full and unrestricted
13 access to all records, reports, audits, reviews, documents, papers,
14 data, recommendations, tax information provided to the authority
15 pursuant to subsection r. of R.S.54:50-9, or other material available
16 to the authority and other State and local government agencies with
17 respect to which the Office of the Economic Development Inspector
18 General has responsibilities under sections 102 through 105 of
19 P.L.2020, c.156 (C.34:1B-366 through C.34:1B-369);

20 (7) to solicit, receive, and investigate complaints related to
21 economic development incentive integrity, fraud, and abuse; and

22 (8) to prepare cases, provide expert testimony, and support
23 administrative hearings and other legal proceedings.

24 d. As it relates to recovering improperly obtained economic
25 development incentives, imposing administrative sanctions,
26 damages, or penalties, and negotiating settlements to assure that all
27 governmental resources have been properly expended, the
28 functions, duties, powers, and responsibilities of the Economic
29 Development Inspector General shall include, but not be limited to,
30 the following:

31 (1) to pursue civil and administrative enforcement actions
32 against those who engage in fraud, abuse, or illegal acts perpetrated
33 under economic development incentive programs. These civil and
34 administrative enforcement actions shall include the imposition of
35 administrative sanctions, penalties, suspension of fraudulent or
36 illegal awards, and actions for civil recovery and seizure of property
37 or other assets connected with such economic incentive awards;

38 (2) to initiate civil suits consistent with the provisions of
39 sections 99 through 105 of P.L.2020, c.156 (C.34:1B-363 through
40 C.34:1B-369), maintain actions for civil recovery on behalf of the
41 State, and enter into civil settlements;

42 (3) to require that the authority withhold payments to an
43 economic development incentive applicant or recipient if the
44 applicant or recipient unreasonably fails to produce complete and
45 accurate records related to an economic development investigation
46 that is initiated by the Office of the Economic Development
47 Inspector General with reasonable cause; and

1 (4) to monitor and pursue the recoupment of economic
2 development incentive awards or portions thereof, damages,
3 penalties, and sanctions.
4 (cf: P.L.2020, c.156, s.102)

5
6 54. Section 106 of P.L.2020, c.156 (C.54:10A-5.47) is amended
7 to read as follows:

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

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

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

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

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

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

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

37 (1) for a qualified facility in Atlantic County, Burlington
38 County, Cape May County, Cumberland County, Gloucester
39 County, Ocean County, or Salem County, a minimum of five new or
40 15 retained qualifying full-time jobs; or

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

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

1 (1) \$1,000 per qualifying full-time job in the privilege period at
2 a qualified facility that is a building vacant for not less than seven
3 years in need of rehabilitation with a minimum of 250,000 square
4 feet;

5 (2) \$1,500 per qualifying full-time job in the privilege period at
6 a qualified facility in which the manufacturing of personal
7 protective equipment is part of a research collaboration between the
8 taxpayer and a college or university located within the State; and

9 (3) \$1,000 per qualifying full-time job in the privilege period at
10 a qualified facility in which the taxpayer has established an
11 apprenticeship program or pre-apprenticeship program with a
12 technical school or county college located within the State.

13 e. The total credit allowed to a taxpayer pursuant to this section
14 during the privilege period shall not exceed \$500,000. A taxpayer
15 shall not be eligible for a tax credit under this section for the same
16 qualifying new hire for which the taxpayer is receiving a tax credit
17 incentive award under the Emerge Program established by sections
18 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.).

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

30 g. The combined value of all tax credits approved by the
31 authority and the director pursuant to this section and pursuant to
32 section 2 of P.L.2020, c.156 (C.34:1B-270) shall not exceed
33 \$10,000,000 in any State fiscal year to apply against the tax
34 imposed pursuant to the "New Jersey Gross Income Tax Act,"
35 N.J.S.54A:1-1 et seq., and the tax imposed pursuant to section 5 of
36 P.L.1945, c.162 (C.54:10A-5).

37 h. An application for the tax credit shall be submitted to the
38 authority in a form and manner prescribed by the chief executive
39 officer of the authority. As a condition of receiving tax credits
40 under this section, an applicant shall be required to commit to
41 employ qualifying new hires for which tax credits are awarded
42 under this section for a period of five years.

43 i. Notwithstanding any provision of the "Administrative
44 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
45 contrary, the **director** chief executive officer of the authority is
46 authorized to adopt immediately upon filing with the Office of
47 Administrative Law such rules and regulations shall be effective for
48 a period not to exceed 360 days following the date of filing and may

1 thereafter be amended, adopted, or readopted by the chief executive
2 officer of the authority in accordance with the requirements of
3 P.L.1968, c.410 (C.52:14B-1 et seq.). The chief executive officer
4 of the authority shall consult with the Commissioner of Health
5 related to any specification requirements for what manufactured
6 products are to qualify as personal protective equipment pursuant to
7 this section.

8 j. As used in this section:

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

12 "Director" means Director of the Division of Taxation in the
13 Department of the Treasury;

14 "Personal protective equipment" means coveralls, face shields,
15 gloves, gowns, masks, respirators, safeguard equipment, and other
16 equipment designed to protect the wearer from the spread of
17 infection or illness as may be modified from time to time by the
18 board of the authority.

19 "Qualified facility" means a facility that is:

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

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

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

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

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

32 "Qualifying full-time job" means a full-time position in a
33 business in this State which the business has filled with a full-time
34 employee for the manufacturing of personal protective equipment in
35 this State. The employee shall be employed for at least 35 hours a
36 week and shall be paid employee wages at a rate of not less than
37 \$15 per hour, or render any other standard of service generally
38 accepted by custom or practice as full-time employment, whose
39 wages are subject to withholding as provided in the "New Jersey
40 Gross Income Tax Act," N.J.S.54A:1-1 et

41 seq. and is paid employee wages at a rate of not less than \$15 per
42 hour. "Qualifying new hire" shall not include any person who
43 works as an independent contractor or on a consulting basis for the
44 business. "Qualifying new or retained job" includes only a position
45 for which the taxpayer provides employee health benefits under a
46 health benefits plan authorized pursuant to State or federal law.

47 (cf: P.L.2020, c.156, s.106)

1 55. Section 6 of P.L.2010, c.57 (C.34:1B-209.4) is amended to
2 read as follows:

3 6. a. (1) A business, upon application to and approval from the
4 authority, shall be awarded a credit of 100 percent of its capital
5 investment, made after the effective date of P.L.2010, c.57 (C.48:3-
6 87.1 et al.) but prior to its submission of documentation pursuant to
7 subsection c. of this section, in a qualified wind energy facility
8 located in the State, pursuant to the restrictions and requirements of
9 this section. The award of a tax credit pursuant to this section shall
10 be structured so that the authority shall make up to **four** five
11 awards, each equaling **25** 20 percent of the total value of the tax
12 credit, to a qualified business over four privilege periods or taxable
13 years in which the business meets the requirements for the
14 minimum number of new, full-time employees. Otherwise eligible
15 businesses with between 150 and 300 new, full-time jobs may
16 receive an award based on a prorated formula developed by the
17 authority. To be eligible for any tax credits authorized under this
18 section, a business shall demonstrate to the authority, at the time of
19 application, that the State's financial support of the proposed capital
20 investment in a qualified wind energy facility will yield a net
21 positive benefit to the State. The value of all credits approved by
22 the authority pursuant to this section **may be up to \$100,000,000,**
23 **except as may be increased by the authority if the chief executive**
24 **officer of the authority judges certain qualified offshore wind**
25 **projects to be meritorious** shall not exceed the limitations set forth
26 in section 98 of P.L.2020, c.156 (C.34:1B-362). Credits provided
27 pursuant to this section shall not be applicable to the cap on the
28 credits provided in section 3 of P.L.2007, c.346 (C.34:1B-209).

29 (2) (a) A business, other than a tenant eligible pursuant to
30 subparagraph (b) of this paragraph, shall make or acquire capital
31 investments totaling not less than \$50,000,000 in a qualified wind
32 energy facility, at which the business, including tenants at the
33 qualified wind energy facility, shall employ the minimum number
34 of new, full-time employees, to be eligible for a credit under this
35 section. A business that acquires a qualified wind energy facility
36 after the effective date of P.L.2010, c.57 (C.48:3-87.1 et al.) shall
37 also be deemed to have acquired the capital investment made or
38 acquired by the seller.

39 (b) A business that is a tenant in the qualified wind energy
40 facility, the owner of which has made or acquired capital
41 investments in the facility totaling more than \$50,000,000, shall
42 occupy a leased area of the qualified wind energy facility that
43 represents at least \$17,500,000 of the capital investment in the
44 qualified wind energy facility at which the minimum number of
45 new, full-time employees in the aggregate are employed, to be
46 eligible for a credit under this section. The amount of capital
47 investment in a facility that a leased area represents shall be equal
48 to that percentage of the owner's total capital investment in the

1 facility that the percentage of net leasable area leased by the tenant
2 is of the total net leasable area of the qualified business facility.
3 Capital investments made by a tenant shall be deemed to be
4 included in the calculation of the capital investment made or
5 acquired by the owner, but only to the extent necessary to meet the
6 owner's minimum capital investment of \$50,000,000. Capital
7 investments made by a tenant and not allocated to meet the owner's
8 minimum capital investment threshold of \$50,000,000 shall be
9 added to the amount of capital investment represented by the
10 tenant's leased area in the qualified wind energy facility.

11 (c) The calculation of the number of new, full-time employees
12 required pursuant to subparagraphs (a) and (b) of this paragraph
13 may include the number of new, full-time positions resulting from
14 an equipment supply coordination agreement with equipment
15 manufacturers, suppliers, installers and operators associated with
16 the supply chain required to support the qualified wind energy
17 facility.

18 For the purposes of this paragraph, "full time employee" shall
19 not include an employee who is a resident of another state and
20 whose income is not subject to the "New Jersey Gross Income Tax
21 Act," N.J.S.54A:1-1 et seq., unless that state has entered into a
22 reciprocity agreement with the State of New Jersey.

23 (3) A business shall not be awarded a tax credit pursuant to this
24 section if the business receives a business employment incentive
25 grant pursuant to the "Business Employment Incentive Program
26 Act," P.L.1996, c.26 (C.34:1B-124 et al.), relating to the same
27 capital and employees that qualify the business for this credit, or if
28 the business receives assistance pursuant to the "Business Retention
29 and Relocation Assistance Act," P.L.1996, c.25 (C.34:1B-112 et
30 seq.). A business that is awarded a tax credit under this section
31 shall not be eligible for incentives authorized pursuant to the
32 "Municipal Rehabilitation and Economic Recovery Act," P.L.2002,
33 c.43 (C.52:27BBB-1 et al.).

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

37 b. A business shall apply for the credit by July 1, 2025, and a
38 business shall submit its documentation for approval of its credit
39 amount by July 1, 2028.

40 c. The credit awarded pursuant to this section shall be
41 administered in accordance with the provisions of subsection c. of
42 section 3 of P.L.2007, c.346 (C.34:1B-209) and section 33 of
43 P.L.2009, c.90 (C.34:1B-209.1), except that all references therein to
44 "qualified business facility" shall be deemed to refer to "qualified
45 wind energy facility," as that term is defined in subsection f. of this
46 section.

47 d. The amount of the credit awarded pursuant to this section
48 shall, except as otherwise provided, be equal to the capital

1 investment made by the business, or the capital investment
2 represented by the business's leased area, and shall be taken over a
3 five-year period, at the rate of one-fifth of the total amount of the
4 business's credit for each tax accounting or privilege period of the
5 business, beginning with the privilege period or taxable year in
6 which the business is first approved by the authority as having met
7 the investment capital and employment qualifications, subject to
8 any disqualification as determined by annual review by the
9 authority. In conducting its annual review, the authority may
10 require a business to submit any information determined by the
11 authority to be necessary and relevant to its review. The credit
12 amount for any privilege period or taxable year ending after the date
13 18 years after the effective date of P.L.2007, c.346 (C.34:1B-207 et
14 seq.) during which the documentation of a business's credit amount
15 remains unapproved shall be forfeited, although credit amounts for
16 the remainder of the years of the five-year credit period shall
17 remain available. The amount of the credit awarded for a privilege
18 period or taxable year to a business that is a tenant in a qualified
19 wind energy facility shall not exceed the business's total lease
20 payments for occupancy of the qualified wind energy facility for the
21 privilege period or taxable year.

22 e. The authority shall adopt rules and regulations pursuant to
23 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
24 seq.) as are necessary to implement this section, including, but not
25 limited to: examples of and the determination of capital investment;
26 the nature of businesses and employment positions constituting and
27 participating in an equipment supply coordination agreement; a
28 determination of the types of businesses that may be eligible and
29 expenses that may constitute capital improvements; the
30 promulgation of procedures and forms necessary to apply for a
31 credit; and provisions for applicants to be charged an initial
32 application fee, and ongoing service fees, to cover the
33 administrative costs related to the credit.

34 The rules and regulations established by the authority pursuant to
35 this subsection shall be effective immediately upon filing with the
36 Office of Administrative Law and shall be effective for a period not
37 to exceed 12 months and may, thereafter, be amended, adopted or
38 readopted in accordance with the provisions of the "Administrative
39 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

40 f. As used in this section: the terms "authority," "business,"
41 and "capital investment" shall have the same meanings as defined in
42 section 2 of the "Urban Transit Hub Tax Credit Act," P.L.2007,
43 c.346 (C.34:1B-208), except that all references therein to "qualified
44 business facility" shall be deemed to refer to "qualified wind energy
45 facility" as defined in this subsection.

46 In addition, as used in this section:

47 "Equipment supply coordination agreement" means an agreement
48 between a business and equipment manufacturer, supplier, installer,

1 and operator that supports a qualified offshore wind project, or
2 other wind energy project as determined by the authority, and that
3 indicates the number of new, full-time jobs to be created by the
4 agreement participants towards the employment requirement as set
5 forth in paragraph (2) of subsection a. of this section.

6 "Minimum number of new, full-time employees" means:

7 (1) for the first award, at least a cumulative 100 new, full-time
8 employees compared to the number of full-time employees at the
9 time of application;

10 (2) for the second award, for a privilege period or taxable year
11 following the first award, at least a cumulative 150 new, full-time
12 employees compared to the number of full-time employees at the
13 time of application;

14 (3) for the third award, for a privilege period or taxable year
15 following the second award, at least a cumulative 200 new, full-
16 time employees compared to the number of full-time employees at
17 the time of application; and

18 (4) for the fourth award, for a privilege period or taxable year
19 following the third award, at least a cumulative 300 new, full-time
20 employees compared to the number of full-time employees at the
21 time of application.

22 "Qualified offshore wind project" shall have the same meaning
23 as provided in section 3 of P.L.1999, c.23 (C.48:3-51).

24 "Qualified wind energy facility" means any building, complex of
25 buildings, or structural components of buildings, including water
26 access infrastructure, and all machinery and equipment used in the
27 manufacturing, assembly, development or administration of
28 component parts that support the development and operation of a
29 qualified offshore wind project, or other wind energy project as
30 determined by the authority.

31 (cf: P.L.2020, c.156, s.109)

32
33 56. Section 1 of P.L.1997, c.334 (C.34:1B-7.42a) is amended to
34 read as follows:

35 1. a. The New Jersey Economic Development Authority shall
36 establish within the New Jersey Emerging Technology and
37 Biotechnology Financial Assistance Program established pursuant
38 to P.L.1995, c.137 (C.34:1B-7.37 et seq.), a corporation business
39 tax benefit certificate transfer program to allow new or expanding
40 emerging technology and biotechnology companies in this State
41 with unused amounts of research and development tax credits
42 otherwise allowable which cannot be applied for the credit's tax
43 year due to the limitations of subsection b. of section 1 of P.L.1993,
44 c.175 (C.54:10A-5.24) and unused prior net operating loss
45 conversion carryover or net operating loss carryover pursuant to
46 section 4 of P.L.1945, c.162 (C.54:10A-4), to surrender those tax
47 benefits for use by other corporation business taxpayers in this
48 State, provided that the taxpayer receiving the surrendered tax

1 benefits is not affiliated with a corporation that is surrendering its
2 tax benefits under the program established under P.L.1997, c.334.
3 For the purposes of this section, the test of affiliation is whether the
4 same entity directly or indirectly owns or controls five percent or
5 more of the voting rights or five percent or more of the value of all
6 classes of stock of both the taxpayer receiving the benefits and a
7 corporation that is surrendering the benefits. The tax benefits may
8 be used on the corporation business tax returns to be filed by those
9 taxpayers in exchange for private financial assistance to be provided
10 by the corporation business taxpayer that is the recipient of the
11 corporation business tax benefit certificate to assist in the funding
12 of costs incurred by the new or expanding emerging technology and
13 biotechnology company. For purposes of this subsection, a member
14 of a combined group may sell prior net operating loss conversion
15 carryover to other members of the combined group, if otherwise
16 applicable and allowable under section 2 of P.L.1997, c.334
17 (C.54:10A-4.2) and this section; provided, however, such sale of
18 prior net operating loss conversion carryover shall be made at arm's
19 length price at the same rate as though the sale was to an unrelated
20 taxpayer.

21 b. The authority, in cooperation with the Division of Taxation
22 in the Department of the Treasury, shall review and approve
23 applications by new or expanding emerging technology and
24 biotechnology companies in this State with unused but otherwise
25 allowable carryover of research and development tax credits
26 pursuant to section 1 of P.L.1993, c.175 (C.54:10A-5.24), and
27 unused but otherwise allowable prior net operating loss conversion
28 carryover or net operating loss carryover pursuant to section 4 of
29 P.L.1945, c.162 (C.54:10A-4), to surrender those tax benefits in
30 exchange for private financial assistance to be made by the
31 corporation business taxpayer that is the recipient of the corporation
32 business tax benefit certificate in an amount equal to at least **[80%]**
33 80 percent of the amount of the surrendered tax benefit. Provided
34 that the amount of the surrendered tax benefit for a surrendered
35 research and development tax credit carryover is the amount of the
36 credit, and provided that the amount of the surrendered tax benefit
37 for a surrendered prior net operating loss conversion carryover or
38 net operating loss carryover is that amount for the tax year in which
39 the benefit is transferred and subsequently multiplied by the
40 corporation business tax rate provided pursuant to subsection (c) of
41 section 5 of P.L.1945, c.162 (C.54:10A-5). The authority shall be
42 authorized to approve the transfer of no more than \$75,000,000 of
43 tax benefits in a State fiscal year. If the total amount of transferable
44 tax benefits requested to be surrendered by approved applicants
45 exceeds \$75,000,000 for a State fiscal year, the authority, in
46 cooperation with the Division of Taxation in the Department of the
47 Treasury, shall not be authorized to approve the transfer of more
48 than \$75,000,000 for that State fiscal year and shall allocate the

1 transfer of tax benefits by approved companies using the following
2 method:

3 (1) an eligible applicant with \$250,000 or less of transferable
4 tax benefits shall be authorized to surrender the entire amount of its
5 transferable tax benefits;

6 (2) an eligible applicant with more than \$250,000 of transferable
7 tax benefits shall be authorized to surrender a minimum of
8 \$250,000 of its transferable tax benefits;

9 (3) (Deleted by amendment, P.L.2009, c.90.)

10 (4) an eligible applicant with more than \$250,000 shall also be
11 authorized to surrender additional transferable tax benefits
12 determined by multiplying the applicant's transferable tax benefits
13 less the minimum transferable tax benefits that company is
14 authorized to surrender under paragraph (2) of this subsection by a
15 fraction, the numerator of which is the total amount of transferable
16 tax benefits that the authority is authorized to approve less the total
17 amount of transferable tax benefits approved under paragraphs (1),
18 (2), and (5) of this subsection and the denominator of which is the
19 total amount of transferable tax benefits requested to be surrendered
20 by all eligible applicants less the total amount of transferable tax
21 benefits approved under paragraphs (1), (2), and (5) of this
22 subsection;

23 (5) The authority shall establish the boundaries for three
24 innovation zones to be geographically distributed in the northern,
25 central, and southern portions of this State. Of the \$75,000,000 of
26 transferable tax benefits authorized for each State fiscal year,
27 **[\$10,000,000]** \$15,000,000 shall be allocated for the surrender of
28 transferable tax benefits exclusively by new and expanding
29 emerging technology and biotechnology companies that operate
30 within the boundaries of the innovation zones or opportunity zones,
31 or for new and expanding emerging technology and biotechnology
32 companies that are certified as a woman- or minority-owned
33 business at the time of program application, except that any portion
34 of the **[\$10,000,000]** \$15,000,000 that is not so approved shall be
35 available for that State fiscal year for the surrender of transferable
36 tax benefits by new and expanding emerging technology and
37 biotechnology companies that do not operate within the boundaries
38 of an innovation zone or opportunity zone, or for a new and
39 expanding emerging technology and biotechnology company that is
40 certified as a woman- or minority-owned business at the time of
41 program application.

42 If the total amount of transferable tax benefits that would be
43 authorized using the above method exceeds \$75,000,000 for a State
44 fiscal year, then the authority, in cooperation with the Division of
45 Taxation in the Department of the Treasury, shall limit the total
46 amount of tax benefits authorized to be transferred to \$75,000,000
47 by applying the above method on an apportioned basis.

1 For purposes of this section transferable tax benefits include an
2 eligible applicant's unused but otherwise allowable prior net
3 operating loss conversion carryover or net operating loss carryover
4 determined pursuant to section 4 of P.L.1945, c.162 (C.54:10A-4)
5 for the tax year in which the benefit is transferred and subsequently
6 multiplied by the corporation business tax rate as provided in
7 subsection (c) of section 5 of P.L.1945, c.162 (C.54:10A-5) plus the
8 total amount of the applicant's unused but otherwise allowable
9 carryover of research and development tax credits. An eligible
10 applicant's transferable tax benefits shall be limited to net operating
11 losses and research and development tax credits that the applicant
12 requests to surrender in its application to the authority and shall not,
13 in total, exceed the maximum amount of tax benefits that the
14 applicant is eligible to surrender.

15 No application for a corporation business tax benefit transfer
16 certificate shall be approved in which the new or expanding
17 emerging technology or biotechnology company (1) has
18 demonstrated positive net operating income in any of the two
19 previous full years of ongoing operations as determined on its
20 financial statements issued according to generally accepted
21 accounting standards endorsed by the Financial Accounting
22 Standards Board; or (2) is directly or indirectly at least 50 percent
23 owned or controlled by another corporation that has demonstrated
24 positive net operating income in any of the two previous full years
25 of ongoing operations as determined on its financial statements
26 issued according to generally accepted accounting standards
27 endorsed by the Financial Accounting Standards Board or is part of
28 a consolidated group of affiliated corporations, as filed for federal
29 income tax purposes, that in the aggregate has demonstrated
30 positive net operating income in any of the two previous full years
31 of ongoing operations as determined on its combined financial
32 statements issued according to generally accepted accounting
33 standards endorsed by the Financial Accounting Standards Board.

34 For purposes of this subsection, a member of a combined group
35 may sell prior net operating loss conversion carryover to other
36 members of the combined group, if otherwise applicable and
37 allowable under section 2 of P.L.1997, c.334 (C.54:10A-4.2) and
38 this section; provided, however, such sale of prior net operating loss
39 conversion carryover shall be made at arm's length price at the same
40 rate as though the sale was to an unrelated taxpayer.

41 The maximum lifetime value of surrendered tax benefits that a
42 corporation shall be permitted to surrender pursuant to the program
43 is \$20,000,000. Applications must be received on or before June 30
44 of each State fiscal year.

45 The authority, in consultation with the Division of Taxation,
46 shall establish rules for the recapture of all, or a portion of, the
47 amount of a grant of a corporation business tax benefit certificate
48 from the new or expanding emerging technology and biotechnology

1 company having surrendered tax benefits pursuant to this section in
2 the event the taxpayer fails to use the private financial assistance
3 received for the surrender of tax benefits as required by this section
4 or fails to maintain a headquarters or a base of operation in this
5 State during the five years following receipt of the private financial
6 assistance; except if the failure to maintain a headquarters or a base
7 of operation in this State is due to the liquidation of the new or
8 expanding emerging technology and biotechnology company.

9 c. The authority, in cooperation with the Division of Taxation
10 in the Department of the Treasury, shall review and approve
11 applications by taxpayers under the Corporation Business Tax Act
12 (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), to acquire
13 surrendered tax benefits approved pursuant to subsection b. of this
14 section which shall be issued in the form of corporation business
15 tax benefit transfer certificates, in exchange for private financial
16 assistance to be made by the taxpayer in an amount equal to at least
17 **【80%】** 80 percent of the amount of the surrendered tax benefit of an
18 emerging technology or biotechnology company in the State. A
19 corporation business tax benefit transfer certificate shall not be
20 issued unless the applicant certifies that as of the date of the
21 exchange of the corporation business tax benefit certificate it is
22 operating as a new or expanding emerging technology or
23 biotechnology company and has no current intention to cease
24 operating as a new or expanding emerging technology or
25 biotechnology company.

26 The managerial member of a combined group shall be the
27 member that acquires a corporation business tax benefit certificate
28 on behalf of the combined group for use on the combined return.

29 The private financial assistance shall assist in funding expenses
30 incurred in connection with the operation of the new or expanding
31 emerging technology or biotechnology company in the State,
32 including but not limited to the expenses of fixed assets, such as the
33 construction and acquisition and development of real estate,
34 materials, start-up, tenant fit-out, working capital, salaries, research
35 and development expenditures and any other expenses determined
36 by the authority to be necessary to carry out the purposes of the
37 New Jersey Emerging Technology and Biotechnology Financial
38 Assistance Program.

39 The authority shall require a corporation business taxpayer that
40 acquires a corporation business tax benefit certificate to enter into a
41 written agreement with the new or expanding emerging technology
42 or biotechnology company concerning the terms and conditions of
43 the private financial assistance made in exchange for the certificate.
44 The written agreement may contain terms concerning the
45 maintenance by the new or expanding emerging technology or
46 biotechnology company of a headquarters or a base of operation in
47 this State.

1 d. (Deleted by amendment, P.L.2009, c.90.)
2 (cf: P.L.2020, c.156, s.113)
3

4 57. Section 1 of P.L.1999, c.140 (C.34:1B-7.42b) is amended to
5 read as follows:

6 1. As used in P.L.1997, c.334 (C.34:1B-7.42a et al.):

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

10 "Biotechnology" means the continually expanding body of
11 fundamental knowledge about the functioning of biological systems
12 from the macro level to the molecular and sub-atomic levels, as
13 well as novel products, services, technologies and sub-technologies
14 developed as a result of insights gained from research advances that
15 add to that body of fundamental knowledge. This definition may be
16 modified by regulation to conform to definitions in other programs
17 administered by the authority.

18 "Biotechnology company" means an emerging corporation that
19 has its headquarters or base of operations in this State; that owns,
20 has filed for, or has a valid license to use protected, proprietary
21 intellectual property; and that is engaged in the research,
22 development, production, or provision of biotechnology for the
23 purpose of developing or providing products or processes for
24 specific commercial or public purposes, including but not limited
25 to, medical, pharmaceutical, nutritional, and other health-related
26 purposes, agricultural purposes, and environmental purposes. This
27 definition may be modified by regulation to conform to definitions
28 in other programs administered by the authority.

29 "Full-time employee" means a person employed by a new or
30 expanding emerging technology or biotechnology company for
31 consideration for at least 35 hours a week, or who renders any other
32 standard of service generally accepted by custom or practice as full-
33 time employment and whose wages are subject to withholding as
34 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
35 et seq., or who is a partner of a new or expanding emerging
36 technology or biotechnology company who works for the
37 partnership for at least 35 hours a week, or who renders any other
38 standard of service generally accepted by custom or practice as full-
39 time employment, and whose distributive share of income, gain,
40 loss, or deduction, or whose guaranteed payments, or any
41 combination thereof, is subject to the payment of estimated taxes, as
42 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
43 et seq. To qualify as a "full-time employee," an employee shall also
44 receive from the new or expanding emerging technology or
45 biotechnology company health benefits under a health benefits plan
46 authorized pursuant to State or federal law. "Full-time employee"
47 shall not include any person who works as an independent

1 contractor or on a consulting basis for the new or expanding
2 emerging technology or biotechnology company.

3 "New or expanding" means a technology or biotechnology
4 company that (1) on June 30 of the year in which the company files
5 an application for surrender of unused but otherwise allowable tax
6 benefits under P.L.1997, c.334 (C.34:1B-7.42a et al.) and on the
7 date of the exchange of the corporation business tax benefit
8 certificate, has fewer than 225 employees in the United States of
9 America; (2) on June 30 of the year in which the company files
10 such an application, has at least one full-time employee working in
11 this State if the company has been incorporated for less than three
12 years, has at least five full-time employees working in this State if
13 the company has been incorporated for more than three years but
14 less than five years, and has at least 10 full-time employees working
15 in this State if the company has been incorporated for more than
16 five years; and (3) on the date of the exchange of the corporation
17 business tax benefit certificate, the company has the requisite
18 number of full-time employees in New Jersey that were required on
19 June 30 as set forth in part (2) of this definition.

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

23 "Technology company" means an emerging corporation that has
24 its headquarters or base of operations in this State; that owns, has
25 filed for, or has a valid license to use protected, proprietary
26 intellectual property; and that employs some combination of the
27 following: highly educated or trained managers and workers, or
28 both, employed in this State who use sophisticated scientific
29 research service or production equipment, processes or knowledge
30 to discover, develop, test, transfer or manufacture a product or
31 service. This definition may be modified by regulation to conform
32 to definitions in other programs administered by the authority.

33 (cf: P.L.2020, c.156, s.114)

34
35 58. Section 5 of P.L.2009, c.90 (C.52:27D-489e) is amended to
36 read as follows:

37 5. a. The New Jersey Economic Development Authority, in
38 consultation with the State Treasurer, shall establish an Economic
39 Redevelopment and Growth Grant program for the purpose of
40 encouraging redevelopment projects in qualifying economic
41 redevelopment and growth grant incentive areas that do not qualify
42 as such areas solely by virtue of being a transit village, through the
43 provision of incentive grants to reimburse developers for certain
44 project financing gap costs.

45 b. (1) A developer shall submit an application for a State
46 incentive grant prior to July 1, 2019, except: (a) a developer of a
47 qualified residential project or a mixed use parking project seeking
48 an award of credits toward the funding of its incentive grant for a

1 project restricted under category (viii) of subparagraph (b) of
2 paragraph (3) of subsection b. of section 6 of P.L.2009, c.90
3 (C.52:27D-489f) shall submit an incentive grant application prior to
4 December 31, 2021 **【and】** ; (b) a developer of a qualified
5 residential project seeking an award of credits toward the funding of
6 its incentive grant under **【subparagraphs (f) and】** subparagraph (g)
7 of paragraph (3) of subsection b. of section 6 of P.L.2009, c.90
8 (C.52:27D-489f) shall submit an incentive grant application prior to
9 December 31, 2021; and (c) a developer of a commercial project
10 seeking a State incentive grant under subparagraph (b) of paragraph
11 (1) of subsection b. of section 6 of P.L.2009, c.90 (C.52:27D-489f)
12 shall submit an incentive grant application prior to December 31,
13 2021. A developer that submits an application for a State incentive
14 grant shall indicate on the application whether it is also applying for
15 a local incentive grant. Tax credits awarded to developers who
16 apply after the effective date of P.L.2020, c.156 (C.34:1B-269 et
17 al.) under **【subparagraphs (f) and】** subparagraph (g) of paragraph
18 (3) of subsection b. of section 6 of P.L.2009, c.90 (C.52:27D-489f)
19 shall not exceed **【\$200,000,000 subject to the limitations of**
20 subparagraphs (f) and (g) of that paragraph】 \$125,000,000.
21 Incentive grants awarded to developers who apply after the
22 effective date of P.L.2020, c.156 under subparagraph (b) of
23 paragraph (1) of subsection b. of section 6 of P.L.2009, c.90
24 (C.52:27D-489f) shall not exceed \$75,000,000.

25 (2) When an applicant indicates it is also applying for a local
26 incentive grant, the authority shall forward a copy of the application
27 to the municipality wherein the redevelopment project is to be
28 located for approval by municipal ordinance.

29 c. An application for a State incentive grant shall be reviewed
30 and approved by the authority. The authority shall not approve an
31 application for a State incentive grant unless the application was
32 submitted prior to July 1, 2019, except: (1) the authority shall not
33 approve an application for a State incentive grant by a developer of
34 a qualified residential project or a mixed use parking project
35 seeking an award of credits toward the funding of its incentive grant
36 for a project restricted under category (viii) of subparagraph (b) of
37 paragraph (3) of subsection b. of section 6 of P.L.2009, c.90
38 (C.52:27D-489f) unless the application was submitted prior to
39 December 31, 2021 and (2) the authority shall not approve an
40 application for a State incentive grant by a developer under
41 **【subparagraphs (f) and】** subparagraph (g) of paragraph (3) and
42 subparagraph (b) of paragraph (1) of subsection b. of section 6 of
43 P.L.2009, c.90 (C.52:27D-489f) unless the application was
44 submitted prior to December 31, 2021.

45 d. A developer shall not be required to purchase pinelands
46 development credits under the "Pinelands Protection Act,"
47 P.L.1979, c.111 (C.13:18A-1 et seq.), the pinelands comprehensive

1 management plan, or any other rule or regulation adopted pursuant
2 to that act in connection with any approval or relief obtained related
3 to a redevelopment project located in an aviation district on or after
4 the effective date of P.L.2018, c.120, except if seeking to develop in
5 permanently protected open space pursuant to the Pinelands
6 Protection Act. The provisions of this subsection shall not apply to
7 a developer of a qualified residential project.

8 (cf: P.L.2020, c.156, s.122)

9
10 59. Section 6 of P.L.2009, c.90 (C.52:27D-489f) is amended to
11 read as follows:

12 6. a. Up to the limits established in subsection b. of this section
13 and in accordance with a redevelopment incentive grant agreement,
14 beginning upon the receipt of occupancy permits for any portion of
15 the redevelopment project, or upon any other event evidencing
16 project completion as set forth in the incentive grant agreement, the
17 State Treasurer shall pay to the developer incremental State
18 revenues directly realized from businesses operating at the site of
19 the redevelopment project from the following taxes: the Corporation
20 Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), the
21 tax imposed on marine insurance companies pursuant to R.S.54:16-
22 1 et seq., the tax imposed on insurers generally, pursuant to
23 P.L.1945, c.132 (C.54:18A-1 et seq.), the public utility franchise
24 tax, public utilities gross receipts tax and public utility excise tax
25 imposed on sewerage and water corporations pursuant to P.L.1940,
26 c.5 (C.54:30A-49 et seq.), those tariffs and charges imposed by
27 electric, natural gas, telecommunications, water and sewage
28 utilities, and cable television companies under the jurisdiction of
29 the New Jersey Board of Public Utilities, or comparable entity,
30 except for those tariffs, fees, or taxes related to societal benefits
31 charges assessed pursuant to section 12 of P.L.1999, c.23 (C.48:3-
32 60), any charges paid for compliance with the "Global Warming
33 Response Act," P.L.2007, c.112 (C.26:2C-37 et seq.), transitional
34 energy facility assessment unit taxes paid pursuant to section 67 of
35 P.L.1997, c.162 (C.48:2-21.34), and the sales and use taxes on
36 public utility and cable television services and commodities, the tax
37 derived from net profits from business, a distributive share of
38 partnership income, or a pro rata share of S corporation income
39 under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et
40 seq., the tax derived from a business at the site of a redevelopment
41 project that is required to collect the tax pursuant to the "Sales and
42 Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), the tax imposed
43 pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.) from the purchase
44 of furniture, fixtures and equipment, or materials for the
45 remediation, the construction of new structures at the site of a
46 redevelopment project, the hotel and motel occupancy fee imposed
47 pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1), or the
48 portion of the fee imposed pursuant to section 3 of P.L.1968, c.49

1 (C.46:15-7) derived from the sale of real property at the site of the
2 redevelopment project and paid to the State Treasurer for use by the
3 State, that is not credited to the "Shore Protection Fund" or the
4 "Neighborhood Preservation Nonlapsing Revolving Fund" ("New
5 Jersey Affordable Housing Trust Fund") pursuant to section 4 of
6 P.L.1968, c.49 (C.46:15-8). Any developer shall be allowed to
7 assign their ability to apply for the tax credit under this subsection
8 to a non-profit organization with a mission dedicated to attracting
9 investment and completing development and redevelopment
10 projects in a Garden State Growth Zone. The non-profit
11 organization may make an application on behalf of a developer
12 which meets the requirements for the tax credit, or a group of non-
13 qualifying developers, such that these will be considered a unified
14 project for the purposes of the incentives provided under this
15 section.

16 b. (1) (a) Up to an average of 75 percent of the projected annual
17 incremental revenues or 85 percent of the projected annual
18 incremental revenues in a Garden State Growth Zone may be
19 pledged towards the State portion of an incentive grant.

20 (b) State incentive grants not to exceed an aggregate total value
21 of \$75,000,000 shall be made available by the authority for
22 applications submitted after the effective date of P.L.2020, c.156,
23 but prior to December 31, 2021, for projects that are predominantly
24 commercial and contain 100,000 or more square feet of office and
25 retail space, or industrial space for purchase or lease, and may
26 include a parking component. The developer of a project seeking
27 an award of credits for a project restricted under this subparagraph
28 shall submit an incentive grant application prior to December 31,
29 2021, and if approved after the effective date of P.L.2020, c.156,
30 shall submit a temporary certificate of occupancy for the project no
31 later than December 31, 2024. In addition to the requirements for
32 an incentive award set forth in P.L.2009, c.90 (C.52:27D-489a et
33 al.), a developer shall be eligible to receive an award of credits for a
34 project restricted under this subparagraph only if the developer
35 demonstrates to the authority at that time of application that: (i) the
36 project shall comply with minimum environmental and
37 sustainability standards; (ii) the project shall comply with the
38 authority's affirmative action requirements, adopted pursuant to
39 section 4 of P.L.1979, c.303 (C.34:1B-5.4); (iii) each worker
40 employed by the developer, or subcontractor of a developer
41 working at the project, shall be paid not less than \$15 per hour or
42 120 percent of the minimum wage fixed under subsection a. of
43 section 5 of P.L.1966, c.113 (C.34:11-56a4), whichever is higher;
44 and (iv) during the eligibility period, each worker employed to
45 perform construction work or building services work at the project
46 shall be paid not less than the prevailing wage rate for the worker's
47 craft or trade, as determined by the Commissioner of Labor and

1 Workforce Development pursuant to P.L.1963, c.150 (C.34:11-
2 56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.).

3 (2) In the case of a qualified residential project or a project
4 involving university infrastructure, if the authority determines that
5 the estimated amount of incremental revenues pledged towards the
6 State portion of an incentive grant is inadequate to fully fund the
7 amount of the State portion of the incentive grant, then in lieu of an
8 incentive grant based on the incremental revenues, the developer
9 shall be awarded tax credits equal to the full amount of the
10 incentive grant.

11 (3) In the case of a mixed use parking project, if the authority
12 determines that the estimated amount of incremental revenues
13 pledged towards the State portion of an incentive grant is
14 inadequate to fully fund the amount of the State portion of the
15 incentive grant, then, in lieu of an incentive grant based on the
16 incremental revenues, the developer shall be awarded tax credits
17 equal to the full amount of the incentive grant.

18 The value of all credits approved by the authority pursuant to
19 paragraphs (2) and (3) of this subsection shall not exceed
20 **【\$1,043,000,000】** \$968,000,000, of which:

21 (a) \$250,000,000 shall be restricted to qualified residential
22 projects within Atlantic, Burlington, Camden, Cape May,
23 Cumberland, Gloucester, Ocean, and Salem counties, of which
24 \$175,000,000 of the credits shall be restricted to the following
25 categories of projects: (i) qualified residential projects located in a
26 Garden State Growth Zone located within the aforementioned
27 counties; and (ii) mixed use parking projects located in a Garden
28 State Growth Zone or urban transit hub located within the
29 aforementioned counties; (iii) and \$75,000,000 of the credits shall
30 be restricted to qualified residential projects in municipalities with a
31 2007 Municipal Revitalization Index of 400 or higher as of the date
32 of enactment of the "New Jersey Economic Opportunity Act of
33 2013," P.L.2013, c.161 (C.52:27D-489p et al.) and located within
34 the aforementioned counties;

35 (b) **【\$395,000,000】** \$415,000,000 shall be restricted to the
36 following categories of projects: (i) qualified residential projects
37 located in urban transit hubs that are commuter rail in nature that
38 otherwise do not qualify under subparagraph (a) of this paragraph;
39 (ii) qualified residential projects located in Garden State Growth
40 Zones that do not qualify under subparagraph (a) of this paragraph;
41 (iii) mixed use parking projects located in urban transit hubs or
42 Garden State Growth Zones that do not qualify under subparagraph
43 (a) of this paragraph, provided however, an urban transit hub shall
44 be allocated no more than \$25,000,000 for mixed use parking
45 projects; (iv) qualified residential projects which are disaster
46 recovery projects that otherwise do not qualify under subparagraph
47 (a) of this paragraph; (v) qualified residential projects in SDA
48 municipalities located in Hudson County that were awarded State

1 Aid in State Fiscal Year 2013 through the Transitional Aid to
2 Localities program and otherwise do not qualify under
3 subparagraph (a) of this paragraph; (vi) \$25,000,000 of credits shall
4 be restricted to mixed use parking projects in Garden State Growth
5 Zones which have a population in excess of 125,000 and do not
6 qualify under subparagraph (a) of this paragraph; (vii) \$40,000,000
7 of credits shall be restricted to qualified residential projects that
8 include a theater venue for the performing arts and do not qualify
9 under subparagraph (a) of this paragraph, which projects are located
10 in a municipality with a population of less than 100,000 according
11 to the latest federal decennial census, and within which
12 municipality is located an urban transit hub and a campus of a
13 public research university, as defined in section 1 of P.L.2009,
14 c.308 (C.18A:3B-46); and (viii) \$125,000,000 of credits shall be
15 restricted to qualified residential projects and mixed use parking
16 projects in Garden State Growth Zones having a population in
17 excess of 125,000 and do not qualify under subparagraph (a) of this
18 paragraph;

19 (c) \$87,000,000 shall be restricted to the following categories of
20 projects: (i) qualified residential projects located in distressed
21 municipalities, deep poverty pockets, highlands development credit
22 receiving areas or redevelopment areas, otherwise not qualifying
23 pursuant to subparagraph (a) or (b) of this paragraph; and (ii) mixed
24 use parking projects that do not qualify under subparagraph (a) or
25 (b) of this paragraph, and which are used by an independent
26 institution of higher education, a school of medicine, a nonprofit
27 hospital system, or any combination thereof; provided, however,
28 that \$20,000,000 of the \$87,000,000 shall be allocated to mixed use
29 parking projects that do not qualify under subparagraph (a) or (b) of
30 this paragraph;

31 (d) (i) \$16,000,000 shall be restricted to qualified residential
32 projects that are located within a qualifying economic
33 redevelopment and growth grant incentive area otherwise not
34 qualifying under subparagraph (a), (b), or (c) of this paragraph; and

35 (ii) an additional \$50,000,000 shall be restricted to qualified
36 residential projects which, as of the effective date of P.L.2016, c.51,
37 are located in a city of the first class with a population in excess of
38 270,000, are subject to a Renewal Contract for a Section 8 Mark-
39 Up-To-Market Project from the United States Department of
40 Housing and Urban Development, and for which an application for
41 the award of tax credits under this subsection was submitted prior to
42 January 1, 2016;

43 (e) \$25,000,000 shall be restricted to projects involving
44 university infrastructure; and

45 (f) **【**\$150,000,000 shall be restricted to applications submitted
46 after the effective date of P.L.2020, c.156 (C.34:1B-269 et al.) for
47 projects which are predominantly commercial and contain 100,000
48 or more square feet of office and retail space, or industrial space for

1 purchase or lease and may include a parking component; and】
2 (Deleted by amendment, P.L. _____, c. _____) (pending before the
3 Legislature as this bill)

4 (g) **【\$50,000,000】** \$125,000,000 shall be restricted to
5 applications submitted after the effective date of P.L.2020, c.156
6 (C.34:1B-269 et al.) for residential projects in any county of the
7 State.

8 (h) For subparagraphs (a) through (d) of this paragraph, not
9 more than \$40,000,000 of credits shall be awarded to any qualified
10 residential project in a deep poverty pocket or distressed
11 municipality and not more than \$20,000,000 of credits shall be
12 awarded to any other qualified residential project. The developer of
13 a qualified residential project seeking an award of credits towards
14 the funding of its incentive grant shall submit an incentive grant
15 application prior to July 1, 2016 and if approved after September
16 18, 2013, the effective date of P.L.2013, c.161 (C.52:27D-489p et
17 al.) shall submit a temporary certificate of occupancy for the project
18 no later than December 31, 2023. The developer of a mixed use
19 parking project seeking an award of credits towards the funding of
20 its incentive grant pursuant to subparagraph (c) of this paragraph
21 and if approved after the effective date of P.L.2015, c.217, shall
22 submit a temporary certificate of occupancy for the project no later
23 than December 31, 2023. The developer of a qualified residential
24 project or a mixed use parking project seeking an award of credits
25 toward the funding of its incentive grant for a project restricted
26 under categories (vi) and (viii) of subparagraph (b) of this
27 paragraph shall submit an incentive grant application prior to July
28 1, 2019 or, in the case of a project restricted under category (viii) of
29 subparagraph (b) of this paragraph, December 31, 2021, and if
30 approved after the effective date of P.L.2017, c.59, shall submit a
31 temporary certificate of occupancy for the project no later than
32 December 31, 2023 provided that the municipality in which the
33 project is located shall have submitted to the chief executive officer
34 of the authority a letter of support identifying up to six projects
35 prior to July 1, 2018. The letter of support is to contain a project
36 scope for each of the projects and may be supplemented or amended
37 from time to time until July 1, 2019 or, in the case of a project
38 restricted under category (viii) of subparagraph (b) of this
39 paragraph, December 31, 2021. Applications for tax credits
40 pursuant to this subsection relating to an ancillary infrastructure
41 project or infrastructure improvement in the public right-of-way, or
42 both, shall be accompanied with a letter of support relating to the
43 project or improvement by the governing body or agency in which
44 the project is located. Credits awarded to a developer pursuant to
45 this subsection shall be subject to the same financial and related
46 analysis by the authority, the same term of the grant, and the same
47 mechanism for administering the credits, and shall be utilized or
48 transferred by the developer as if the credits had been awarded to

1 the developer pursuant to section 35 of P.L.2009, c.90 (C.34:1B-
2 209.3) for qualified residential projects thereunder. No portion of
3 the revenues pledged pursuant to the "New Jersey Economic
4 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.)
5 shall be subject to withholding or retainage for adjustment, in the
6 event the developer or taxpayer waives its rights to claim a refund
7 thereof.

8 (i) The developer of a project seeking an award of credits for a
9 project restricted under **【subparagraphs (f) and】** subparagraph (g)
10 of this paragraph shall submit an incentive grant application prior to
11 December 31, 2021, and if approved after the effective date of
12 P.L.2020, c.156 (C.34:1B-269 et al.), shall submit a temporary
13 certificate of occupancy for the project no later than December 31,
14 2024. In addition to the requirements for an award of credits set
15 forth in P.L.2009, c.90 (C.52:27D-489a et al.), a developer shall be
16 eligible to receive an award of credits for a project restricted under
17 **【subparagraphs (f) and】** subparagraph (g) of this paragraph only if
18 the developer demonstrates to the authority at that time of
19 application that: (i) the project shall comply with minimum
20 environmental and sustainability standards; (ii) the project shall
21 comply with the authority's affirmative action requirements,
22 adopted pursuant to section 4 of P.L.1979, c.303 (C.34:1B-5.4); (iii)
23 each worker employed by the developer or subcontractor of a
24 developer working at the project shall be paid not less than \$15 per
25 hour or 120 percent of the minimum wage fixed under subsection a.
26 of section 5 of P.L.1966, c.113 (C.34:11-56a4), whichever is
27 higher; and (iv) during the eligibility period, each worker employed
28 to perform construction work or building services work at the
29 project shall be paid not less than the prevailing wage rate for the
30 worker's craft or trade, as determined by the Commissioner of
31 Labor and Workforce Development pursuant to P.L.1963, c.150
32 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.).

33 Prior to the board considering an application submitted by a
34 developer for a project restricted under **【subparagraphs (f) and】**
35 subparagraph (g) of this paragraph, the Department of Labor and
36 Workforce Development, the Department of Environmental
37 Protection, and the Department of the Treasury shall each report to
38 the chief executive officer of the authority whether the developer is
39 in substantial good standing with the respective department, or has
40 entered into an agreement with the respective department that
41 includes a practical corrective action plan for the developer. The
42 developer, or an authorized agent of the developer, shall certify to
43 the authority that all factual assertions made in the developer's
44 application are true under the penalty of perjury. If at any time the
45 authority determines that the developer made a material
46 misrepresentation on the developer's application, the developer shall
47 forfeit the award of credits and the authority shall recapture any tax
48 credits awarded to the developer.

1 (4) A developer may apply to the Director of the Division of
2 Taxation in the Department of the Treasury and the chief executive
3 officer of the authority for a tax credit transfer certificate, if the
4 developer is awarded a tax credit pursuant to paragraph (2) or
5 paragraph (3) of this subsection, covering one or more years, in lieu
6 of the developer being allowed any amount of the credit against the
7 tax liability of the developer. The tax credit transfer certificate,
8 upon receipt thereof by the developer from the director and the
9 chief executive officer of the authority, may be sold or assigned, in
10 full or in part, to any other person who may have a tax liability
11 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2
12 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1
13 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The certificate
14 provided to the developer shall include a statement waiving the
15 developer's right to claim that amount of the credit against the taxes
16 that the developer has elected to sell or assign. The sale or
17 assignment of any amount of a tax credit transfer certificate allowed
18 under this paragraph shall not be exchanged for consideration
19 received by the developer of less than 75 percent of the transferred
20 credit amount before considering any further discounting to present
21 value that may be permitted. Any amount of a tax credit transfer
22 certificate used by a purchaser or assignee against a tax liability
23 shall be subject to the same limitations and conditions that apply to
24 the use of the credit by the developer who originally applied for and
25 was allowed the credit.

26 c. All administrative costs associated with the incentive grant
27 shall be assessed to the applicant and be retained by the State
28 Treasurer from the annual incentive grant payments.

29 d. The incremental revenue for the revenues listed in
30 subsection a. of this section shall be calculated as the difference
31 between the amount collected in any fiscal year from any eligible
32 revenue source included in the State redevelopment incentive grant
33 agreement, less the revenue increment base for that eligible
34 revenue.

35 e. The municipality is authorized to collect any information
36 necessary to facilitate grants under this program and remit that
37 information in order to assist in the calculation of incremental
38 revenue.

39 (cf: P.L.2020, c.156, s.123)

40
41 60. Section 8 of P.L.2009, c.90 (C.52:27D-489h) is amended to
42 read as follows:

43 8. a. (1) The authority, in consultation with the State Treasurer,
44 shall promulgate an incentive grant application form and procedure
45 for the Economic Redevelopment and Growth Grant program.

46 (2) (a) The Local Finance Board, in consultation with the
47 authority, shall develop a minimum standard incentive grant

1 application form for municipal Economic Redevelopment and
2 Growth Grant programs.

3 (b) Through regulation, the authority shall establish standards
4 for redevelopment projects seeking State or local incentive grants
5 based on the green building manual prepared by the Commissioner
6 of Community Affairs pursuant to section 1 of P.L.2007, c.132
7 (C.52:27D-130.6), regarding the use of renewable energy, energy-
8 efficient technology, and non-renewable resources in order to
9 reduce environmental degradation and encourage long-term cost
10 reduction.

11 b. Within each incentive grant application, a developer shall
12 certify information concerning:

13 (1) the status of control of the entire redevelopment project site;

14 (2) all required State and federal government permits that have
15 been issued for the redevelopment project, or will be issued pending
16 resolution of financing issues;

17 (3) local planning and zoning board approvals, as required, for
18 the redevelopment project;

19 (4) estimates of the revenue increment base, the eligible
20 revenues for the project, and the assumptions upon which those
21 estimates are made.

22 c. (1) With regard to State tax revenues proposed to be pledged
23 for an incentive grant the authority and the State Treasurer shall
24 review the project costs, evaluate and validate the project financing
25 gap estimated by the developer, and conduct a State fiscal impact
26 analysis to ensure that the overall public assistance provided to the
27 project, except with regards to a qualified residential project, a
28 mixed use parking project, or a project involving university
29 infrastructure, will result in net benefits to the State including,
30 without limitation, both direct and indirect economic benefits and
31 non-financial community revitalization objectives, including but not
32 limited to, the promotion of the use of public transportation in the
33 case of the ancillary infrastructure project portion of any transit
34 project.

35 (2) With regard to local incremental revenues proposed to be
36 pledged for an incentive grant the authority and the Local Finance
37 Board shall review the project costs, and except with respect to an
38 application by a municipal redeveloper, evaluate and validate the
39 project financing gap projected by the developer, and conduct a
40 local fiscal impact analysis to ensure that the overall public
41 assistance provided to the project, except with regards to a qualified
42 residential project, a mixed use parking project, or a project
43 involving university infrastructure, will result in net benefits to the
44 municipality wherein the redevelopment project is located
45 including, without limitation, both direct and indirect economic
46 benefits and non-financial community revitalization objectives,
47 including but not limited to, the promotion of the use of public

1 transportation in the case of the ancillary infrastructure project
2 portion of any transit project.

3 (3) The authority, State Treasurer, and Local Finance Board
4 may act cooperatively to administer and review applications, and
5 shall consult with the Office of State Planning on matters
6 concerning State, regional, and local development and planning
7 strategies.

8 (4) The costs of the aforementioned reviews shall be assessed to
9 the applicant as an application fee, except for applications
10 submitted on or after January 1, 2018, but before June 30, **[2018]**
11 2019, which are amended after the effective date of P.L.2020, c.156
12 (C.34:1B-269 et al.), the authority may waive fees.

13 (5) A developer who has already applied for an incentive grant
14 award prior to the effective date of the "New Jersey Economic
15 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.),
16 but who has not yet been approved for the grant, or has not
17 executed an agreement with the authority, may proceed under that
18 application or seek to amend the application or reapply for an
19 incentive grant award for the same project or any part thereof for
20 the purpose of availing himself or herself of any more favorable
21 provisions of the Economic Redevelopment and Growth Grant
22 program established pursuant to the "New Jersey Economic
23 Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.),
24 except that projects with costs exceeding \$200,000,000 shall not be
25 eligible for revised percentage caps under subsection d. of section
26 19 of P.L.2013, c.161 (C.52:27D-489i).
27 (cf: P.L.2020, c.156, s.124)
28

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

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

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

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

43 d. (1) The redevelopment incentive grant agreement shall
44 specify the maximum amount of project costs, the amount of the
45 incentive grant to be awarded the developer, the frequency of
46 payments, and the eligibility period, which shall not exceed 20
47 years, during which reimbursement will be granted, and for a
48 project receiving an incentive grant in excess of \$50 million, the

1 incentive agreement shall specify the amount of the negotiated
2 repayment amount to the State, which may include, but not be
3 limited to, cash, equity, and warrants. Notwithstanding any
4 provision of law or regulation to the contrary, the authority shall
5 use and apply the test and standards set forth in subsection c. of
6 section 60 of P.L.2020, c.156 (C.34:1B-
7 328), as amended by P.L. , c. (C.) (pending before the
8 Legislature as this bill), in determining the repayment amount
9 which shall be applicable to any project having submitted an
10 application to the authority pursuant to P.L.2009, c.90 (C.52:27D-
11 489a et seq.), as amended. Except for redevelopment incentive
12 grant agreements with a municipal redeveloper, or with the
13 developer of a redevelopment project solely with respect to the cost
14 of infrastructure improvements in the public right-of-way including
15 any ancillary infrastructure project in the public right-of-way, in no
16 event shall the base amount of the combined reimbursements under
17 redevelopment incentive grant agreements with the State or
18 municipality exceed 20 percent of the total project cost, except in a
19 Garden State Growth Zone, which shall not exceed 30 percent.

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

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

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

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

40 (d) a transit project;

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

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

46 (g) located in a Garden State Growth Zone;

47 (h) a disaster recovery project;

48 (i) an aviation project;

1 (j) a tourism destination project; or
2 (k) substantial rehabilitation or renovation of an existing
3 structure or structures.

4 (3) The maximum amount of any redevelopment incentive grant
5 shall be equal to up to 30 percent of the total project costs, except
6 for projects located in a Garden State Growth Zone, in which case
7 the maximum amount of any redevelopment incentive grant shall be
8 equal to up to 40 percent of the total project costs. Notwithstanding
9 anything to the contrary contained within this section, the maximum
10 amount of any redevelopment incentive grant with respect to a
11 mixed use parking project shall be up to 100 percent of the total
12 project costs allocable to the parking component of the project, and
13 shall be up to 40 percent of the total project costs allocable to the
14 non-parking component of the project. In addition, notwithstanding
15 anything to the contrary contained in this section, the maximum
16 amount of any redevelopment incentive grant for a qualified
17 residential project described in (i) below shall be up to 80 percent
18 of the total project costs, and for a mixed use parking project
19 described in (i) through (iv) below shall be up to 100 percent of the
20 total project costs allocable to the parking component and up to 80
21 percent of the total project costs allocable to the non-parking
22 component , provided that if the amount of the redevelopment
23 incentive grant exceeds 40 percent of the total project costs for
24 projects developed by non-public, for-profit entities, the authority
25 shall consider the effect of the increased grant amount in
26 determining the project financing gap, which shall include utilizing
27 a rate of return on a developer's contributed capital, when used to
28 determine the project financing gap, reflective of the reduced
29 financial risk of the project, as set by the authority : (i) with respect
30 to a mixed use parking project or qualified residential project
31 constructed upon all or a portion of a project site which project site
32 was previously the subject of an award of tax credits pursuant to the
33 "Urban Transit Hub Tax Credit Act," P.L.2007, c.346 (C.34:1B-207
34 et seq.), as amended by P.L.2009, c.90 (C.52:27D-489a et al.), but
35 those tax credits were not issued, (ii) for entertainment venues with
36 seating capacity in excess of 5,000, (iii) a visitor center within or
37 adjacent to a national historic park, or (iv) a youth center in or
38 adjacent to a national historic park.

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

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

- 5 (1) the economic feasibility of the redevelopment project;
6 (2) the extent of economic and related social distress in the
7 municipality and the area to be affected by the redevelopment
8 project or the level of site specific distress to include dilapidated
9 conditions, brownfields designation, environmental contamination,
10 pattern of vacancy, abandonment, or under-utilization of the
11 property, rate of foreclosures, or other site conditions as determined
12 by the authority;
13 (3) the degree to which the redevelopment project will advance
14 State, regional, and local development and planning strategies;
15 (4) the likelihood that the redevelopment project shall, upon
16 completion, be capable of generating new tax revenue in an amount
17 in excess of the amount necessary to reimburse the developer for
18 project costs incurred as provided in the redevelopment incentive
19 grant agreement, provided, however, that any tax revenue generated
20 by a redevelopment project that is a disaster recovery project shall
21 be considered new tax revenue even if the same or more tax revenue
22 was generated at or on the site prior to the disaster;
23 (5) the relationship of the redevelopment project to a
24 comprehensive local development strategy, including other major
25 projects undertaken within the municipality;
26 (6) the need of the redevelopment incentive grant agreement to
27 the viability of the redevelopment project or the promotion of the
28 use of public transportation; and
29 (7) the degree to which the redevelopment project enhances and
30 promotes job creation and economic development or the promotion
31 of the use of public transportation.

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

41 (2) Any pledge of incentive grants made by the developer shall
42 be valid and binding from the time the pledge is made and filed in
43 the records of the authority. The incentive grants pledged and
44 thereafter received by the developer shall immediately be subject to
45 the lien of the pledge without any physical delivery thereof or
46 further act, and the lien of any pledge shall be valid and binding
47 against all parties having claims of any kind in tort, contract, or
48 otherwise against the developer irrespective of whether the parties

1 have notice thereof. Neither the redevelopment incentive grant
2 agreement nor any other instrument by which a pledge under this
3 section is created need be filed or recorded except with the
4 authority.

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

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

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

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

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

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

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

24 b. (1) A business shall submit an application for tax credits prior
25 to July 1, 2019. The authority shall not approve an application for
26 tax credits unless the application was submitted prior to July 1,
27 2019.

28 (2) (a) A business shall submit its documentation indicating that
29 it has met the capital investment and employment requirements and
30 all conditions of approvals specified in the incentive agreement for
31 certification of its tax credit amount, to the authority's satisfaction,
32 within three years following the date of approval of its application
33 by the authority. The authority shall have the discretion to grant
34 two six-month extensions of this deadline. If the authority accepts
35 the documentation, the authority shall request that the Division of
36 Taxation in the Department of the Treasury issue a tax credit based
37 on the approved documentation to be used by the business during
38 the eligibility period. Except as provided in subparagraphs (b) and
39 (c) of this paragraph, in no event shall the incentive effective date
40 occur later than four years following the date of approval of an
41 application by the authority.

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

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

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

17 (4) A business seeking a credit for a mega project shall apply for
18 the credit within four years after the effective date of the "New
19 Jersey Economic Opportunity Act of 2013," P.L.2013, c.161
20 (C.52:27D-489p et al.).

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

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

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

40 A business may elect to suspend its obligations for the 2020 tax
41 period and, if the public health emergency or state of emergency
42 declared due to the COVID-19 pandemic extends past March 2021,
43 the 2021 tax period, provided that the business shall make such
44 election in writing to the authority before the date the annual report
45 is due and such suspension shall extend the term of the eligibility
46 period by a corresponding amount of time. The authority shall
47 amend the incentive agreement, and the business shall execute the
48 amended incentive agreement within the time period provided by

1 the authority. The amended incentive agreement shall provide that
2 the failure to submit the annual report due to the suspension shall
3 not be a forfeiture or an uncertified tax period.

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

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

16 (4) In order to respond to the profoundly negative impact of the
17 COVID-19 pandemic on the State's economy and finances, the
18 authority may request a tax certificate holder, at the tax certificate
19 holder's discretion, to defer the application of a credit amount
20 allowed pursuant to this section to a later tax period. Upon request,
21 the authority and the tax certificate holder shall negotiate the terms
22 of the deferral, which shall hold the certificate holder harmless,
23 which will be made in the incentive agreement or as an addendum
24 to the incentive agreement.

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

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

47 (3) (a) If the qualified business facility is sold by the owner in
48 whole or in part during the eligibility period, the new owner shall

1 not acquire the capital investment of the seller and the seller shall
2 forfeit all credits for the tax period in which the sale occurs and all
3 subsequent tax periods, provided however that any credits of the
4 business shall remain unaffected.

5 (b) In connection with a regional distribution facility of
6 foodstuffs, the business entity or entities which own or lease the
7 facility shall qualify as a business regardless of: (i) the type of the
8 business entity or entities which own or lease the facility; (ii) the
9 ownership or leasing of the facility by more than one business
10 entity; or (iii) the ownership of the business entity or entities which
11 own or lease the facility. The ownership or leasing, whether by
12 members, shareholders, partners, or other owners of the business
13 entity or entities, shall be treated as ownership or leasing by
14 affiliates. The members, shareholders, partners, or other ownership
15 or leasing participants and others that are tenants in the facility shall
16 be treated as affiliates for the purpose of counting the full-time
17 employees and capital investments in the facility. The business
18 entity or entities may distribute credits to members, shareholders,
19 partners, or other ownership or leasing participants in accordance
20 with their respective interests. If the business entity or entities or
21 their members, shareholders, partners, or other ownership or leasing
22 participants lease space in the facility to members, shareholders,
23 partners, or other ownership or leasing participants or others as
24 tenants in the facility, the leases shall be treated as a lease to an
25 affiliate, and the business entity or entities shall not be subject to
26 forfeiture of the credits. For the purposes of this section, leasing
27 shall include subleasing and tenants shall include subtenants.

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

41 (b) For a project located within a Garden State Growth Zone
42 which qualifies under the "Municipal Rehabilitation and Economic
43 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or which
44 contains a Tourism District as established pursuant to section 5 of
45 P.L.2011, c.18 (C.5:12-219) and regulated by the Casino
46 Reinvestment Development Authority, and which qualifies for a tax
47 credit pursuant to subsubparagraph (ii) of subparagraphs (a) through
48 (e) of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149

1 (C.34:1B-246), if, in any tax period the number of full-time
2 employees employed by the business at the qualified business
3 facility located within a qualified incentive area increases above the
4 number of full-time employees specified in the incentive agreement
5 such that the business shall then meet the minimum number of
6 employees required in subparagraph (b), (c), (d), or (e) of paragraph
7 (6) of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246),
8 then the authority shall recalculate the total tax credit amount per
9 full-time job by using the certified capital investment of the project
10 allowable under the applicable subsubparagraph and the number of
11 full-time jobs certified on the date of the recalculation and applying
12 those numbers to subparagraph (b), (c), (d), or (e) of paragraph (6)
13 of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246),
14 until the first tax period for which documentation demonstrating a
15 reduction of the number of full-time employees employed by the
16 business at the qualified business facility, at which time the tax
17 credit amount shall be adjusted accordingly pursuant to this section.

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

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

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

31 f. A business which has already applied for a tax credit
32 incentive award prior to the effective date of the "New Jersey
33 Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-
34 489p et al.), but who has not yet been approved for the tax credits,
35 or has not executed an agreement with the authority, may proceed
36 under that application or seek to amend the application or reapply
37 for a tax credit incentive award for the same project or any part
38 thereof for the purpose of availing itself of any more favorable
39 provisions of the program.

40 g. A business that has entered into an incentive agreement may
41 request before December 31, 2022 to terminate the incentive
42 agreement due to the COVID-19 public health emergency; provided
43 that the business shall submit a certification from the business's
44 chief executive officer or equivalent officer stating that the
45 termination is due to the public health emergency and describing
46 the impact of the public health emergency on the business. All
47 credits for the tax period in which the termination occurs and all

1 subsequent tax periods shall be forfeited, provided however that any
2 credits of the business shall remain unaffected.

3 h. A business that has entered into an incentive agreement may
4 request, before December 31, 2021, to reduce the number of new or
5 retained full-time jobs specified in the incentive agreement based
6 on a certification of the business of the eligible positions at the
7 qualified business facility commencing with the 2020 tax period
8 and, at the discretion of the business, whether the reduction shall
9 continue for each subsequent tax period remaining in the eligibility
10 period, provided that the business maintains the minimum number
11 of new or retained full-time jobs required to be eligible pursuant to
12 subsection c. of section 3 of P.L.2011, c.149 (C.34:1B-244). The
13 reduction in employment shall first apply to the number of new full-
14 time employees, and then shall apply to the number of retained full-
15 time employees.

16 The authority shall calculate a new tax credit total amount for the
17 2020 tax period and the remainder of the eligibility period based on
18 the reduced employment and shall amend the incentive agreement
19 to reflect the recalculated award amount. In no event shall the
20 modification result in an increase in employment or tax credit
21 amount.

22 (cf: P.L.2020, c.156, s.108)

23

24 63. Section 1 of P.L.2018, c.56 (C.54:10A-5.39b) is amended to
25 read as follows:

26 1. a. (1) A taxpayer, upon approval of an application to the
27 authority and the director, shall be allowed a credit against the tax
28 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in
29 an amount equal to 30 percent of the qualified film production
30 expenses of the taxpayer during a privilege period commencing on
31 or after July 1, 2018 but before July 1, 2028, provided that:

32 (a) at least 60 percent of the total film production expenses,
33 exclusive of post-production costs, of the taxpayer are incurred for
34 services performed, and goods purchased through vendors
35 authorized to do business, in New Jersey, or the qualified film
36 production expenses of the taxpayer during the privilege period
37 exceed \$1,000,000 per production;

38 (b) principal photography of the film commences within the
39 earlier of 180 days from the date of the original application for the
40 tax credit, or 150 days from the date of approval of the application
41 for the tax credit;

42 (c) the film includes, when determined to be appropriate by the
43 commission, at no cost to the State, marketing materials promoting
44 this State as a film and entertainment production destination, which
45 materials shall include placement of a "Filmed in New Jersey" or
46 "Produced in New Jersey" statement, or an approved logo approved
47 by the commission, in the end credits of the film;

1 (d) the taxpayer submits a tax credit verification report prepared
2 by an independent certified public accountant licensed in this State
3 in accordance with subsection f. of this section; and

4 (e) the taxpayer complies with the withholding requirements
5 provided for payments to loan out companies and independent
6 contractors in accordance with subsection g. of this section.

7 (2) Notwithstanding the provisions of paragraph (1) of
8 subsection a. of this section to the contrary, the tax credit allowed
9 pursuant to this subsection against the tax imposed pursuant to
10 section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount
11 equal to 35 percent of the qualified film production expenses of the
12 taxpayer during a privilege period that are incurred for services
13 performed and tangible personal property purchased through
14 vendors whose primary place of business is located in Atlantic,
15 Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer
16 or Salem County.

17 b. (1) A taxpayer, upon approval of an application to the
18 authority and the director, shall be allowed a credit against the tax
19 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in
20 an amount equal to: 20 percent of the qualified digital media
21 content production expenses of the taxpayer during a privilege
22 period commencing on or after July 1, 2018 but before July 1, 2021;
23 and 30 percent of the qualified digital media content production
24 expenses of the taxpayer during a privilege period commencing on
25 or after July 1, 2021 but before July 1, 2028, provided that:

26 (a) at least \$2,000,000 of the total digital media content
27 production expenses of the taxpayer are incurred for services
28 performed, and goods purchased through vendors authorized to do
29 business, in New Jersey;

30 (b) at least 50 percent of the qualified digital media content
31 production expenses of the taxpayer are for wages and salaries paid
32 to full-time or full-time equivalent employees in New Jersey;

33 (c) the taxpayer submits a tax credit verification report prepared
34 by an independent certified public accountant licensed in this State
35 in accordance with subsection f. of this section; and

36 (d) the taxpayer complies with the withholding requirements
37 provided for payments to loan out companies and independent
38 contractors in accordance with subsection g. of this section.

39 (2) Notwithstanding the provisions of paragraph (1) of
40 subsection b. of this section to the contrary, the tax credit allowed
41 pursuant to this subsection against the tax imposed pursuant to
42 section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount
43 equal to **【25】** 35 percent of the qualified digital media content
44 production expenses of the taxpayer during a privilege period that
45 are incurred for services performed and tangible personal property
46 purchased through vendors whose primary place of business is
47 located in Atlantic, Burlington, Camden, Cape May, Cumberland,
48 Gloucester, Mercer, or Salem County.

1 c. No tax credit shall be allowed pursuant to this section for
2 any costs or expenses included in the calculation of any other tax
3 credit or exemption granted pursuant to a claim made on a tax
4 return filed with the director, or included in the calculation of an
5 award of business assistance or incentive, for a period of time that
6 coincides with the privilege period for which a tax credit authorized
7 pursuant to this section is allowed. The order of priority in which
8 the tax credit allowed pursuant to this section and any other tax
9 credits allowed by law may be taken shall be as prescribed by the
10 director. The amount of the tax credit applied under this section
11 against the tax imposed pursuant to section 5 of P.L.1945, c.162
12 (C.54:10A-5), for a privilege period, when taken together with any
13 other payments, credits, deductions, and adjustments allowed by
14 law shall not reduce the tax liability of the taxpayer to an amount
15 less than the statutory minimum provided in subsection (e) of
16 section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of the tax
17 credit otherwise allowable under this section which cannot be
18 applied for the privilege period due to the limitations of this
19 subsection or under other provisions of P.L.1945, c.162 (C.54:10A-
20 1 et seq.) may be carried forward, if necessary, to the seven
21 privilege periods following the privilege period for which the tax
22 credit was allowed.

23 d. A taxpayer, with an application for a tax credit provided for
24 in subsection a. or subsection b. of this section, may apply to the
25 authority and the director for a tax credit transfer certificate in lieu
26 of the taxpayer being allowed any amount of the tax credit against
27 the tax liability of the taxpayer. The tax credit transfer certificate,
28 upon receipt thereof by the taxpayer from the authority and the
29 director, may be sold or assigned, in full or in part, to any other
30 taxpayer that may have a tax liability under the "Corporation
31 Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), or
32 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in
33 exchange for private financial assistance to be provided by the
34 purchaser or assignee to the taxpayer that has applied for and been
35 granted the tax credit. The tax credit transfer certificate provided to
36 the taxpayer shall include a statement waiving the taxpayer's right
37 to claim that amount of the tax credit against the tax imposed
38 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) that the
39 taxpayer has elected to sell or assign. The sale or assignment of any
40 amount of a tax credit transfer certificate allowed under this section
41 shall not be exchanged for consideration received by the taxpayer of
42 less than 75 percent of the transferred tax credit amount. Any
43 amount of a tax credit transfer certificate used by a purchaser or
44 assignee against a tax liability under P.L.1945, c.162 (C.54:10A-1
45 et seq.) shall be subject to the same limitations and conditions that
46 apply to the use of a tax credit pursuant to subsection c. of this
47 section. Any amount of a tax credit transfer certificate obtained by
48 a purchaser or assignee under subsection a. or subsection b. of this

1 section may be applied against the purchaser's or assignee's tax
2 liability under N.J.S.54A:1-1 et seq. and shall be subject to the
3 same limitations and conditions that apply to the use of a credit
4 pursuant to subsections c. and d. of section 2 of P.L.2018, c.56
5 (C.54A:4-12b).

6 e. (1) The value of tax credits, including tax credits allowed
7 through the granting of tax credit transfer certificates, approved by
8 the director and the authority pursuant to subsection a. of this
9 section and pursuant to subsection a. of section 2 of P.L.2018, c.56
10 (C.54A:4-12b) to taxpayers, other than New Jersey film partners
11 and New Jersey film-lease partners, shall not exceed a cumulative
12 total of \$100,000,000 in fiscal year 2019 and in each fiscal year
13 thereafter prior to fiscal year 2029 to apply against the tax imposed
14 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax
15 imposed pursuant to the "New Jersey Gross Income Tax Act,"
16 N.J.S.54A:1-1 et seq. In addition to the \$100,000,000 limitation on
17 the value of tax credits approved by the director for New Jersey
18 film-lease partners and the \$100,000,000 limitation on the value of
19 tax credits approved by the director for other taxpayers imposed by
20 this paragraph, the value of tax credits, including tax credits
21 allowed through the granting of tax credit transfer certificates,
22 approved by the director and the authority pursuant to subsection a.
23 of this section and pursuant to subsection a. of section 2 of
24 P.L.2018, c.56 (C.54A:4-12b) to New Jersey film partners shall not
25 exceed a cumulative total of \$100,000,000 in fiscal year 2021 and
26 in each fiscal year thereafter prior to fiscal year 2034 to apply
27 against the tax imposed pursuant to section 5 of P.L.1945, c.162
28 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey
29 Gross Income Tax Act," N.J.S.54A:1-1 et seq. In addition to the
30 \$100,000,000 limitation on the value of tax credits approved by the
31 director for New Jersey film partners and the \$100,000,000
32 limitation on the value of tax credits approved by the director for
33 other taxpayers imposed by this paragraph, the value of tax credits,
34 including tax credits allowed through the granting of tax credit
35 transfer certificates, approved by the director and the authority
36 pursuant to subsection a. of this section and pursuant to subsection
37 a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey film-
38 lease partners shall not exceed a cumulative total of \$100,000,000
39 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal
40 year 2034 to apply against the tax imposed pursuant to section 5 of
41 P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the
42 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

43 If the cumulative total amount of tax credits, and tax credit
44 transfer certificates, allowed to taxpayers for privilege periods or
45 taxable years commencing during a single fiscal year under
46 subsection a. of this section and subsection a. of section 2 of
47 P.L.2018, c.56 (C.54A:4-12b) exceeds the amount of tax credits
48 available in that fiscal year, then taxpayers who have first applied

1 for and have not been allowed a tax credit or tax credit transfer
2 certificate amount for that reason shall be allowed, in the order in
3 which they have submitted an application, the amount of tax credit
4 or tax credit transfer certificate on the first day of the next
5 succeeding fiscal year in which tax credits and tax credit transfer
6 certificates under subsection a. of this section and subsection a. of
7 section 2 of P.L.2018, c.56 (C.54A:4-12b) are not in excess of the
8 amount of credits available.

9 Notwithstanding any provision of paragraph (1) of this
10 subsection to the contrary, for any fiscal year in which the amount
11 of tax credits approved pursuant to this paragraph is less than the
12 cumulative total amount of tax credits permitted to be approved in
13 that fiscal year, the authority shall certify the amount of the
14 remaining tax credits available for approval in that fiscal year, and
15 shall increase the cumulative total amount of tax credits permitted
16 to be approved in the subsequent fiscal year by the certified amount
17 remaining from the prior fiscal year. The authority shall also
18 certify, for each fiscal year, the amount of tax credits that were
19 previously approved, but that the taxpayer is not able to redeem or
20 transfer to another taxpayer under this section, and shall increase
21 the cumulative total amount of tax credits permitted to be approved
22 in the subsequent fiscal year by the amount of tax credits previously
23 approved, but not subject to redemption or transfer.

24 (2) The value of tax credits, including tax credits allowed
25 through the granting of tax credit transfer certificates, approved by
26 the authority and the director pursuant to subsection b. of this
27 section and pursuant to subsection b. of section 2 of P.L.2018, c.56
28 (C.54A:4-12b) shall not exceed a cumulative total of \$10,000,000 in
29 fiscal year 2019 through fiscal year 2021, and \$30,000,000 in fiscal
30 year 2022 and in each fiscal year thereafter prior to fiscal year
31 2029, to apply against the tax imposed pursuant to section 5 of
32 P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the
33 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

34 If the total amount of tax credits and tax credit transfer
35 certificates allowed to taxpayers for privilege periods or taxable
36 years commencing during a single fiscal year under subsection b. of
37 this section and subsection b. of section 2 of P.L.2018, c.56
38 (C.54A:4-12.b) exceeds the amount of tax credits available in that
39 year, then taxpayers who have first applied for and have not been
40 allowed a tax credit or tax credit transfer certificate amount for that
41 reason shall be allowed, in the order in which they have submitted
42 an application, the amount of tax credit or tax credit transfer
43 certificate on the first day of the next succeeding fiscal year in
44 which tax credits and tax credit transfer certificates under
45 subsection b. of this section and subsection b. of section 2 of
46 P.L.2018, c.56 (C.54A:4-12.b) are not in excess of the amount of
47 credits available.

1 Notwithstanding any provision of this paragraph to the contrary,
2 for any fiscal year in which the amount of tax credits approved
3 pursuant to this paragraph is less than the cumulative total amount
4 of tax credits permitted to be approved in that fiscal year, the
5 authority shall certify the amount of the remaining tax credits
6 available for approval in that fiscal year, and shall increase the
7 cumulative total amount of tax credits permitted to be approved in
8 the subsequent fiscal year by the certified amount remaining from
9 the prior fiscal year. The authority shall also certify, for each fiscal
10 year, the amount of tax credits that were previously approved, but
11 that the taxpayer is not able to redeem or transfer to another
12 taxpayer under this section, and shall increase the cumulative total
13 amount of tax credits permitted to be approved in the subsequent
14 fiscal year by the amount of tax credits previously approved, but not
15 subject to redemption or transfer.

16 f. A taxpayer shall submit to the authority and the director a
17 report prepared by an independent certified public accountant
18 licensed in this State to verify the taxpayer's tax credit claim
19 following the completion of the production. The report shall be
20 prepared by the independent certified public accountant pursuant to
21 agreed upon procedures prescribed by the authority and the director,
22 and shall include such information and documentation as shall be
23 determined to be necessary by the authority and the director to
24 substantiate the qualified film production expenses or the qualified
25 digital media content production expenses of the taxpayer. A single
26 report with attachments deemed necessary by the authority shall be
27 submitted electronically. Upon receipt of the report, the authority
28 and the director shall review the findings of the independent
29 certified public accountant's report, and shall make a determination
30 as to the qualified film production expenses or the qualified digital
31 media content production expenses of the taxpayer. The
32 determination shall be provided in writing to the taxpayer, and a
33 copy of the written determination shall be included in the filing of a
34 return that includes a claim for a tax credit allowed pursuant to this
35 section.

36 g. A taxpayer shall withhold from each payment to a loan out
37 company or to an independent contractor an amount equal to 6.37
38 percent of the payment otherwise due. The amounts withheld shall
39 be deemed to be withholding of liability pursuant to the "New
40 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the
41 taxpayer shall be deemed to have the rights, duties, and
42 responsibilities of an employer pursuant to chapter 7 of Title 54A of
43 the New Jersey Statutes. The director shall allocate the amounts
44 withheld for a taxable year to the accounts of the individuals who
45 are employees of a loan out company in proportion to the
46 employee's payment by the loan out company in connection with a
47 trade, profession, or occupation carried on in this State or for the
48 rendition of personal services performed in this State during the

1 taxable year. A loan out company that reports its payments to
2 employees in connection with a trade, profession, or occupation
3 carried on in this State or for the rendition of personal services
4 performed in this State during a taxable year shall be relieved of its
5 duties and responsibilities as an employer pursuant to chapter 7 of
6 Title 54A of the New Jersey Statutes for the taxable year for any
7 payments relating to the payments on which the taxpayer withheld.

8 h. As used in this section:

9 "Authority" means the New Jersey Economic Development
10 Authority.

11 "Business assistance or incentive" means "business assistance or
12 incentive" as that term is defined pursuant to section 1 of P.L.2007,
13 c.101 (C.54:50-39).

14 "Commission" means the Motion Picture and Television
15 Development Commission.

16 "Digital media content" means any data or information that is
17 produced in digital form, including data or information created in
18 analog form but reformatted in digital form, text, graphics,
19 photographs, animation, sound, and video content. "Digital media
20 content" shall not mean content offerings generated by the end user
21 (including postings on electronic bulletin boards and chat rooms);
22 content offerings comprised primarily of local news, events,
23 weather, or local market reports; public service content; electronic
24 commerce platforms (such as retail and wholesale websites);
25 websites or content offerings that contain obscene material as
26 defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or
27 content that are produced or maintained primarily for private,
28 industrial, corporate, or institutional purposes; or digital media
29 content acquired or licensed by the taxpayer for distribution or
30 incorporation into the taxpayer's digital media content.

31 "Film" means a feature film, a television series, or a television
32 show of 22 minutes or more in length, intended for a national
33 audience, or a television series or a television show of 22 minutes
34 or more in length intended for a national or regional audience,
35 including, but not limited to, a game show, award show, or other
36 gala event filmed and produced at a nonprofit arts and cultural
37 venue receiving State funding. "Film" shall not include a
38 production featuring news, current events, weather, and market
39 reports or public programming, talk show, or sports event, a
40 production that solicits funds, a production containing obscene
41 material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-3, or a
42 production primarily for private, industrial, corporate, or
43 institutional purposes, or a reality show, except if the production
44 company of the reality show owns, leases, or otherwise occupies a
45 production facility of no less than 20,000 square feet of real
46 property for a minimum term of 24 months, and invests no less than
47 \$3,000,000 in such a facility within a designated enterprise zone
48 established pursuant to the "New Jersey Urban Enterprise Zones

1 Act," P.L.1983, c.303 (C.52:27H-60 et al.), or a UEZ-impacted
2 business district established pursuant to section 3 of P.L.2001,
3 c.347 (C.52:27H-66.2). "Film" shall not include an award show or
4 other gala event that is not filmed and produced at a nonprofit arts
5 and cultural venue receiving State funding.

6 "Full-time or full-time equivalent employee" means an individual
7 employed by the taxpayer for consideration for at least 35 hours a
8 week, or who renders any other standard of service generally
9 accepted by custom or practice as full-time or full-time equivalent
10 employment, whose wages are subject to withholding as provided in
11 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or
12 who is a partner of a taxpayer, who works for the partnership for at
13 least 35 hours a week, or who renders any other standard of service
14 generally accepted by custom or practice as full-time or full-time
15 equivalent employment, and whose distributive share of income,
16 gain, loss, or deduction, or whose guaranteed payments, or any
17 combination thereof, is subject to the payment of estimated taxes, as
18 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
19 et seq. "Full-time or full-time equivalent employee" shall not
20 include an individual who works as an independent contractor or on
21 a consulting basis for the taxpayer.

22 "Highly compensated individual" means an individual who
23 directly or indirectly receives compensation in excess of \$500,000
24 for the performance of services used directly in a production. An
25 individual receives compensation indirectly when the taxpayer pays
26 a loan out company that, in turn, pays the individual for the
27 performance of services.

28 "Independent contractor" means an individual treated as an
29 independent contractor for federal and State tax purposes who is
30 contracted with by the taxpayer for the performance of services
31 used directly in a production.

32 "Loan out company" means a personal service corporation or
33 other entity that is contracted with by the taxpayer to provide
34 specified individual personnel, such as artists, crew, actors,
35 producers, or directors for the performance of services used directly
36 in a production. "Loan out company" shall not include entities
37 contracted with by the taxpayer to provide goods or ancillary
38 contractor services such as catering, construction, trailers,
39 equipment, or transportation.

40 "New Jersey film partner" means a film production company that
41 has made a commitment to produce films or commercial
42 audiovisual products in New Jersey and has developed, purchased,
43 or executed a 10-year contract to lease a production facility of
44 250,000 square feet or more as a "transformative project" pursuant
45 to section 65 of P.L.2020, c.156 (C.34:1B-333). No more than five
46 film production companies may be designated as a New Jersey film
47 partner.

1 "New Jersey film-lease partner" means a taxpayer, including any
2 taxpayer that is a member of a combined group under P.L.2018,
3 c.131 (C.54:10A-4.11), that has made a commitment to lease or
4 acquire a New Jersey production facility with an aggregate square
5 footage of at least 50,000 square feet, which includes a sound stage
6 and production support space such as production offices or a
7 backlot, for a period of five or more successive years and commits
8 to spend, on a separate-entity basis or in the aggregate with other
9 members of the taxpayer's combined group, an annual average of
10 \$50,000,000 of qualified film production expenses over the period
11 of at least five but not to exceed 10 years.

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

14 "Post-production costs" means the costs of the phase of
15 production of a film that follows principal photography, in which
16 raw footage is cut and assembled into a finished film with sound
17 synchronization and visual effects.

18 "Pre-production costs" means the costs of the phase of
19 production of a film that precedes principal photography, in which a
20 detailed schedule and budget for the production is prepared, the
21 script and location is finalized, and contracts with vendors are
22 negotiated.

23 "Qualified digital media content production expenses" means an
24 expense incurred in New Jersey for the production of digital media
25 content. "Qualified digital media content production expenses"
26 shall include but not be limited to: wages and salaries of individuals
27 employed in the production of digital media content on which the
28 tax imposed by the "New Jersey Gross Income Tax Act,"
29 N.J.S.54A:1-1 et seq. has been paid or is due; and the costs of
30 computer software and hardware, data processing, visualization
31 technologies, sound synchronization, editing, and the rental of
32 facilities and equipment. Payment made to a loan out company or
33 to an independent contractor shall not be deemed a "qualified digital
34 media content production expense" unless the payment is made in
35 connection with a trade, profession, or occupation carried on in this
36 State or for the rendition of personal services performed in this
37 State and the taxpayer has made the withholding required pursuant
38 to subsection g. of this section. "Qualified digital media content
39 production expenses" shall not include expenses incurred in
40 marketing, promotion, or advertising digital media or other costs
41 not directly related to the production of digital media content.
42 Costs related to the acquisition or licensing of digital media content
43 by the taxpayer for distribution or incorporation into the taxpayer's
44 digital media content shall not be deemed "qualified digital media
45 content production expenses."

46 "Qualified film production expenses" means an expense incurred
47 in New Jersey for the production of a film including pre-production
48 costs and post-production costs incurred in New Jersey. "Qualified

1 film production expenses" shall include but not be limited to:
2 wages and salaries of individuals employed in the production of a
3 film on which the tax imposed by the "New Jersey Gross Income
4 Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; and the
5 costs for tangible personal property used, and services performed,
6 directly and exclusively in the production of a film, such as
7 expenditures for film production facilities, props, makeup,
8 wardrobe, film processing, camera, sound recording, set
9 construction, lighting, shooting, editing, and meals. Payment made
10 to a loan out company or to an independent contractor shall not be
11 deemed a "qualified film production expense" unless the payment is
12 made in connection with a trade, profession, or occupation carried
13 on in this State or for the rendition of personal services performed
14 in this State and the taxpayer has made the withholding required
15 pursuant to subsection g. of this section. "Qualified film production
16 expenses" shall not include: expenses incurred in marketing or
17 advertising a film; and payment in excess of \$500,000 to a highly
18 compensated individual for costs for a story, script, or scenario used
19 in the production of a film and wages or salaries or other
20 compensation for writers, directors, including music directors,
21 producers, and performers, other than background actors with no
22 scripted lines, except as follows:

23 (1) for a New Jersey film partner that incurs more than
24 \$15,000,000, but less than \$50,000,000, in qualified film production
25 expenses in the State, an amount, not to exceed \$15,000,000, of the
26 wages or salaries or other compensation for writers, directors,
27 including music directors, producers, and performers, other than
28 background actors with no scripted lines, shall constitute qualified
29 film production expenses;

30 (2) for a New Jersey film partner that incurs \$50,000,000 or
31 more, but less than \$100,000,000, in qualified film production
32 expenses in the State, an amount, not to exceed \$25,000,000, of the
33 wages or salaries or other compensation for writers, directors,
34 including music directors, producers, and performers, other than
35 background actors with no scripted lines, shall constitute qualified
36 film production expenses;

37 (3) for a New Jersey film partner that incurs \$100,000,000 or
38 more, but less than \$150,000,000, in qualified film production
39 expenses in the State, an amount, not to exceed \$40,000,000, of the
40 wages or salaries or other compensation for writers, directors,
41 including music directors, producers, and performers, other than
42 background actors with no scripted lines, shall constitute qualified
43 film production expenses; **【and】**

44 (4) for a New Jersey film partner that incurs \$150,000,000 or
45 more in qualified film production expenses in the State, an amount,
46 not to exceed \$60,000,000, of the wages or salaries or other
47 compensation for writers, directors, including music directors,
48 producers, and performers, other than background actors with no

1 scripted lines, shall constitute qualified film production expenses;
2 and

3 (5) for a New Jersey film-lease partner, an amount, not to
4 exceed \$15,000,000 annually, of the payments in excess of
5 \$500,000 to highly compensated individuals for costs for a story,
6 script, or scenario used in the production of a film and for the wages
7 or salaries or other compensation for writers, directors, including
8 music directors, producers, and performers, other than background
9 actors with no scripted lines, shall constitute qualified film
10 production expenses.

11 "Total digital media content production expenses" means costs
12 for services performed and property used or consumed in the
13 production of digital media content.

14 "Total film production expenses" means costs for services
15 performed and tangible personal property used or consumed in the
16 production of a film.

17 i. A business that is not a "taxpayer" as defined and used in the
18 "Corporation Business Tax Act (1945)," P.L.1945, c.162
19 (C.54:10A-1 et seq.) and therefore is not directly allowed a credit
20 under this section, but is a business entity that is classified as a
21 partnership for federal income tax purposes and is ultimately owned
22 by a business entity that is a "corporation" as defined in subsection
23 (c) of section 4 of P.L.1945, c.162 (C.54:10A-4), or a limited
24 liability company formed under the "Revised Uniform Limited
25 Liability Company Act," P.L.2012, c.50 (C.42:2C-1 et seq.), or
26 qualified to do business in this State as a foreign limited liability
27 company, with one member, and is wholly owned by the business
28 entity that is a "corporation" as defined in subsection (c) of section
29 4 of P.L.1945, c.162 (C.54:10A-4), but otherwise meets all other
30 requirements of this section, shall be considered an eligible
31 applicant and "taxpayer" as that term is used in this section.
32 (cf: P.L.2020, c.156, s.110)

33

34 64. Section 2 of P.L.2018, c.56 (C.54A:4-12b) is amended to
35 read as follows:

36 2. a. (1) A taxpayer, upon approval of an application to the
37 authority and the director, shall be allowed a credit against the tax
38 otherwise due for the taxable year under the "New Jersey Gross
39 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to 30
40 percent of the qualified film production expenses of the taxpayer
41 during a taxable year commencing on or after July 1, 2018 but
42 before July 1, 2028, provided that:

43 (a) at least 60 percent of the total film production expenses,
44 exclusive of post-production costs, of the taxpayer are incurred for
45 services performed, and goods purchased through vendors
46 authorized to do business, in New Jersey, or the qualified film
47 production expenses of the taxpayer during the taxable year exceed
48 \$1,000,000 per production;

1 (b) principal photography of the film commences within the
2 earlier of 180 days from the date of the original application for the
3 tax credit, or 150 days from the date of approval of the application
4 for the tax credit;

5 (c) the film includes, when determined to be appropriate by the
6 commission, at no cost to the State, marketing materials promoting
7 this State as a film and entertainment production destination, which
8 materials shall include placement of a "Filmed in New Jersey" or
9 "Produced in New Jersey" statement, or an appropriate logo
10 approved by the commission, in the end credits of the film;

11 (d) the taxpayer submits a tax credit verification report prepared
12 by an independent certified public accountant licensed in this State
13 in accordance with subsection g. of this section; and

14 (e) the taxpayer complies with the withholding requirements
15 provided for payments to loan out companies and independent
16 contractors in accordance with subsection h. of this section.

17 (2) Notwithstanding the provisions of paragraph (1) of
18 subsection a. of this section to the contrary, the tax credit allowed
19 pursuant to this subsection against the tax otherwise due for the
20 taxable year under the "New Jersey Gross Income Tax Act,"
21 N.J.S.54A:1-1 et seq., shall be in an amount equal to 35 percent of
22 the qualified film production expenses of the taxpayer during a
23 taxable year that are incurred for services performed and tangible
24 personal property purchased through vendors whose primary place
25 of business is located in Atlantic, Burlington, Camden, Cape May,
26 Cumberland, Gloucester, Mercer, or Salem County.

27 b. (1) A taxpayer, upon approval of an application to the
28 authority and the director, shall be allowed a credit against the tax
29 otherwise due for the taxable year under the "New Jersey Gross
30 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to: 20
31 percent of the qualified digital media content production expenses
32 of the taxpayer during a taxable year commencing on or after July
33 1, 2018 but before July 1, 2021; and 30 percent of the qualified
34 digital media content production expenses of the taxpayer during a
35 privilege period commencing on or after July 1, 2021 but before
36 July 1, 2028, provided that:

37 (a) at least \$2,000,000 of the total digital media content
38 production expenses of the taxpayer are incurred for services
39 performed, and goods purchased through vendors authorized to do
40 business, in New Jersey;

41 (b) at least 50 percent of the qualified digital media content
42 production expenses of the taxpayer are for wages and salaries paid
43 to full-time or full-time equivalent employees in New Jersey;

44 (c) the taxpayer submits a tax credit verification report prepared
45 by an independent certified public accountant licensed in this State
46 in accordance with subsection g. of this section; and

1 (d) the taxpayer complies with the withholding requirements
2 provided for payments to loan out companies and independent
3 contractors in accordance with subsection h. of this section.

4 (2) Notwithstanding the provisions of paragraph (1) of
5 subsection b. of this section to the contrary, the tax credit allowed
6 pursuant to this subsection against the tax otherwise due for the
7 taxable year under the "New Jersey Gross Income Tax Act,"
8 N.J.S.54A:1-1 et seq., shall be in an amount equal to **[25]** 35
9 percent for the qualified digital media content production expenses
10 of the taxpayer during a taxable year that are incurred for services
11 performed and tangible personal property purchased through
12 vendors whose primary place of business is located in Atlantic,
13 Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer,
14 or Salem County.

15 c. No tax credit shall be allowed pursuant to this section for
16 any costs or expenses included in the calculation of any other tax
17 credit or exemption granted pursuant to a claim made on a tax
18 return filed with the director, or included in the calculation of an
19 award of business assistance or incentive, for a period of time that
20 coincides with the taxable year for which a tax credit authorized
21 pursuant to this section is allowed. The order of priority in which
22 the tax credit allowed pursuant to this section and any other tax
23 credits allowed by law may be taken shall be as prescribed by the
24 director. The amount of the tax credit applied under this section
25 against the tax otherwise due under the "New Jersey Gross Income
26 Tax Act," N.J.S.54A:1-1 et seq., for a taxable year, when taken
27 together with any other payments, credits, deductions, and
28 adjustments allowed by law shall not reduce the tax liability of the
29 taxpayer to an amount less than zero. The amount of the tax credit
30 otherwise allowable under this section which cannot be applied for
31 the taxable year due to the limitations of this subsection or under
32 other provisions of N.J.S.54A:1-1 et seq., may be carried forward, if
33 necessary, to the seven taxable years following the taxable year for
34 which the tax credit was allowed.

35 d. (1) A business entity that is classified as a partnership for
36 federal income tax purposes shall not be allowed a tax credit
37 pursuant to this section directly, but the amount of tax credit of a
38 taxpayer in respect of a distributive share of entity income, shall be
39 determined by allocating to the taxpayer that proportion of the tax
40 credit acquired by the entity that is equal to the taxpayer's share,
41 whether or not distributed, of the total distributive income or gain
42 of the entity for its taxable year ending within or with the taxpayer's
43 taxable year.

44 (2) A New Jersey S Corporation shall not be allowed a tax credit
45 pursuant to this section directly, but the amount of tax credit of a
46 taxpayer in respect of a pro rata share of S Corporation income,
47 shall be determined by allocating to the taxpayer that proportion of
48 the tax credit acquired by the New Jersey S Corporation that is

1 equal to the taxpayer's share, whether or not distributed, of the total
2 pro rata share of S Corporation income of the New Jersey S
3 Corporation for its privilege period ending within or with the
4 taxpayer's taxable year.

5 A business entity that is not a gross income "taxpayer" as defined
6 and used in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
7 et seq., and therefore is not directly allowed a credit under this
8 section, but otherwise meets all the other requirements of this
9 section, shall be considered an eligible applicant and "taxpayer" as
10 that term is used in this section, and the application of an otherwise
11 allowed credit amount shall be distributed to appropriate gross
12 income taxpayers pursuant to the other requirements of this
13 subsection.

14 e. A taxpayer, with an application for a tax credit provided for
15 in subsection a. or subsection b. of this section, may apply to the
16 authority and the director for a tax credit transfer certificate in lieu
17 of the taxpayer being allowed any amount of the tax credit against
18 the tax liability of the taxpayer. The tax credit transfer certificate,
19 upon receipt thereof by the taxpayer from the authority and the
20 director, may be sold or assigned, in full or in part, to any other
21 taxpayer that may have a tax liability under the "New Jersey Gross
22 Income Tax Act," N.J.S.54A:1-1 et seq., or the "Corporation
23 Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), in
24 exchange for private financial assistance to be provided by the
25 purchaser or assignee to the taxpayer that has applied for and been
26 granted the tax credit. The tax credit transfer certificate provided to
27 the taxpayer shall include a statement waiving the taxpayer's right
28 to claim that amount of the tax credit against the tax imposed
29 pursuant to N.J.S.54A:1-1 et seq. that the taxpayer has elected to
30 sell or assign. The sale or assignment of any amount of a tax credit
31 transfer certificate allowed under this section shall not be
32 exchanged for consideration received by the taxpayer of less than
33 75 percent of the transferred tax credit amount. Any amount of a
34 tax credit transfer certificate used by a purchaser or assignee against
35 a tax liability under N.J.S.54A:1-1 et seq. shall be subject to the
36 same limitations and conditions that apply to the use of a tax credit
37 pursuant to subsections c. and d. of this section. Any amount of a
38 tax credit transfer certificate obtained by a purchaser or assignee
39 under subsection e. of this section may be applied against the
40 purchaser's or assignee's tax liability under P.L.1945, c.162
41 (C.54:10A-1 et seq.) and shall be subject to the same limitations
42 and conditions that apply to the use of a credit pursuant to
43 subsection c. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b).

44 f. (1) The value of tax credits, including tax credits allowed
45 through the granting of tax credit transfer certificates, approved by
46 the director and the authority pursuant to subsection a. of this
47 section and pursuant to subsection a. of section 1 of P.L.2018, c.56
48 (C.54:10A-5.39b) to taxpayers, other than New Jersey film partners

1 and New Jersey film-lease partners, shall not exceed a cumulative
2 total of \$100,000,000 in fiscal year 2019 and in each fiscal year
3 thereafter prior to fiscal year 2029 to apply against the tax imposed
4 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
5 et seq., and pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).
6 In addition to the \$100,000,000 limitation on the value of tax
7 credits approved by the director for New Jersey film-lease partners
8 and the \$100,000,000 limitation on the value of tax credits
9 approved by the director for other taxpayers imposed by this
10 paragraph, the value of tax credits, including tax credits allowed
11 through the granting of tax credit transfer certificates, approved by
12 the director and the authority pursuant to subsection a. of this
13 section and pursuant to subsection a. of section 2 of P.L.2018, c.56
14 (C.54A:4-12b) to New Jersey film partners shall not exceed a
15 cumulative total of \$100,000,000 in fiscal year 2021 and in each
16 fiscal year thereafter prior to fiscal year 2034 to apply against the
17 tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5)
18 and the tax imposed pursuant to the "New Jersey Gross Income Tax
19 Act," N.J.S.54A:1-1 et seq. In addition to the \$100,000,000
20 limitation on the value of tax credits approved by the director for
21 New Jersey film partners and the \$100,000,000 limitation on the
22 value of tax credits approved by the director for other taxpayers
23 imposed by this paragraph, the value of tax credits, including tax
24 credits allowed through the granting of tax credit transfer
25 certificates, approved by the director and the authority pursuant to
26 subsection a. of this section and pursuant to subsection a. of section
27 1 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey film-lease
28 partners shall not exceed a cumulative total of \$100,000,000 in
29 fiscal year 2021 and in each fiscal year thereafter prior to fiscal year
30 2034 to apply against the tax imposed pursuant to section 5 of
31 P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the
32 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

33 If the cumulative total amount of tax credits, and tax credit
34 transfer certificates, allowed to taxpayers for taxable years or
35 privilege periods commencing during a single fiscal year under
36 subsection a. of this section and subsection a. of section 1 of
37 P.L.2018, c.56 (C.54:10A-5.39b) exceeds the amount of tax credits
38 available in that fiscal year, then taxpayers who have first applied
39 for and have not been allowed a tax credit or tax credit transfer
40 certificate amount for that reason shall be allowed, in the order in
41 which they have submitted an application, the amount of tax credit
42 or tax credit transfer certificate on the first day of the next
43 succeeding fiscal year in which tax credits and tax credit transfer
44 certificates under subsection a. of this section and subsection a. of
45 section 1 of P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of
46 the amount of credits available.

47 Notwithstanding any provision of paragraph (1) of this
48 subsection to the contrary, for any fiscal year in which the amount

1 of tax credits approved pursuant to this paragraph is less than the
2 cumulative total amount of tax credits permitted to be approved in
3 that fiscal year, the authority shall certify the amount of the
4 remaining tax credits available for approval in that fiscal year, and
5 shall increase the cumulative total amount of tax credits permitted
6 to be approved in the subsequent fiscal year by the certified amount
7 remaining from the prior fiscal year. The authority shall also
8 certify, for each fiscal year, the amount of tax credits that were
9 previously approved, but that the taxpayer is not able to redeem or
10 transfer to another taxpayer under this section, and shall increase
11 the cumulative total amount of tax credits permitted to be approved
12 in the subsequent fiscal year by the amount of tax credits previously
13 approved, but not subject to redemption or transfer.

14 (2) The value of tax credits, including tax credits allowed
15 through the granting of tax credit transfer certificates, approved by
16 the authority and the director pursuant to subsection b. of this
17 section and pursuant to subsection b. of section 1 of P.L.2018, c.56
18 (C.54:10A-5.39b) shall not exceed a cumulative total of
19 \$10,000,000 in fiscal year 2019 through fiscal year 2021, and
20 \$30,000,000 in fiscal year 2022 and in each fiscal year thereafter
21 prior to fiscal year 2029, to apply against the tax imposed pursuant
22 to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.
23 and the tax imposed pursuant to section 5 of P.L.1945, c.162
24 (C.54:10A-5).

25 If the total amount of tax credits and tax credit transfer
26 certificates allowed to taxpayers for taxable years or privilege
27 periods commencing during a single fiscal year under subsection b.
28 of this section and subsection b. of section 1 of P.L.2018, c.56
29 (C.54:10A-5.39b) exceeds the amount of tax credits available in
30 that year, then taxpayers who have first applied for and have not
31 been allowed a tax credit or tax credit transfer certificate amount for
32 that reason shall be allowed, in the order in which they have
33 submitted an application, the amount of tax credit or tax credit
34 transfer certificate on the first day of the next succeeding fiscal year
35 in which tax credits and tax credit transfer certificates under
36 subsection b. of this section and subsection b. of section 1 of
37 P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of the amount of
38 credits available.

39 Notwithstanding any provision of this paragraph to the contrary,
40 for any fiscal year in which the amount of tax credits approved
41 pursuant to this paragraph is less than the cumulative total amount
42 of tax credits permitted to be approved in that fiscal year, the
43 authority shall certify the amount of the remaining tax credits
44 available for approval in that fiscal year, and shall increase the
45 cumulative total amount of tax credits permitted to be approved in
46 the subsequent fiscal year by the certified amount remaining from
47 the prior fiscal year. The authority shall also certify, for each fiscal
48 year, the amount of tax credits that were previously approved, but

1 that the taxpayer is not able to redeem or transfer to another
2 taxpayer under this section, and shall increase the cumulative total
3 amount of tax credits permitted to be approved in the subsequent
4 fiscal year by the amount of tax credits previously approved, but not
5 subject to redemption or transfer.

6 g. A taxpayer shall submit to the authority and the director a
7 report prepared by an independent certified public accountant
8 licensed in this State to verify the taxpayer's tax credit claim
9 following the completion of the production. The report shall be
10 prepared by the independent certified public accountant pursuant to
11 agreed upon procedures prescribed by the authority and the director,
12 and shall include such information and documentation as shall be
13 determined to be necessary by the authority and the director to
14 substantiate the qualified film production expenses or the qualified
15 digital media content production expenses of the taxpayer. A single
16 report with attachments deemed necessary by the authority shall be
17 submitted electronically. Upon receipt of the report, the authority
18 and the director shall review the findings of the independent
19 certified public accountant's report, and shall make a determination
20 as to the qualified film production expenses or the qualified digital
21 media content production expenses of the taxpayer. The
22 determination shall be provided in writing to the taxpayer, and a
23 copy of the written determination shall be included in the filing of a
24 return that includes a claim for a tax credit allowed pursuant to this
25 section.

26 h. A taxpayer shall withhold from each payment to a loan out
27 company or to an independent contractor an amount equal to 6.37
28 percent of the payment otherwise due. The amounts withheld shall
29 be deemed to be withholding of liability pursuant to the "New
30 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the
31 taxpayer shall be deemed to have the rights, duties, and
32 responsibilities of an employer pursuant to chapter 7 of Title 54A of
33 the New Jersey Statutes. The director shall allocate the amounts
34 withheld for a taxable year to the accounts of the individuals who
35 are employees of a loan out company in proportion to the
36 employee's payment by the loan out company in connection with a
37 trade, profession, or occupation carried on in this State or for the
38 rendition of personal services performed in this State during the
39 taxable year. A loan out company that reports its payments to
40 employees in connection with a trade, profession, or occupation
41 carried on in this State or for the rendition of personal services
42 performed in this State during a taxable year shall be relieved of its
43 duties and responsibilities as an employer pursuant to chapter 7 of
44 Title 54A of the New Jersey Statutes for the taxable year for any
45 payments relating to the payments on which the taxpayer withheld.

46 i. As used in this section:

47 "Authority" means the New Jersey Economic Development
48 Authority.

1 "Business assistance or incentive" means "business assistance or
2 incentive" as that term is defined pursuant to section 1 of P.L.2007,
3 c.101 (C.54:50-39).

4 "Commission" means the Motion Picture and Television
5 Development Commission.

6 "Digital media content" means any data or information that is
7 produced in digital form, including data or information created in
8 analog form but reformatted in digital form, text, graphics,
9 photographs, animation, sound, and video content. "Digital media
10 content" shall not mean content offerings generated by the end user
11 (including postings on electronic bulletin boards and chat rooms);
12 content offerings comprised primarily of local news, events,
13 weather or local market reports; public service content; electronic
14 commerce platforms (such as retail and wholesale websites);
15 websites or content offerings that contain obscene material as
16 defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or
17 content that are produced or maintained primarily for private,
18 industrial, corporate, or institutional purposes; or digital media
19 content acquired or licensed by the taxpayer for distribution or
20 incorporation into the taxpayer's digital media content.

21 "Film" means a feature film, a television series, or a television
22 show of 22 minutes or more in length, intended for a national
23 audience, or a television series or a television show of 22 minutes
24 or more in length intended for a national or regional audience,
25 including, but not limited to, a game show, award show, or other
26 gala event filmed and produced at a nonprofit arts and cultural
27 venue receiving State funding. "Film" shall not include a
28 production featuring news, current events, weather, and market
29 reports or public programming, talk show, sports event, or reality
30 show, a production that solicits funds, a production containing
31 obscene material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-
32 3, or a production primarily for private, industrial, corporate, or
33 institutional purposes. "Film" shall not include an award show or
34 other gala event that is not filmed and produced at a nonprofit arts
35 and cultural venue receiving State funding.

36 "Full-time or full-time equivalent employee" means an individual
37 employed by the taxpayer for consideration for at least 35 hours a
38 week, or who renders any other standard of service generally
39 accepted by custom or practice as full-time or full-time equivalent
40 employment, whose wages are subject to withholding as provided in
41 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or
42 who is a partner of a taxpayer, who works for the partnership for at
43 least 35 hours a week, or who renders any other standard of service
44 generally accepted by custom or practice as full-time or full-time
45 equivalent employment, and whose distributive share of income,
46 gain, loss, or deduction, or whose guaranteed payments, or any
47 combination thereof, is subject to the payment of estimated taxes, as
48 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1

1 et seq. "Full-time or full-time equivalent employee" shall not
2 include an individual who works as an independent contractor or on
3 a consulting basis for the taxpayer.

4 "Highly compensated individual" means an individual who
5 directly or indirectly receives compensation in excess of \$500,000
6 for the performance of services used directly in a production. An
7 individual receives compensation indirectly when the taxpayer pays
8 a loan out company that, in turn, pays the individual for the
9 performance of services.

10 "Independent contractor" means an individual treated as an
11 independent contractor for federal and State tax purposes who is
12 contracted with by the taxpayer for the performance of services
13 used directly in a production.

14 "Loan out company" means a personal service corporation or
15 other entity that is contracted with by the taxpayer to provide
16 specified individual personnel, such as artists, crew, actors,
17 producers, or directors for the performance of services used directly
18 in a production. "Loan out company" shall not include entities
19 contracted with by the taxpayer to provide goods or ancillary
20 contractor services such as catering, construction, trailers,
21 equipment, or transportation.

22 "New Jersey film partner" means a film production company that
23 has made a commitment to produce films or commercial
24 audiovisual products in New Jersey and has developed, purchased,
25 or executed a 10-year contract to lease a production facility of
26 250,000 square feet or more as a "transformative project" pursuant
27 to section 65 of P.L.2020, c.156 (C.34:1B-333). No more than five
28 film production companies may be designated as a New Jersey film
29 partner.

30 "New Jersey film-lease partner" means a taxpayer, including any
31 taxpayer that is a member of a combined group under P.L.2018,
32 c.131 (C:54:10A-4.11), that has made a commitment to lease or
33 acquire a New Jersey production facility with an aggregate square
34 footage of at least 50,000 square feet, which includes a sound stage
35 and production support space such as production offices or a
36 backlot, for a period of five or more successive years and commits
37 to spend, on a separate-entity basis or in the aggregate with other
38 members of the taxpayer's combined group, an annual average of
39 \$50,000,000 of qualified film production expenses over the period
40 of at least five but not to exceed 10 years.

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

43 "Post-production costs" means the costs of the phase of
44 production of a film that follows principal photography, in which
45 raw footage is cut and assembled into a finished film with sound
46 synchronization and visual effects.

47 "Pre-production costs" means the costs of the phase of
48 production of a film that precedes principal photography, in which a

1 detailed schedule and budget for the production is prepared, the
2 script and location is finalized, and contracts with vendors are
3 negotiated.

4 "Qualified digital media content production expenses" means an
5 expense incurred in New Jersey for the production of digital media
6 content. "Qualified digital media content production expenses"
7 shall include but not be limited to: wages and salaries of individuals
8 employed in the production of digital media content on which the
9 tax imposed by the "New Jersey Gross Income Tax Act,"
10 N.J.S.54A:1-1 et seq. has been paid or is due; and the costs of
11 computer software and hardware, data processing, visualization
12 technologies, sound synchronization, editing, and the rental of
13 facilities and equipment. Payment made to a loan out company or
14 to an independent contractor shall not be deemed a "qualified digital
15 media content production expense" unless the payment is made in
16 connection with a trade, profession, or occupation carried on in this
17 State or for the rendition of personal services performed in this
18 State and the taxpayer has made the withholding required pursuant
19 to subsection h. of this section. "Qualified digital media content
20 production expenses" shall not include expenses incurred in
21 marketing, promotion, or advertising digital media or other costs
22 not directly related to the production of digital media content.
23 Costs related to the acquisition or licensing of digital media content
24 by the taxpayer for distribution or incorporation into the taxpayer's
25 digital media content shall not be deemed "qualified digital media
26 content production expenses."

27 "Qualified film production expenses" means an expense incurred
28 in New Jersey for the production of a film including pre-production
29 costs and post-production costs incurred in New Jersey. "Qualified
30 film production expenses" shall include but not be limited to:
31 wages and salaries of individuals employed in the production of a
32 film on which the tax imposed by the "New Jersey Gross Income
33 Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; and the
34 costs for tangible personal property used, and services performed,
35 directly and exclusively in the production of a film, such as
36 expenditures for film production facilities, props, makeup,
37 wardrobe, film processing, camera, sound recording, set
38 construction, lighting, shooting, editing, and meals. Payment made
39 to a loan out company or to an independent contractor shall not be
40 deemed a "qualified film production expense" unless the payment is
41 made in connection with a trade, profession, or occupation carried
42 on in this State or for the rendition of personal services performed
43 in this State and the taxpayer has made the withholding required by
44 subsection h. of this section. "Qualified film production expenses"
45 shall not include: expenses incurred in marketing or advertising a
46 film; and payment in excess of \$500,000 to a highly compensated
47 individual for costs for a story, script, or scenario used in the
48 production of a film and wages or salaries or other compensation

1 for writers, directors, including music directors, producers, and
2 performers, other than background actors with no scripted lines,
3 except as follows:

4 (1) for a New Jersey film partner that incurs more than
5 \$15,000,000, but less than \$50,000,000, in qualified film production
6 expenses in the State, an amount, not to exceed \$15,000,000, of the
7 wages or salaries or other compensation for writers, directors,
8 including music directors, producers, and performers, other than
9 background actors with no scripted lines, shall constitute qualified
10 film production expenses;

11 (2) for a New Jersey film partner that incurs \$50,000,000 or
12 more, but less than \$100,000,000, in qualified film production
13 expenses in the State, an amount, not to exceed \$25,000,000, of the
14 wages or salaries or other compensation for writers, directors,
15 including music directors, producers, and performers, other than
16 background actors with no scripted lines, shall constitute qualified
17 film production expenses;

18 (3) for a New Jersey film partner that incurs \$100,000,000 or
19 more, but less than \$150,000,000, in qualified film production
20 expenses in the State, an amount, not to exceed \$40,000,000, of the
21 wages or salaries or other compensation for writers, directors,
22 including music directors, producers, and performers, other than
23 background actors with no scripted lines, shall constitute qualified
24 film production expenses; **[and]**

25 (4) for a New Jersey film partner that incurs \$150,000,000 or
26 more in qualified film production expenses in the State, an amount,
27 not to exceed \$60,000,000, of the wages or salaries or other
28 compensation for writers, directors, including music directors,
29 producers, and performers, other than background actors with no
30 scripted lines, shall constitute qualified film production expenses;
31 and

32 (5) for a New Jersey film-lease partner, an amount, not to
33 exceed \$15,000,000 annually, of the payments in excess of
34 \$500,000 to highly compensated individuals for costs for a story,
35 script, or scenario used in the production of a film and for the wages
36 or salaries or other compensation for writers, directors, including
37 music directors, producers, and performers, other than background
38 actors with no scripted lines, shall constitute qualified film
39 production expenses.

40 "Total digital media content production expenses" means costs
41 for services performed and property used or consumed in the
42 production of digital media content.

43 "Total film production expenses" means costs for services
44 performed and tangible personal property used or consumed in the
45 production of a film.

46 (cf: P.L.2020, c.156, s.111)

1 65. Section 9 of P.L.1985, c.334 (C.58:11B-9) is amended to
2 read as follows:

3 9. a. (1) The trust may make and contract to make loans to
4 local government units, or to a local government unit on behalf of
5 another local government unit, in accordance with and subject to the
6 provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997,
7 c.224 (C.58:11B-10.1 et al.) to finance the cost of any wastewater
8 treatment system project or water supply project, which the local
9 government unit may lawfully undertake or acquire and for which
10 the local government unit is authorized by law to borrow money.

11 (2) The trust may make and contract to make loans to public
12 water utilities, or to any other person or local government unit on
13 behalf of a public water utility, in accordance with and subject to
14 the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) or P.L.1997,
15 c.224 (C.58:11B-10.1 et al.) to finance the cost of any water supply
16 project, which the public water utility may lawfully undertake or
17 acquire.

18 (3) The trust may make and contract to make loans to private
19 persons other than local government units, or to any other person or
20 local government unit on behalf of a private person, in accordance
21 with and subject to the provisions of P.L.1985, c.334 (C.58:11B-1
22 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to finance the cost
23 of stormwater management systems.

24 (4) The trust may make and contract to make loans and provide
25 other assistance to a local government unit or consortia thereof to
26 finance the cost of transportation projects pursuant to sections 22
27 and 34 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through
28 C.58:11B-10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-
29 22.4), and provided that the federally-funded subaccount is operated
30 in accordance with the provisions of the federal infrastructure bank
31 program.

32 The loans may be made subject to those terms and conditions as
33 the trust shall determine to be consistent with the purposes thereof.
34 Each loan by the trust and the terms and conditions thereof shall be
35 subject to approval by the State Treasurer, and the trust shall make
36 available to the State Treasurer all information, statistical data and
37 reports of independent consultants or experts as the State Treasurer
38 shall deem necessary in order to evaluate the loan. Each loan to a
39 local government unit, public water utility or any other person shall
40 be evidenced by notes, bonds or other obligations thereof issued to
41 the trust. In the case of each local government unit, notes and
42 bonds to be issued to the trust and, if applicable, the State, acting by
43 and through the Department of Environmental Protection, by the
44 local government unit (1) shall be authorized and issued as provided
45 by law for the issuance of notes and bonds by the local government
46 unit, (2) notwithstanding any provisions of the "Local Authorities
47 Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.) to the
48 contrary, shall be approved by the Director of the Division of Local

1 Government Services in the Department of Community Affairs, and
2 (3) notwithstanding the provisions of N.J.S.40A:2-27, N.J.S.40A:2-
3 28 and N.J.S.40A:2-29 or any other provisions of law to the
4 contrary, may be sold at private sale to the trust or the State, as the
5 case may be, at any price, whether or not less than par value, and
6 shall be subject to redemption prior to maturity at any times and at
7 any prices as the trust or the State, as the case may be, and local
8 government units may agree. Each loan to a local government unit,
9 public water utility or any other person and the notes, bonds or
10 other obligations thereby issued shall bear interest at a rate or rates
11 per annum as the trust or the State, as the case may be, and the local
12 government unit, public water utility or any other person, as the
13 case may be, may agree.

14 b. The trust is authorized to guarantee or contract to guarantee
15 the payment of all or any portion of the principal and interest on
16 bonds, notes or other obligations issued by a local government unit
17 to finance the cost of any wastewater treatment system project,
18 water supply project, **【or】** transportation project, or redevelopment
19 project that includes, as a portion thereof, any wastewater treatment
20 system project, water supply project, or transportation project,
21 which the local government unit may lawfully undertake or acquire
22 and for which the local government unit is authorized by law to
23 borrow money, and the guarantee shall constitute an obligation of
24 the trust, and shall be in furtherance of the corporate purposes of the
25 trust, for the purposes of P.L.1985, c.334 (C.58:11B-1 et seq.),
26 P.L.1997, c.224 (C.58:11B-10.1 et al.), or sections 22 and 34
27 through 38 of P.L.2016, c.56 (C.58:11B-10.3 through C.58:11B-
28 10.5, C.58:11B-20.2, C.58:11B-22.3, and C.58:11B-22.4). Each
29 guarantee by the trust and the terms and conditions thereof shall be
30 subject to approval by the State Treasurer, and the trust shall make
31 available to the State Treasurer all information, statistical data and
32 reports of independent consultants or experts as the State Treasurer
33 shall deem necessary in order to evaluate the guarantee.

34 c. The trust shall not make or contract to make any loans or
35 guarantees to local government units, public water utilities or any
36 other person, or otherwise incur any additional indebtedness, on or
37 after June 30, 2033.

38 d. Notwithstanding any provision of P.L.1985, c.334
39 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to
40 the contrary, the trust may receive funds from any source including,
41 without limitation, any funds drawn by the trust from a revolving
42 line of credit or other similar financial vehicle that may be procured
43 by the trust, either through a competitive or negotiated process,
44 pursuant to section 5 of P.L.1985, c.334 (C.58:11B-5), for deposit
45 into the Interim Environmental Financing Program Fund or the trust
46 may issue its bonds, notes or other obligations, including
47 commercial paper issued through a competitive or negotiated
48 process, in any principal amounts, in either case, as in the judgment

1 of the trust shall be necessary to provide sufficient funds to finance
2 or refinance short-term or temporary loans to local government
3 units, public water utilities or private persons for any wastewater
4 treatment system projects included on the Department of
5 Environmental Protection project priority list and eligible for
6 approval pursuant to section 20 of P.L.1985, c.334 (C.58:11B-20)
7 or water supply projects included on the Department of
8 Environmental Protection project priority list and eligible for
9 approval pursuant to section 24 of P.L.1997, c.224 (C.58:11B-20.1),
10 as applicable, without regard to any other provisions of P.L.1985,
11 c.334 (C.58:11B-1 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et
12 al.), including, without limitation, any administrative or legislative
13 approvals.

14 The trust shall create and establish a special fund to be known as
15 the "Interim Environmental Financing Program Fund" for the short-
16 term or temporary loan financing or refinancing program to be
17 known as the "Interim Environmental Financing Program." The
18 monies in the fund shall be used for short-term or temporary loans
19 for clean water and drinking water projects pursuant to the New
20 Jersey Environmental Infrastructure Financing Program.

21 Except as provided in section 1 of P.L.2013, c.93 (C.58:11B-
22 9.5), any short-term or temporary loans made by the trust pursuant
23 to this subsection may only be made in advance of the anticipated
24 loans the trust may make and contract to make under the provisions
25 of subsection a. of this section from any source of funds anticipated
26 to be received by the trust. Any such short-term or temporary loan
27 made pursuant to the Interim Environmental Financing Program
28 shall mature no later than the last day of the third succeeding fiscal
29 year following the closing date on which the short-term or
30 temporary loan was made by the trust to the project sponsor; except
31 a planning, design, and construction loan shall mature no later than
32 the last day of the fifth succeeding fiscal year following the closing
33 date of the planning, design, and construction loan or the last day of
34 the third succeeding fiscal year following the date of construction
35 certification following the closing date of the planning, design, and
36 construction loan, whichever is sooner, provided that, in either case,
37 project planning or engineering design activities shall not exceed
38 two years from the closing date of the planning, design, and
39 construction loan; and except a short-term or temporary loan made
40 pursuant to this subsection for environmental planning and
41 engineering design costs associated with long-term control plans for
42 combined sewer overflow projects shall mature no later than the last
43 day of the 10th succeeding fiscal year following the closing date on
44 which the short-term or temporary loan was made by the trust to the
45 project sponsor. With respect to any short-term or temporary loan
46 or planning, design, and construction loan made by the trust
47 pursuant to this subsection, the trust may authorize one short-term
48 supplemental loan for residual project expenses thereof upon receipt

1 by the trust from the Department of Environmental Protection of a
2 certification that states that the time required by the project sponsor
3 to complete construction of the project exceeds the maximum
4 maturity date of the project sponsor's outstanding short-term or
5 temporary loan or planning, design, and construction loan. Any
6 such short-term supplemental loan shall not exceed in duration the
7 last day of the third succeeding fiscal year following the loan
8 closing of the supplemental loan. The trust may make short-term or
9 temporary loans pursuant to the Interim Environmental Financing
10 Program to any one or more of the project sponsors, for the
11 respective projects thereof, identified in the interim financing
12 project priority list to be known as the "Interim Environmental
13 Financing Program Project Priority List" in the form provided to the
14 Legislature by the Commissioner of Environmental Protection.

15 The Interim Environmental Financing Program Project Priority
16 List, including any revision thereof or supplement thereto, shall be
17 submitted to the Legislature pursuant to section 2 of P.L.1991,
18 c.164 (C.52:14-19.1) at least once in each fiscal year as provided in
19 section 20 of P.L.1985, c.334 (C.58:11B-20) and section 24 of
20 P.L.1997, c.224 (C.58:11B-20.1). The Secretary and the Clerk shall
21 cause the date of submission to be entered upon the Senate Journal
22 and the Minutes of the General Assembly, respectively. The trust
23 may revise or supplement the Interim Environmental Financing
24 Program Project Priority List no more than four times during the
25 fiscal year and shall submit the revised list to the Legislature when
26 the revisions are made. Any environmental infrastructure project or
27 the project sponsor thereof not identified in the Interim
28 Environmental Financing Program Project Priority List shall not be
29 eligible for a short-term or temporary loan from the Interim
30 Environmental Financing Program Fund. The trust may issue short-
31 term or temporary loans pursuant to this subsection only if a project
32 is listed on an Interim Environmental Financing Program Project
33 Priority List that has been submitted to the Legislature. No funds
34 may be disbursed pursuant to this section for project activities prior
35 to a determination and certification, in writing, from the
36 Department of Environmental Protection, that the project activities
37 satisfy the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.).

38 e. Notwithstanding any provisions of the "Local Bond Law"
39 (N.J.S.40A:2-1 et seq.), the "sewerage authorities law," P.L.1946,
40 c.138 (C.40:14A-1 et seq.), or the "municipal and county utilities
41 authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.) to the
42 contrary, short-term or temporary loans made by the trust pursuant
43 to section 9 of P.L.1985, c.334 (C.58:11B-9) or section 1 of
44 P.L.2013, c.93 (C.58:11B-9.5), and the obligations issued by project
45 sponsors to evidence such loans, may, at the discretion of the trust
46 and upon application by the project sponsor, bear interest at a
47 variable rate determined pursuant to a methodology as may be
48 established by the trust from time to time.

1 Further, notwithstanding any provisions of the "Local Bond
2 Law" (N.J.S.40A:2-1 et seq.), the "sewerage authorities law,"
3 P.L.1946, c.138 (C.40:14A-1 et seq.), or the "municipal and county
4 utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.) to
5 the contrary, any short-term or temporary loans made by the trust
6 pursuant to section 9 of P.L.1985, c.334 (C.58:11B-9) or section 1
7 of P.L.2013, c.93 (C.58:11B-9.5), and any notes or other
8 obligations issued by project sponsors to evidence such short-term
9 or temporary loans, as such loans, notes, or other obligations may
10 be refinanced or extended, as provided in subsections d. and g. of
11 this section and section 1 of P.L.2013, c.93 (C.58:11B-9.5), except
12 for loans for environmental planning and engineering design costs
13 associated with long-term control plans for combined sewer
14 overflow projects as provided in subsection d. of this section, shall
15 mature no later than the maturity date as established pursuant to
16 subsections d. and g. of this section and section 1 of P.L.2013, c.93
17 (C.58:11B-9.5), without payment by project sponsors of any portion
18 of the principal thereof prior to maturity.

19 f. Any balances remaining in the Emergency Loan Fund
20 established pursuant to section 4 of P.L.2007, c.138 (C.58:11B-9.1),
21 the Planning and Design Fund established pursuant to section 1 of
22 P.L.2009, c.59 (C.58:11B-9.2), the Onsite Wastewater Disposal
23 Loan Fund established pursuant to section 5 of P.L.2009, c.103
24 (C.58:11B-9.3), the Supplemental Loan Fund established pursuant
25 to section 2 of P.L.2011, c.94 (C.58:11B-9.4), and the Equipment
26 Loan Fund established pursuant to section 1 of P.L.2014, c.28
27 (C.58:11B-9.6) after the date of enactment of P.L.2016, c.30 shall
28 be transferred to the Interim Environmental Financing Program
29 Fund, and any loan repayments to the trust of principal and interest
30 or premium on loans made from those funds shall be credited to the
31 Interim Environmental Financing Program Fund.

32 g. The trust shall create and establish a special fund to be
33 known as the "Interim Transportation Financing Program Fund" for
34 the short-term or temporary loan financing or refinancing program
35 to be known as the "Interim Transportation Financing Program."

36 Notwithstanding any provision of P.L.1985, c.334 (C.58:11B-1
37 et seq.) or P.L.1997, c.224 (C.58:11B-10.1 et al.) to the contrary,
38 the trust may receive funds from any source including, without
39 limitation, any funds drawn by the trust from a revolving line of
40 credit or other similar financial vehicle that may be procured by the
41 trust, either through a competitive or negotiated process, pursuant to
42 section 5 of P.L.1985, c.334 (C.58:11B-5), for deposit into the
43 Interim Transportation Financing Program Fund or the trust may
44 issue its bonds, notes or other obligations in any principal amounts,
45 in either case, as in the judgment of the trust shall be necessary to
46 provide sufficient funds to finance or refinance short-term or
47 temporary loans to local government units or private persons for
48 any transportation project included on the Department of

1 Transportation Interim Transportation Financing Program Project
2 Priority List for the ensuing fiscal year and eligible for approval
3 pursuant to sections 22 and 34 through 38 of P.L.2016, c.56
4 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-
5 22.3, and C.58:11B-22.4), without regard to any other provisions of
6 P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-
7 10.1 et al.), or sections 22 and 34 through 38 of P.L.2016, c.56
8 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-
9 22.3, and C.58:11B-22.4), including, without limitation, any
10 administrative or legislative approvals.

11 Any short-term or temporary loans made by the trust pursuant to
12 this subsection may only be made in advance of the anticipated
13 loans the trust may make and contract to make under the provisions
14 of subsection a. of this section from any source of funds anticipated
15 to be received by the trust. Any such short-term or temporary loan
16 made pursuant to the Interim Transportation Financing Program
17 shall mature no later than the last day of the third succeeding fiscal
18 year following the closing date on which the short-term or
19 temporary loan was made by the trust to the project sponsor; except
20 a planning, design, and construction loan shall mature no later than
21 the last day of the fifth succeeding fiscal year following the closing
22 date of the planning, design, and construction loan or the last day of
23 the third succeeding fiscal year following the date of construction
24 certification following the closing date of the planning, design, and
25 construction loan, whichever is sooner, provided that, in either case,
26 project planning or engineering design activities shall not exceed
27 two years from the closing date of the planning, design, and
28 construction loan. With respect to any short-term or temporary loan
29 or planning, design, and construction loan made by the trust
30 pursuant to this subsection, the trust may authorize one short-term
31 supplemental loan for residual expenses thereof upon receipt by the
32 trust from the Department of Transportation of a certification that
33 states that the time required by the project sponsor to complete
34 construction of the project exceeds the maximum maturity date of
35 the short-term or temporary loan or planning, design, and
36 construction loan. Any such short-term supplemental loan shall not
37 exceed in duration the last day of the third succeeding fiscal year
38 following the loan closing of the short-term supplemental loan. The
39 trust may make short-term or temporary loans pursuant to the
40 Interim Transportation Financing Program to any one or more of the
41 project sponsors, for the respective projects thereof, only if a
42 project is identified in the Department of Transportation Interim
43 Transportation Financing Program Project Priority List to be known
44 as the "Interim Transportation Financing Program Project Priority
45 List" in the form provided to the Legislature by the Commissioner
46 of Transportation.

47 The Interim Transportation Financing Program Project Priority
48 List, including any revision thereof or supplement thereto, shall be

1 submitted to the Secretary of the Senate and the Clerk of the
2 General Assembly on or before July 1 of each year. The Interim
3 Transportation Financing Program Project Priority List shall be
4 submitted to the Legislature pursuant to section 2 of P.L.1991,
5 c.164 (C.52:14-19.1) at least once in each fiscal year. The
6 Secretary and the Clerk shall cause the date of submission to be
7 entered upon the Senate Journal and the Minutes of the General
8 Assembly, respectively. Any transportation infrastructure project or
9 the project sponsor thereof not identified in the Interim
10 Transportation Financing Program Project Priority List shall not be
11 eligible for a short-term or temporary loan from the Interim
12 Transportation Financing Program Fund. The trust may revise or
13 supplement the Interim Transportation Financing Program Project
14 Priority List no more than four times during the fiscal year, and
15 shall submit the revised list to the Legislature when the revisions
16 are made.

17 No funds may be disbursed pursuant to this subsection for
18 project activities prior to written notification of award concurrence
19 from the Department of Transportation and certification in writing,
20 from the trust, that the project activities satisfy the provisions of
21 P.L.1985, c.334 (C.58:11B-1 et seq.), P.L.1997, c.224 (C.58:11B-
22 10.1 et al.), or sections 22 and 34 through 38 of P.L.2016, c.56
23 (C.58:11B-10.3 through C.58:11B-10.5, C.58:11B-20.2, C.58:11B-
24 22.3, and C.58:11B-22.4).
25 (cf: P.L.2019, c.516, s.2)
26

27 66. (New section) a. Notwithstanding any provision of the
28 “Grow New Jersey Assistance Act,” P.L.2011, c.149 (C.34:1B-242
29 et seq.) to the contrary, beginning on the effective date of P.L. ,
30 c. (C.) (pending before the Legislature as this bill), a
31 business shall provide and adhere to a plan that demonstrates that
32 the qualified business facility is capable of accommodating more
33 than half of the business's new and retained full-time employees as
34 approved and shall certify, under the penalty of perjury, that not
35 less than 80 percent of the withholdings of new and retained full-
36 time jobs are subject to the “New Jersey Gross Income Tax Act,”
37 N.J.S.54A:1-1 et seq., provided that withholdings for an employee
38 that works in New Jersey but resides in a state with which New
39 Jersey has a reciprocal income tax agreement under N.J.S.54A:9-17
40 shall count towards meeting the requirements of this section.

41 b. The requirements set forth in this section may be modified
42 by the authority to respond to an emergency, disaster, or other
43 factors that result in employees of an eligible business having to
44 work from a location other than the qualified business facility.
45

46 67. (New section) a. Notwithstanding any provision of the
47 “Urban Transit Hub Tax Credit Act,” P.L.2007, c.346 (C.34:1B-207
48 et seq.) to the contrary, beginning on the effective date of P.L. ,

1 c. (C.) (pending before the Legislature as this bill), a
2 business shall provide and adhere to a plan that demonstrates that
3 the qualified business facility is capable of accommodating more
4 than half of the business's new and retained full-time employees as
5 approved and shall certify, under the penalty of perjury, that not
6 less than 80 percent of the withholdings of new and retained full-
7 time jobs are subject to the "New Jersey Gross Income Tax Act,"
8 N.J.S.54A:1-1 et seq., provided that withholdings for an employee
9 that works in New Jersey but resides in a state with which New
10 Jersey has a reciprocal income tax agreement under N.J.S.54A:9-17
11 shall count towards meeting the requirements of this section.

12 b. The requirements set forth in this section may be modified
13 by the authority to respond to an emergency, disaster, or other
14 factors that result in employees of an eligible business having to
15 work from a location other than the qualified business facility.
16

17 68. (New section) a. Notwithstanding any provision of the
18 "Business Employment Incentive Program Act," P.L.1996, c.26
19 (C.34:1B-124 et al.) to the contrary, beginning on the effective date
20 of P.L. , c. (C.) (pending before the Legislature as this
21 bill), a business shall provide and adhere to a plan that demonstrates
22 that the business is capable of accommodating more than half of the
23 business's new and retained full-time employees as approved and
24 shall certify, under the penalty of perjury, that not less than 80
25 percent of the withholdings of new and retained full-time jobs are
26 subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
27 et seq., provided that withholdings for an employee that works in
28 New Jersey but resides in a state with which New Jersey has a
29 reciprocal income tax agreement under N.J.S.54A:9-17 shall count
30 towards meeting the requirements of this section.

31 b. The requirements set forth in this section may be modified
32 by the authority to respond to an emergency, disaster, or other
33 factors that result in employees of an eligible business having to
34 work from an alternative facility.
35

36 69. (New section) Sections 69 through 75 of P.L. , c.
37 (C.) (pending before the Legislature as this bill) shall be
38 known and may be cited as the "Emerging Technology Catalyst
39 Program."
40

41 70. (New section) The Legislature finds and declares that:

42 a. High-growth start-up technology companies are critical to
43 developing urban areas into vibrant economies that thrive on
44 innovation and entrepreneurship.

45 b. New Jersey should catalyze the transformation of specified
46 urban areas by attracting emerging technology businesses to create
47 high-quality jobs and a sustainable knowledge-based economy

1 through the establishment of an Emerging Technology Catalyst
2 Program.

3 c. The goal of the Emerging Technology Catalyst Program is to
4 attract high-growth emerging technology businesses to urban areas,
5 called urban technology zones, through financial incentives for their
6 use of a cloud-based capacity-building technology service, which is
7 a computing service that allows a user to retrieve stored information
8 and resources from the Internet through web-based tools and
9 applications rather than through a direct connection to a server.

10 d. The creation of urban technology zones comprised of high-
11 bandwidth emerging technology businesses that rely on cloud
12 computing services will accelerate the transformation of these urban
13 areas and reconnect them to the larger economy.

14 e. The New Jersey Economic Development Authority, through
15 the Emerging Technology Catalyst Program, shall seek to
16 consolidate public and private economic development efforts
17 through various funding sources into one targeted program to attract
18 high-growth emerging technology businesses.

19

20 71. (New section) As used in sections 69 through 75 of P.L. ,
21 c. (C.) (pending before the Legislature as this bill):

22 “Authority” means the New Jersey Economic Development
23 Authority established pursuant to section 4 of P.L.1974, c.80
24 (C.34:1B-4).

25 "Chief executive officer" means the Chief Executive Officer of
26 the New Jersey Economic Development Authority.

27 “Cloud computing service” means a service that enables on-
28 demand self-service network access to a shared pool of configurable
29 computer resources to provide user-based productivity applications,
30 including, but not limited to, data storage, analytics, electronic
31 commerce, streaming services, mobile services, electronic mail, and
32 document sharing and editing, which can be rapidly provided and
33 released with minimal management effort or cloud computing
34 service provider interaction.

35 "Director" means the Director of the Division of Taxation in the
36 Department of the Treasury.

37 “Emerging technology business” or “business” means a
38 corporation, partnership, or limited liability company, that is
39 engaged in the design, development, and introduction of new
40 technology, including, but not limited to, biotechnology,
41 information technology, technology manufacturing, advanced
42 materials, processing engineering or electronic technology products,
43 or innovative manufacturing processes.

44 “Full-time employee” means a person (1) who is employed for
45 consideration for at least 35 hours a week, or who renders any other
46 standard of service generally accepted by custom or practice as full-
47 time employment, whose wages are subject to withholding as
48 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1

1 et seq., and who is determined by the authority to be employed in a
2 permanent position according to criteria it develops; or (2) who is a
3 partner of an emerging technology business, and who works for the
4 partnership for at least 35 hours a week or who renders any other
5 standard of service generally accepted by custom or practice as full-
6 time employment, and whose distributive share of income, gain,
7 loss, or deduction, or whose guaranteed payments, or any
8 combination thereof, is subject to the payment of estimated taxes, as
9 provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
10 et seq. "Full-time employee" shall not include any person who
11 works as an independent contractor or on a consulting basis for the
12 business, except that any person working as an independent
13 contractor or contract worker whose income is subject to
14 withholding as provided in the "New Jersey Gross Income Tax
15 Act," N.J.S.54A:1-1 et seq., for the business shall be deemed a full-
16 time employee if the business demonstrates to the authority that: (1)
17 the person working as an independent contractor for the business
18 works at least 35 hours per week or renders any other standard
19 service generally accepted by custom or practice as full-time
20 employment, and the person is provided with employee health
21 benefits under a health benefits plan authorized pursuant to State or
22 federal law; and (2) the business provides documentation to the
23 authority to permit the authority to verify the compensation paid to,
24 and the time worked by, the person working as an independent
25 contractor. The business shall provide to the authority an annual
26 report that identifies the number of persons working as independent
27 contractors for the business and their contractual or partnering
28 relationship with the business.

29 "Headquarters" means the single location that serves as the
30 national administrative center of a business, at which the primary
31 office of the chief executive officer or chief operating officer of the
32 business, as well as the offices of the management officials
33 responsible for key business-wide functions such as finance, legal,
34 marketing, and human resources, are located.

35 "Information technology" means software publishing, digital
36 media production, telecommunications, data processing, hosting
37 and related services, custom computer programming services,
38 computer system design, computer facilities management services,
39 other computer-related services, and computer training.

40 "Program" means the Emerging Technology Catalyst Program,
41 established pursuant to section 72 of P.L. , c. (C.) (pending
42 before the Legislature as this bill).

43 "Urban technology zone" means: a city of the first class in which
44 there is located a terminal of an international airport; a municipality
45 that is the State capital; a city that qualifies under the "Municipal
46 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
47 (C.52:27BBB-1 et al.); and a city of the second class, having a
48 population greater than 54,000 people but less than 59,000 people

1 according to the latest federal decennial census, in a county of the
2 second class having a population greater than 808,000 people but
3 less than 818,000 people according to the latest federal decennial
4 census.

5
6 72. (New section) a. There is established an “Emerging
7 Technology Catalyst Program” within the authority for the purpose
8 of awarding tax credits to qualifying emerging technology
9 businesses to cover the cost of using cloud computing services in
10 order to encourage the businesses to locate in an urban technology
11 zone, facilitating economic growth and job creation in New Jersey’s
12 urban areas. The award of a tax credits to a qualifying business
13 shall be limited to the amount of the cost of cloud computing
14 services and shall be applied to cover the cost of those services.

15 b. The chief executive officer shall approve for tax credit
16 eligibility an emerging technology business that:

17 (1) is located in an urban technology zone;

18 (2) commits to maintaining its United States headquarters in an
19 urban technology zone for the duration of the tax credit award term
20 of two years and at least three additional years;

21 (3) employs 100 or fewer full-time employees at the time of
22 application; and

23 (4) has experienced a net increase of 20 percent in full-time
24 employees during the twelve-month period preceding the
25 application.

26 c. An emerging technology business seeking to participate in
27 the program shall submit an application in a form determined by the
28 chief executive officer. The application shall include information
29 that the chief executive officer determines is necessary to
30 administer the program. All applications shall be submitted prior to
31 June 30, 2023 and shall be reviewed by the authority by December
32 31, 2023.

33 d. The chief executive officer shall award tax credits upon the
34 submission of proof by an emerging technology business that the
35 business has fulfilled the eligibility requirements pursuant to
36 subsection b. of this section and any other requirements determined
37 by the authority. The submission of proof shall be subject to review
38 and audit by the authority in consultation with the Department of
39 Labor and Workforce Development.

40 e. The value of tax credit awarded under the program to a
41 single emerging technology business shall be no more than
42 \$500,000 per year, and a single emerging technology business shall
43 not receive more than \$1,000,000 in tax credits pursuant to this
44 section over the duration of the program. The cumulative sum of
45 tax credits awarded under the program shall not exceed \$80,000,000
46 per year, with not more than \$20,000,000 awarded to businesses in
47 each urban technology zone per year. The authority may award tax
48 credits under the program for no more than three years.

1 f. The chief executive officer shall release tax credits to
2 emerging technology businesses annually upon each business's
3 submission of proof of payment for cloud computing services and
4 usage reports for the relevant twelve-month period, submission of
5 proof that the business has continued to experience a net increase of
6 20 percent in full-time employment or an increase of 20 percent in
7 annual gross revenue during the preceding twelve months, and any
8 other requirements determined by the authority. The submission of
9 proof shall be subject to review and audit by the authority in
10 consultation with the Department of Labor and Workforce
11 Development.

12 g. The authority shall develop a marketing program in
13 conjunction with local officials from each urban technology zone to
14 promote and attract emerging technology businesses to the urban
15 technology zones.

16 h. The authority shall engage with providers of cloud
17 computing services to ensure that the maximum amount of credits
18 and discounts for cloud computing services are being provided to
19 emerging technology businesses located in urban technology zones
20 in addition to tax credits awarded under the program.

21
22 73. (New section) a. Upon receipt and review by the authority
23 of each of the documents required under section 72 of P.L. , c.
24 (C.) (pending before the Legislature as this bill), the authority
25 shall provide to the emerging technology business and the director a
26 certificate of compliance indicating the amount of tax credits that
27 the emerging technology business may apply against the business's
28 tax liability.

29 b. Upon receipt by the director of the certificate of compliance,
30 the director shall allow the emerging technology business a tax
31 credit. The emerging technology business may apply the credit
32 allowed by the director against the business's tax liability for the
33 tax period in which the director allowed the tax credit or may carry
34 forward the credit, if necessary, for use by the business up to the
35 next three successive tax periods, which credit shall expire
36 thereafter.

37 c. (1) The amount of credit allowed may be applied against the
38 tax liability otherwise due pursuant to the "New Jersey Gross
39 Income Tax Act," N.J.S.54A-1-1 et seq., section 5 of P.L.1945,
40 c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-
41 2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or
42 N.J.S.17B:23-5.

43 (2) (a) Credits allowed to a partnership shall be passed through
44 to the partners, members, or owners, respectively, pro-rata, or
45 pursuant to an executed agreement among the partners, members, or
46 owners documenting an alternate distribution method provided to
47 the director accompanied by any additional information as the
48 director may prescribe.

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

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

15 d. The director shall prescribe the order of priority of the
16 application of the credit allowed under this section and any other
17 credits allowed by law against the tax imposed under the "New
18 Jersey Gross Income Tax Act," N.J.S.54A-1-1 et seq., section 5 of
19 P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132
20 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231
21 (C.17:32-15), or N.J.S.17B:23-5. The amount of a credit applied
22 under this section against the tax imposed pursuant to section 5 of
23 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with
24 any other credits allowed by law, shall not reduce the tax liability to
25 an amount less than the statutory minimum provided in subsection
26 (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

27 e. In lieu of applying any credit certificate or credit transfer
28 certificate against tax liability otherwise due pursuant to the "New
29 Jersey Gross Income Tax Act," N.J.S.54A-1-1 et seq., section 5 of
30 P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132
31 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231
32 (C.17:32-15), or N.J.S.17B:23-5, the credit certificate or credit
33 transfer certificate may be surrendered to the Division of Taxation
34 in the Department of the Treasury for a cash payment equal to 90
35 percent of the amount of tax credits evidenced by the certificate,
36 provided that the issuance date of the credit certificate or credit
37 transfer certificate to the taxpayer surrendering such certificate
38 occurred at least two years prior to the date of surrender.

39
40 74. (New section) a. An emerging technology business may
41 apply to the director and the chief executive officer of the authority
42 for a tax credit transfer certificate, within three years of the tax
43 period in which the director allows the emerging technology
44 business a tax credit, in lieu of any amount of the tax credit against
45 the business's State tax liability. The tax credit transfer certificate,
46 upon receipt thereof by the emerging technology business from the
47 director and the chief executive officer of the authority, may be sold
48 or assigned, in an amount not less than \$25,000, within three years

1 of the tax period in which the emerging technology business
2 receives the tax credit transfer certificate from the director, to
3 another person that may have a tax liability pursuant to the “New
4 Jersey Gross Income Tax Act,” N.J.S.54A-1-1 et seq., section 5 of
5 P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132
6 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-
7 15), or N.J.S.17B:23-5. A purchaser or assignee of a tax credit
8 transfer certificate pursuant to this section shall apply the
9 transferred credit against the same tax for which the emerging
10 technology business was approved a tax credit under the program.
11 The tax credit transfer certificate provided to the emerging
12 technology business shall include a statement waiving the
13 business’s right to claim the credit that the business has elected to
14 sell or assign.

15 b. (1) The emerging technology business shall not sell or assign
16 a tax credit transfer certificate allowed under this section for
17 consideration received by the business of less than 90 percent of the
18 transferred credit amount before considering any further
19 discounting to present value which shall be permitted. The tax
20 credit transfer certificate issued to the emerging technology
21 business by the director shall be subject to any limitations and
22 conditions imposed on the application of State tax credits pursuant
23 to sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.)
24 and any other terms and conditions that the director may prescribe.

25 (2) With respect to credits to be sold or assigned, in full or in
26 part, pursuant to an application to the authority for a tax credit
27 transfer certificate by a business to a person subject to tax liability
28 due pursuant to sections 2 or 3 of P.L.1945, c.132 (C.54:18A-2 or
29 C.54:18A-3), the person shall be allowed to apply the credits
30 against the person’s tax liability without the provision of a tax
31 credit certificate to the Division of Taxation in the Department of
32 the Treasury for the tax period accompanying its tax return, and the
33 person be considered a tax credit transferee and be subject to
34 paragraph (3) of this subsection.

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

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

44 d. The authority shall publish on its Internet website
45 information concerning each tax credit transfer certificate approved
46 by the authority and the director pursuant to this section, which
47 information shall include:

48 (1) the name of the transferrer;

- 1 (2) the name of the transferee;
- 2 (3) the value of the tax credit transfer certificate;
- 3 (4) the State tax against which the transferee may apply the tax
- 4 credit; and
- 5 (5) the consideration received by the transferrer.

6

7 75. (New section) Beginning the year next following the year in
8 which P.L. , c. (C.) (pending before the Legislature as this
9 bill) takes effect, and every two years thereafter, a State college or
10 university established pursuant to chapter 64 of Title 18A of the
11 New Jersey Statutes shall, pursuant to an agreement executed
12 between the State college or university and the authority, prepare a
13 report on the implementation of the program, and submit the report
14 to the authority, the Governor, and, pursuant to section 2 of
15 P.L.1991, c.164 (C.52:14-19.1), to the Legislature. Each biennial
16 report required under this section shall include: a description of
17 each redevelopment project receiving a tax credit under the
18 program; a detailed analysis of the consideration given in each
19 project to the factors set forth in sections 58 and 59 of P.L.2020,
20 c.156 (C.34:1B-326 and C.34:1B-327); in the case of a commercial
21 project, the return on investment for incentive awards provided and
22 the commercial project's impact on the State's economy; and any
23 other metrics the State college or university determines to be
24 relevant based upon national best practices. The authority shall
25 prepare a written response to the report, which the authority shall
26 submit to the Governor and, pursuant to section 2 of P.L.1991,
27 c.164 (C.52:14-19.1), to the Legislature.

28

29 76. This act shall take effect immediately, and the amendments
30 made to P.L.2020, c.156 by this act, P.L. , c. (pending before the
31 Legislature as this bill), shall apply to applications submitted on and
32 after the effective date of this act.

33

34

35 STATEMENT

36

37 This bill revises various provisions of the "New Jersey Economic
38 Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.) and
39 establishes the "Emerging Technology Catalyst Program" within the
40 New Jersey Economic Development Authority (EDA).

41

42 *The Emerging Technology Catalyst Program.* Under the
43 program, the EDA would award credits to qualifying emerging
44 technology businesses to support the costs of cloud computing
45 services in order to encourage the businesses to locate in certain
46 urban technology zones. Qualifying businesses would include those
47 engaged in certain new technologies, including biotechnology,
48 information technology, technology manufacturing, advanced

1 materials, or innovative manufacturing processes. The bill
2 authorizes the annual allocation of \$80 million in tax credits under
3 the program for not more than three years.

4

5 *The New Jersey Aspire Program.* The bill revises the New
6 Jersey Aspire Program by:

7 (1) expanding the definition of “incentive area” to include
8 aviation and port districts;

9 (2) exempting commercial projects located government-
10 restricted municipalities from the requirement for increases in
11 incremental State revenues to exceed the amounts needed to support
12 the developer’s project financing gap;

13 (3) increasing the tax credit allowance for certain residential
14 projects, which also receive an allocation of federal four-percent
15 low income housing tax credits, to 60 percent of total project costs;

16 (4) increasing the total value of tax credits that may be awarded
17 per redevelopment project or phase to: (i) \$60 million for residential
18 projects that receive federal four-percent low income housing tax
19 credits, or redevelopment projects located in certain designated
20 areas; and (ii) \$42 million for all other redevelopment projects;

21 (5) increasing the aggregate value of tax credits that may be
22 awarded for all phases of a phased redevelopment project to \$150
23 million;

24 (6) removing the requirement that new residential projects may
25 not dedicate more than 50 percent of housing units for low- and
26 moderate-income housing;

27 (7) allowing the developers of new residential projects to make
28 contributions to municipal affordable housing trust funds in lieu of
29 the requirement to dedicate certain units to affordable housing
30 purposes;

31 (8) providing that if a developer intends to apply to both the
32 EDA and the Housing and Mortgage Finance Agency (HMFA) for
33 subsidies, then the developer is required to simultaneously notify
34 the HMFA upon applying to the EDA;

35 (9) clarifying the manner in which the EDA allocates incentive
36 awards to developers;

37 (10) allowing for the approval of incentive phase agreements and
38 clarifies the terms and requirements for these agreements;

39 (11) limiting the cumulative term of phased commercial projects
40 to no more than 30 years and phased residential projects to no more
41 than 20 years;

42 (12) defining the term “technology startup company”;

43 (13) revising the procedures and calculations for recapturing tax
44 credit financing when the developer’s actual project financing gap
45 is less than initially approved and when the developer’s actual
46 return on investment is more than initially approved;

47 (14) allowing developers to carry forward unused credits for
48 three years, plus an additional two-year extension in certain cases;

- 1 (15) modifying the number of affordable housing units that
- 2 mixed-use projects are required to construct in order to qualify as a
- 3 transformative project;
- 4 (16) requiring mixed-use projects to construct at least 100,000
- 5 square feet of retail or commercial space in order to qualify as a
- 6 transformative project;
- 7 (17) increasing from 10 to 15 the number of incentive awards
- 8 that may be awarded to transformative projects;
- 9 (18) increasing the tax credit award for transformative projects
- 10 from 30 percent to 45 percent of total project costs;
- 11 (19) allowing the acquisition of land to count towards the
- 12 calculation of project costs;
- 13 (20) revising the definition of “enhanced area” to include any
- 14 municipality that contains an urban transit hub; and
- 15 (21) revising the definition of “cash flow” to include government
- 16 payments.
- 17
- 18 *The New Jersey Emerge Program.* The bill also revises the New
- 19 Jersey Emerge Program by:
- 20 (1) amending the definition of “Employment and Investment
- 21 Corridor” to reduce the square footage requirement for vacant
- 22 commercial buildings from 400,000 to 100,000 square feet;
- 23 (2) replacing references to “incentive agreement” and “incentive
- 24 phase agreement” with “project agreement” and “project phase
- 25 agreement,” respectively;
- 26 (3) defining the term “technology startup company”;
- 27 (4) reducing the job retention and creation requirements for
- 28 projects located in certain areas, including government-restricted
- 29 municipalities, qualified census tracts, and enhanced areas;
- 30 (5) providing an alternative mechanism for determining
- 31 whether certain projects comply with the job retention and creation
- 32 requirements of the program;
- 33 (6) clarifying that employees who work in New Jersey, but
- 34 reside outside of the State, would count towards meeting the job
- 35 retention and creation requirements of the program;
- 36 (7) allowing the EDA to designate an alternative date on which
- 37 a business should demonstrate that it has obtained project approval,
- 38 provided that the date occurs within 12 months of entering into the
- 39 project agreement;
- 40 (8) expanding the tax credit bonus for solar energy projects to
- 41 include projects that generate geo-thermal, wind, or any other
- 42 renewable or distributive energy;
- 43 (9) requiring the EDA to reduce the tax credits awarded to a
- 44 project located in a government-restricted municipality if the
- 45 median salary of new and retained positions is less than the existing
- 46 median salary in the municipality;
- 47 (10) allowing projects to incorporate remote employment by
- 48 replacing references to employees employed by eligible businesses

1 “at the qualified business facility” with those employed “pursuant
2 to a project agreement”;

3 (11) revising the definition of “incentive area” to remove the
4 requirement for certain suburban planning areas and rural centers to
5 be located nearby certain transportation facilities;

6 (12) revising the definition of “enhanced area” to include any
7 municipality that contains an urban transit hub;

8 (13) reducing the amount of bonus credits awarded for excess
9 capital investment and higher-paid employees; and

10 (14) exempting eligible businesses from the requirement to enter
11 a community benefits agreement if the business submits a copy to
12 the authority of either the business’s project agreement or the
13 redevelopment project incentive award agreement, which has been
14 certified by the host municipality.

15
16 *The Historic Property Reinvestment Program.* The bill revises
17 the amount of credits that may be awarded to eligible business
18 entities under the program. Specifically, the credits would be
19 limited to \$8 million for the rehabilitation of qualified properties
20 located in a qualified incentive tract or government-restricted
21 municipality, \$50 million for the rehabilitation of a transformative
22 project, and \$4 million for any other project. The bill also expands
23 the definition of “transformative project” to include certain projects
24 that are located within government-restricted municipalities.
25 Lastly, the bill provides that prevailing wage requirements would
26 also apply to building services work.

27
28 *The Brownfields Redevelopment Incentive Program.* The bill
29 revises the manner in which tax credit awards are calculated under
30 the program. Specifically, projects located in a qualified incentive
31 tract or government-restricted municipality would receive credits
32 equal to 60 percent of actual remediation costs, 60 percent of
33 projected remediation costs, or \$8 million, whichever is least. All
34 other projects would receive credits equal to 50 percent of actual
35 remediation costs, 50 percent of projected remediation costs, or \$4
36 million, whichever is least. The bill also allows the credit to be
37 claimed against the tax imposed under sections 2 and 3 of P.L.1945,
38 c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231
39 (C.17:32-15), or N.J.S.17B:23-5. Lastly, the bill provides that
40 prevailing wage requirements would also apply to building services
41 work.

42
43 *The New Jersey Innovation Evergreen Program.* The bill
44 reduces the minimum amount of tax credits, from \$1 million to
45 \$500,000, that a potential purchaser may bid for through the
46 competitive auction. The bill also requires a potential purchaser of
47 tax credits to pay not less than 90 percent of the dollar value of the
48 credits.

1 *The Food Desert Relief Program.* The bill revises various
2 requirements governing the program. Notably, the bill requires the
3 authority to designate the State’s “food desert communities” based
4 on the geographical areas having limited access to nutritious foods.
5 The bill also allows the authority to consider various additional
6 factors when making this determination. Additionally, the bill
7 expands the definition of “small-food retailer” to include non-
8 traditional retailers such as mobile vendors and farmers’ markets.
9 The bill also allows the authority to award grants to other eligible
10 entities to support initiatives to strengthen the food security of
11 residents in food desert communities.

12
13 *The Main Street Recovery Finance Program.* The bill amends
14 various provisions of the program, including:

15 (1) revises the definition of “microbusiness” to include
16 businesses with less than \$1.5 million in annual gross revenue, as
17 opposed to \$1 million;

18 (2) requires the authority to undertake a disparity study of the
19 relative availability of capital and related banking resources for
20 small businesses and microbusinesses that are women- and
21 minority-owned business enterprises in this State. As
22 recommended by the study, the authority would also establish
23 policies for the set-aside of funds for eligible small businesses and
24 microbusinesses that are minority-owned business enterprises or
25 women-owned business enterprises;

26 (3) allows the authority to provide grants to for-profit and non-
27 profit entities that provide technical assistance to microbusinesses;

28 (4) exempts capital improvements in excess of \$50,000 from
29 certain requirements regarding the use of renewable energy, energy-
30 efficient technology, and non-renewable resources; and

31 (5) provides that minority deposit institutions are eligible to
32 receive grants and loans under the program.

33

34 *Other Changes to Specific Programs in the “New Jersey*
35 *Economic Recovery Act of 2020.”* The bill makes changes to other
36 constituent programs of the “New Jersey Economic Recovery Act
37 of 2020.” The bill amends the definition of “experienced non-profit
38 or governmental or community development entity” under the
39 Community-Anchored Development Program to remove the
40 requirement for these entities to own or control significant real
41 estate assets.

42 Additionally, the bill expands program eligibility under the New
43 Jersey Ignite Program to include companies founded within the last
44 seven years, as opposed to three years. Under the bill, the
45 maximum aggregate amount of start-up rent grants that may be
46 provided to an approved collaborative workspace could not exceed
47 \$100,000 per calendar year. The bill also provides additional

1 guidance concerning the application of bonus months under the
2 New Jersey Ignite Program.

3 The bill revises parts of the "Economic Development Authority
4 Integrity and Protection Act" to clarify the responsibilities of the
5 Chief Compliance Officer and authorize the authority to recapture
6 any economic development incentive in the case of substantial
7 noncompliance, fraud, or abuse by the recipient.

8 The bill also increases the number of members who will serve on
9 the Working Group on Entrepreneur Zones in the authority from
10 seven to 14 members.

11

12 *General Changes to the "New Jersey Economic Recovery Act of*
13 *2020."* The bill also makes certain changes that apply to multiple
14 components of the "New Jersey Economic Recovery Act of 2020."
15 Notably, the bill provides that up to \$350 million in tax credits,
16 which credits were originally allocated for the New Jersey Aspire
17 Program and the Emerge Program, would instead be made available
18 for qualified offshore wind projects pursuant to section 6 of
19 P.L.2010, c.57 (C.34:1B-209.4). As part of this change, the bill
20 also revises certain elements of that law.

21 Additionally, the bill also clarifies the manner in which the
22 authority would consult other State agencies when reviewing an
23 application for a tax incentive. The bill also excludes from this
24 review any contractors or subcontractors of the applicant who are
25 under contract in an amount less than or equal to \$150,000.

26 The bill also makes changes to the Historic Property
27 Reinvestment Program and the Brownfields Redevelopment
28 Incentive Program to provide that prevailing wage requirements
29 also apply to building services work.

30 The bill provides that a developer may not sell a tax credit
31 transfer certificate for less than 90 percent of the amount of
32 transferred credits. Currently, a developer may not transfer the
33 credit for less than 85 percent of the credit amount. This change
34 would apply to all credits awarded under the "New Jersey
35 Economic Recovery Act of 2020."

36 The bill also amends the definition of "project financing gap"
37 under the "Historic Property Reinvestment Act," the "Brownfields
38 Redevelopment Incentive Act," and the "New Jersey Aspire
39 Program Act." Specifically, the bill modifies the capital
40 contribution requirements for projects located in a government-
41 restricted municipality, clarifies the meaning of contributed capital,
42 and clarifies the determination of project value.

43 Under the bill, the holder of a tax credit may also surrender the
44 credits to the Division of Taxation in the Department of the
45 Treasury for a cash payment equal to 90 percent of the value of the
46 credit. This surrender would be allowed for all credits awarded
47 under the "New Jersey Economic Recovery Act of 2020," excluding

1 the Innovation Evergreen Program, and including certain other state
2 tax credits.

3 The bill also amends various sections of law to correct
4 typographical errors.

5
6 *Other Economic Development Programs.* The bill revises certain
7 other economic development programs that predated the “New
8 Jersey Economic Recovery Act of 2020.”

9 Notably, the bill amends the laws governing the film and digital
10 media tax credit program. Specifically, the bill increases the
11 amount of the digital media tax credit such that its value matches
12 the film production tax credit. The bill also increases the aggregate
13 amount of digital media tax credits that may be annually allocated
14 from \$10 million to \$30 million, effective until fiscal year 2029. In
15 addition, the bill amends the definitions of “qualified film
16 production expenses” to include an amount not to exceed \$15
17 million for the salaries and other compensation paid by a New
18 Jersey film-lease partner for writers, directors, and performers.

19 Additionally, the bill amends the Grow New Jersey Assistance
20 Program to allow businesses to continue employment reductions
21 after the 2020 tax period, provided that the business submits a
22 request before December 31, 2021 and maintains the minimum
23 number of new and retained jobs.

24 Under the “New Jersey Economic Recovery Act of 2020,” the
25 Economic Redevelopment and Growth Grant (ERGG) Program was
26 extended to provide \$200 million in new tax credits, including \$150
27 for certain commercial projects and \$50 million for residential
28 projects. The bill revises this allocation, providing instead that
29 \$125 million in tax credits would be made available for residential
30 projects and \$75 million in State incentive grants would be made
31 available for commercial properties. The bill also requires the
32 authority to apply certain standards set forth in the New Jersey
33 Aspire Program when determining the repayment amount for
34 recipients under the ERGG program.

35 In addition, the bill revises the New Jersey Emerging
36 Technology and Biotechnology Financial Assistance Program by
37 increasing, from \$10 million to \$15 million, the amount allocated
38 for the surrender of transferable tax benefits for new and expanding
39 emerging technology and biotechnology companies operating in
40 certain areas. The bill also expands eligibility for these funds to
41 include new and expanding emerging technology and biotechnology
42 companies that operate in opportunity zones, or that are certified as
43 a woman- or minority-owned business.

44 Lastly, the bill amends current law to allow the New Jersey
45 Infrastructure Bank to guarantee debt instruments issued by local
46 government units to support redevelopment projects that include
47 wastewater treatment system projects, water supply projects, or
48 transportation projects.